THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34;

AND IN THE MATTER OF certain conduct of Google Canada Corporation and Google LLC relating to the supply of online advertising technology services in Canada;

AND IN THE MATTER OF an application by the Commissioner of Competition for one or more orders pursuant to section 79 of the *Competition Act*.

B E T W E E N:

COMMISSIONER OF COMPETITION

Applicant

and

GOOGLE CANADA CORPORATION AND GOOGLE LLC

Respondents

COMMISSIONER OF COMPETITOIN'S RESPONDING RECORD TO THE RESPONDENT'S CONSTITUTIONAL CHALLENGE

VOLUME 1 OF 2

July 4, 2025

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CT-2024-010

THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34;

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CT-2024-010

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B E T W E E N:

COMMISSIONER OF COMPETITION

Applicant

and

GOOGLE CANADA CORPORATION AND GOOGLE LLC

Respondents

AFFIDAVIT OF STEVE TADELIS
AFFIRMED JULY 4, 2025

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1. I, **STEVE TADELIS**, of the City of Berkeley, in the state of California, United States of America, **MAKE OATH AND STATE AS FOLLOWS**:

2. I am Professor of Economics, Business and Public Policy, and the Sarin Chair in Leadership and Strategy at the Haas School of Business, the University of California, Berkeley. My academic specialty lies in economics, including the economic and statistical analysis of topics in e-commerce and the economics of the internet, industrial organization, and microeconomics. I also have expertise in the economics of institutions, economic analysis for business decisions, including

those related to digital advertising and marketing strategies, pricing and fee-setting, contract theory, game theory, and strategic sourcing. A copy of my CV is attached to the export report.

3. I have been asked by the Commissioner of Competition to provide an expert opinion to evaluate the claims that Professor Keith Hylton makes in his expert report filed on May 6, 2025 on behalf of Google LLC and Google Canada Corporation (collectively "Google") in the Commissioner of Competition v. Google LLC and Google Canada Corporation matter. A copy of my expert report is attached and marked as **Exhibit "A"** to this Affidavit.

AFFIRM by Steve Tadelis of the City of Berkley, in the State of California, in the United States of America, before me at the City of Ottawa, in the Province of Ontario, on July 4, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

P20709
Commissioner for
Taking Affidavits

STEVE TADELIS

P20709

This is Exhibit “A” to the affidavit of **Steve Tadelis,** affirmed remotely and stated as being located in the City of Berkley, in the State of California, in the United States of America, before me at the city of Ottawa in the province of Ontario, on July 4, 2025, in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely.

Expert Report of Steven Tadelis*

Commissioner of Competition v. Google LLC and Google Canada Corporation (CT-2024-010)

July 4, 2025

* Professor of Economics, Business and Public Policy, and the Sarin Chair in Leadership and Strategy at the Haas School of Business, the University of California, Berkeley

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1 Introduction

1.1 Qualifications

1. I am Professor of Economics, Business and Public Policy, and the Sarin Chair in Leadership and Strategy at the Haas School of Business, the University of California, Berkeley. I received an undergraduate degree in Economics from the University of Haifa and a Masters in Economics from the Technion-Israel Institute of Technology, both in Israel. I received a Ph.D. in Economics from Harvard University in 1997. I was employed as an Assistant Professor of Economics at Stanford University from July 1997 until July 2005. Since then, I have held positions as tenured associate, and later full Professor of Economics, Business and Public Policy at the University of California, Berkeley, where I currently hold the Sarin Chair in Strategy and Leadership.

2. My academic specialty lies in economics, including the economic and statistical analysis of topics in e-commerce and the economics of the internet, industrial organization, and microeconomics. I also have expertise in the economics of institutions, economic analysis for business decisions, including those related to digital advertising and marketing strategies, pricing and fee-setting, contract theory, game theory, and strategic sourcing.

3. I am the author of two books on game theory and microeconomic theory, I have served as co-editor of the *Journal of Law, Economics and Organization*, and I have served on the editorial boards of the *American Economic Journal: Microeconomics*, the *American Economic Review*, and the *International Journal of Industrial Organization*.

4. During the 2011–2013 academic years, I was on leave of absence from the Haas School of Business to serve as Senior Director and Distinguished Economist at eBay Research Labs, where I hired and led a team of research economists focused on the economics of e-commerce, with particular attention to creating better matches between buyers and sellers; reducing market frictions by increasing trust and safety in eBay's marketplace; understanding the underlying value of different advertising and marketing strategies; evaluating how buyers behave in online auctions; and exploring the market outcomes associated with different pricing structures. From August 2013 through March 2015, I continued this work as a part-time eBay contractor.

5. During the 2016–2017 academic year, I was on leave of absence from the Haas School of Business to serve as Vice President of Economics and Market Design at Amazon.com Inc., where I led a team of economists who applied economics and data science to optimize operations, pricing, and cost allocations. From August 2017 through February 2021, I was an Amazon Scholar, helping the company use a wide range of applied research in economics and market design.

6. A copy of my CV is provided in Appendix A and includes the list of all publications I have authored in peer reviewed journals. My CV also includes a list of all cases in which, during

the previous four years, I have testified as an expert at trial or by deposition. In Appendix B, I provide a list of all documents I relied upon in my report.

1.2 Compensation

7. My consulting rate for this matter is CAD 900. Keystone Strategy assisted me in preparing this report. Keystone's billing rates ranged from CAD 405 to CAD 900, per hour, and I was compensated 15% of Keystone's billings for work on this report which was conducted under my direction. My compensation does not depend in any way on the outcome of this case.

1.3 Assignment

8. I have been asked by counsel for the Canadian Competition Bureau to provide my expert opinion to evaluate the claims that Professor Keith Hylton makes in his expert report filed on May 6 2025 on behalf of Google LLC and Google Canada Corporation (collectively "Google") in the *Commissioner of Competition v. Google LLC and Google Canada Corporation* matter.[1]

9. Section 79(3.1.b) of the *Canadian Competition Act* contains potential penalty caps "in the amount of: (i) three times the value of the benefit [the Commissioner] claims was derived from a series of allegedly anticompetitive practices, or, (ii) if that amount cannot be reasonably determined, three percent of Google's annual worldwide gross revenues, over an undetermined period."[2]

10. Professor Hylton's report describes his critique of Section 79(3.1) of the *Canadian Competition Act*.[3] Professor Hylton concludes that a penalty of three times the value of the benefit from monopolization is larger than what economic theory would suggest as an appropriate calculation of a penalty that deters monopolization and hence has a "punitive purpose."[4] He also argues that an alternative penalty of three percent of worldwide gross revenues automatically results in "inefficient overdeterrence" of monopolization.[5] I disagree with these conclusions.

1.4 Summary of Conclusions

11. There are two established economic approaches to evaluating an antitrust penalty: the deterrence approach and the internalization approach. Professor Hylton uses two "Chicago

[1] Keith N. Hylton, "Expert Report of Professor Keith N. Hylton," (May 6, 2025), *In re: Commissioner of Competition v. Google LLC and Google Canada Corporation,* No. CT-2024-010, [hereinafter Hylton (2015)].
[2] Hylton Report, ¶ 2.
[3] Hylton Report, ¶ 2. ("*Competition Act*, R.S.C. 1985, c. C-34, as amended.").
[4] Hylton Report, ¶8a. ("a financial penalty equal to three times the value of the benefit derived from monopolizing conduct would result in inefficient overdeterrence and therefore can fairly be regarded from an antitrust economics perspective as having a punitive purpose.").
[5] Hylton Report, ¶ 8b. ("a financial penalty equal to three percent of worldwide gross revenues, in the case of Google and in the case of other firms that share a revenue structure similar to Google, would result in inefficient overdeterrence and can fairly be regarded as punitive in nature from an antitrust economics perspective.").

School" style models that are part of the internalization approach. The penalty caps provided in Section 79(3.1.b) are consistent with the deterrence approach.

12. The deterrence approach has significant advantages over the internalization approach. The deterrence approach establishes penalties that deter monopolization. The internalization approach seeks to calculate the penalty that would allow for an efficient level of monopolization, not deterrence. The terms "punitive purpose" and "inefficient overdeterrence" are only relevant if one is trying to calculate the price that a monopoly would pay to maintain the monopoly. The deterrence approach does not do this. Furthermore, the internalization approach is much more difficult to measure and requires knowledge about persons and entities not before the court.

13. Professor Hylton acknowledges that if the monopolization at issue does not result in greater efficiencies or innovation than competition, both approaches are essentially the same. Professor Hylton provides no evidence that Google's monopoly power resulted in efficiencies or innovations. Furthermore, Professor Hylton provides no economic evidence that monopoly results in more efficiencies or innovation than competition. Hence the only real issue is whether the probability of detection and successful prosecution of monopolization is greater than one third.

14. Economic evidence suggests that the probability that a monopolist will be discovered, prosecuted, and result in a court finding of liability under the competition laws, is quite small.

15. Professor Hylton's internalization model also presents an indefensibly limited picture of the harm society faces from monopolization. In Professor Hylton's theoretical analysis, the only injury consists of higher consumer prices. In practice, however, the social harm from monopolization is much broader.

16. Section 79(3.1.b) also contains an alternative penalty cap in the event the penalty cap defined as three times the benefit from the anticompetitive conduct cannot be calculated. The alternative penalty cap is calculated as 3% of a firm's worldwide revenue. Professor Hylton wrongly assumes that 3% of worldwide revenue is the actual penalty rather than functioning as an alternative penalty cap.

2 Professor Hylton's Reliance on the Internalization Approach is Misguided

17. The economic rationale for imposing antitrust penalties is to deter anticompetitive behavior. There are two economic approaches to establishing an economically informed antitrust penalty. In a prior publication, Professor Hylton also agrees that "there are two general approaches a punishment authority can take under an optimal punishment regime. One is to *internalize consumer harm*. The other is to *deter completely by eliminating the*

expected profits from anticompetitive conduct."[6] This second approach, the *deterrence approach*, is omitted from Professor Hylton's expert report in which he only considers *the internalization approach*.

18. The *Competition Act* is consistent with the deterrence approach.[7] The *Act* states that the goal of levying penalties on someone who violates the *Act* is "to promote practices by that person that are in conformity with the purposes of this section and not to punish that person." [8] To achieve deterrence, a penalty should exceed the sum of the benefits that a firm, here Google, received from its alleged monopolization divided by the probability that it will actually pay a penalty (i.e., its anticompetitive conduct is detected, enforcement action is taken and the firm is required to pay a penalty).[9]

19. The *Competition Act* follows the logic of the deterrence approach in that the *Act* sets the potential penalty cap at "three times the value of the benefit derived from the anti-competitive practice." The assumption is that the probability of paying the penalty is one third or larger.[10] I will discuss the disagreements that I have with Professor Hylton concerning the probability of a court imposing a penalty in a monopolization case in Section 4 of this report.

20. The other economic approach to determining a penalty amount is referred to as the internalization approach. Professor Hylton states in his report that he "examined" the issue of the *Competition Act*'s penalty caps "through the lens of two models of antitrust enforcement: 'The Chicago School Antitrust Enforcement Model' (the Chicago School) and the 'Dynamic Competition Model' (the Dynamic Model)."[11] However, these two Chicago School approaches both belong to the more general internalization approach.[12]

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[6] Keith N. Hylton, *Antitrust Enforcement Regimes: Fundamental Differences*, in The Oxford Handbook of International Antitrust Economics (Roger D. Blair & D. Daniel Sokol eds., 2015) [hereinafter Hylton (2015)], p. 3. ("Thus, there are two general approaches a punishment authority can take under an optimal punishment regime. One is to internalize consumer harm. The other is to deter completely by eliminating the expected profits from anticompetitive conduct.").

[7] Canadian Competition Act, Section 79 (3.1.b), *Administrative monetary penalty*, ("three times the value of the benefit derived from the anti-competitive practice, or, if that amount cannot be reasonably determined, 3% of the person's annual worldwide gross revenues.").

[8] Canadian Competition Act, Section 79 (3.3), *Purpose of order*.

[9] That is, if the expected gain from the alleged monopolization is denoted by $G > 0$, the penalty is denoted by $F > 0$, and the likelihood of enforcement is $0 < p < 1$, then the expected gain must be outweighed by the expected loss, which occurs if and only if $p \times F > G$, or $F > \frac{G}{p}$.

[10] If the probability of deterrence is less than one third then this penalty may not be enough to deter harmful monopolization conduct, but it guarantees that the penalty is not excessive.

[11] Hylton Report, ¶ 24.

[12] Hylton Report, ¶ 28. ("In my Report, I analyze whether the financial penalties sought by the Commissioner against Google result in inefficient overdeterrence within each analytical framework (Chicago School and Dynamic Model)... As explained below, an efficient penalty in antitrust economics is a penalty that causes the firm at issue to internalize the total harm caused to consumers by its conduct."); Hylton (2015), p. 5. ("Thus, there are two general approaches a punishment authority can take under an optimal punishment regime. One is to internalize consumer harm.").

21. The logic of the internalization approach involves setting the antitrust penalty so that the monopolizing firm "internalizes" the costs of its monopolizing conduct to all persons other than itself.[13] These costs represent the expected social cost of monopoly when the costs are divided by the probability of paying the penalty. The probability that a firm will pay a penalty is determined by the probability of detection, the probability of a prosecution, and the probability of a successful litigation outcome that survives appeal. Professor Hylton refers to these combined probabilities as the probability of detection and enforcement or sometimes the probability of detection.[14] The internalization approach assumes that there is an optimal level of monopoly. The notion is that if the monopolist can pay a penalty that includes all the social costs of monopoly and still make some profit, then society is better off with monopoly rather than competition.

22. The internalization approach is poorly suited to establishing optimal deterrence. My understanding is that the purpose of competition laws is to encourage competition, not to establish efficient monopolies. I further understand that competition laws have multiple goals, not all of which are captured in Professor Hylton's model. Indeed, modern economics highlights many advantages of competition over monopoly. Monopolization is referred to in economics as a "market failure."[15] For this reason, the competition remedies should seek to deter monopolization and create more competition, not set the optimal price for continued monopolization. I consider the economic approach of deterring monopoly more appropriate and more consistent with current economic thinking.

23. Another reason why the internalization approach falls short is that it requires a very difficult quantification of the various economic categories in Professor Hylton's model. Consumer surplus requires challenging and often imprecisely implemented econometric measurement.[16] Similarly, efficiencies are notoriously difficult to measure accurately. Other harms not considered by Professor Hylton, which I discuss below in Section 5, are

[13] Hylton Report, ¶ 28. ("As explained below, an efficient penalty in antitrust economics is a penalty that causes the firm at issue to internalize the total harm caused to consumers by its conduct."); Hylton (2015), p. 2. ("In the antitrust context, internalization requires the punishment authority to shift the costs suffered by consumers, in terms of monopolistic overcharges or restrictions in supply, to the monopolizing firm in the form of a penalty.").
[14] *See e.g.*, Hylton Report, ¶ 58. ("Consequently, provided that the probability of detection of Google's alleged conduct in this case was at least 1/3, my opinion in this Report remains the same regardless of the percentage of detection and enforcement that actually prevailed. In my view, it is highly likely that the probability of detecting the alleged monopolizing conduct of Google at issue in this proceeding was greater than 1/3.").
[15] Royal Swedish Academy of Sciences, *The Prize in Economic Sciences 2014,* (2014), https://www.kva.se/en/news/ekonomipriset-2014-2. ("Many industries are dominated by a small number of large firms or a single monopoly. Left unregulated, such markets often produce socially undesirable results—prices higher than those motivated by costs, or unproductive firms that survive by blocking the entry of new and more productive ones. From the mid-1980s and onwards, Jean Tirole has breathed new life into research on such market failures.").
[16] Hylton (2015), p. 3. ("The reason is that there may be instances in which the internalization approach is administratively infeasible. For example, the internalization approach requires the punishment authority to produce a precise estimate of the consumer wealth transfer and the forgone consumer surplus. The data necessary to generate such an estimate may be unavailable.").

equally difficult to quantify. Obtaining evidence of harm to third parties is especially difficult because those individuals are usually not involved in the proceedings.

24. Hence, Professor Hylton's reliance on the internalization approach as the basis of his analysis of the *Competition Act* 79(3.1.b) remedies is misguided.

3 Even Based on the Internalization Approach, Professor Hylton has not Established that the *Competition Act* Penalty Caps are Punitive

25. Professor Hylton adopts an internalization approach that suffers from several shortcomings and does not align with the goals of the *Competition Act*.[17] Most notably, it rests on the mistaken premise that monopolies spur innovation and efficiency—a claim that runs counter to the weight of the economics literature.

26. Professor Hylton concedes in a prior publication that in the absence of efficiencies from the monopolization, the deterrence approach and the internalization approach are essentially the same.[18] When monopolization does not create efficiencies, the monopolist's benefit corresponds to the wealth transfer from consumers,[19] and this benefit is equal to the consumers' harm. However, if the monopolization also causes some consumers to leave the market (referred to as deadweight loss), then total consumer harm is greater than the monopolist's benefit. When this happens, the optimal penalty based on the internalization approach is larger than the penalty under the deterrence approach. In this case, Professor Hylton must concede that the penalty under the deterrence approach, such as Section 79(3.1.b), is too small.[20] It follows that if Professor Hylton cannot identify important efficiency advantages that monopolization creates that are greater than the competitive alternative, then under his own analysis, three times the benefit is too small.

27. Moreover, Professor Hylton provides no evidence that monopolies always create efficiencies that are greater than the competitive alternative. For example, a review of

[17] Canadian Competition Act, Section 1.1, *Purpose of Act*. ("The purpose of this Act is to maintain and encourage competition in Canada in order to promote the efficiency and adaptability of the Canadian economy, in order to expand opportunities for Canadian participation in world markets while at the same time recognizing the role of foreign competition in Canada, in order to ensure that small and medium-sized enterprises have an equitable opportunity to participate in the Canadian economy and in order to provide consumers with competitive prices and product choices.").

[18] Hylton (2015), p. 3. ("when the firm's monopolizing action does not generate an efficiency gain, the optimal punishment policy is complete deterrence, which is accomplished by ensuring that the firm cannot profit from monopolization"; "The internalization approach is appropriate for conduct that is either efficient or has a significant chance of being efficient. The complete deterrence approach is appropriate for conduct that is unambiguously inefficient.").

[19] Hylton (2015), p. 3. ("The standard price fixing agreement involves no efficiency motivation; it is simply an arrangement to transfer wealth from consumers to producers. Under these conditions, the optimal punishment policy is to set a fine sufficient to eliminate the prospect of gain from the price fixing cartel's actions.").

[20] In Professor Hylton's narrow model as shown in Figure 1 of his report, but without efficiencies, the penalty under the internalization approach would be (T+D)/p and the penalty under the deterrence approach would be T/p, a smaller number.

Professor Hylton's expert report reveals that he has provided no evidence that Google's alleged advertising technology ("adtech") monopolization has resulted in efficiencies. Furthermore, in the U.S. District Court's opinion in *United States v. Google LLC*, the Court evaluated Google's claims regarding procompetitive justifications. Efficiencies can constitute procompetitive justifications for conduct. I note however that the U.S. Court found that "[t]he procompetitive justifications that Google proffers for its anticompetitive conduct are both invalid and insufficient, and any procompetitive benefits of this conduct were far outweighed by its anticompetitive effects."[21]

28. Even if Professor Hylton had identified Google efficiencies that should be reflected in the optimal penalty under the internalization approach, the proper approach would have been to compare the efficiencies due to the monopoly, with the efficiencies that would occur in a but-for world in which competition was restored.[22] Instead, Professor Hylton makes the unfounded assumption that no efficiencies occur once competition is restored in ad tech through judicial action.

29. Professor Hylton's Dynamic Model further lowers the optimal penalty by incorporating a subsidy for the monopolist, intended to incentivize innovation.[23] Again, if the monopolist is not engaged in meaningful innovation, or the innovations from competition exceed the innovations by the monopolist, Professor Hylton's model collapses to an approximation of the deterrence approach.[24]

30. Professor Hylton begins his analysis of innovation by stating that monopoly is necessary for innovation or that firms only have incentives to innovate if they have prospects of gaining monopoly power.[25] This statement conflicts with the economic literature. There is a significant economic literature showing that many factors can protect the appropriability

[21] *Memorandum Opinion*, United States v. Google LLC, No. 1:23-cv-00108, (Apr. 17, 2025), p. 112, https://ag.ny.gov/sites/default/files/court-filings/united-states-of-america-et-al-v-google-llc-memorandum-opinion-2025.pdf. ("The procompetitive justifications that Google proffers for its anticompetitive conduct are both invalid and insufficient, and any procompetitive benefits of this conduct were far outweighed by its anticompetitive effects.").

[22] In assessing the efficacy of a remedy, the "but for" test is forward looking, as the assessment being made is whether a proposed remedy, if imposed, will restore competition. Under the *Competition Act*, that is to promote practices by the impugned firm that are in conformity with the purposes of Section 79.

[23] Keith N. Hylton, *A Unified Framework for Competition Policy and Innovation Policy*, 22 Tex. Intell. Prop. L.J. 163 (2014), p. 171.

[24] Hylton Report, ¶ 27. ("The Dynamic Model is built upon the foundations of the Chicago School, and adds to the Chicago School a consideration of innovation effects…. In other words, the Dynamic Model of antitrust regulation is concerned not only with promoting overall efficiency in the marketplace, it is also concerned with ensuring that regulation does not discourage firms from innovating.").

[25] Hylton Report, ¶ 71. ("I consider the implications within the Dynamic Model …. In this model, some prospect of gaining monopoly power must exist, otherwise the firm will have no incentive to innovate.").
Hylton Report, ¶ 75. ("[O]nce the firm has no incentive to take a monopolizing action, it will have no inventive to invest in innovation. If innovation does not occur, consumers will be deprived of the benefits associated with new or improved products and services.").

of the benefits of innovation besides monopoly.[26] These include the obvious, intellectual property protection which does not typically monopolize markets, as well as confidentiality and first mover effects.[27]

31. Next, Professor Hylton assumes that monopolization is expected to increase innovation, but competition is not expected to result in new technologies and know-how. Professor Hylton's assumption is false. There is extensive economic literature showing that innovation is spurred by rivalry and competition. A review of this literature[28] finds that competition results in higher levels of innovation compared to a monopoly market. This is also true in markets undergoing technological change. Incumbents would innovate more when they perceive a threat of being displaced by competitors, and entrants are more likely to invest in innovation when a superior product can gain them a significant market share—even if this is temporary.[29] These incentives depend on two key components: contestability, meaning that future sales can be increased, and appropriability, meaning innovators can retain a substantial share of the value they create. This is contrary to the argument that monopolies are short-lived in markets subjected to technological change and therefore require little antitrust scrutiny. Evidence shows that competition—not monopoly power—yields more innovation, as protecting market entry and rivalry ensures continuous and stable competition.[30] This point was originally made decades ago in the seminal work of

[26] Carl Shapiro, *Competition and Innovation: Did Arrow Hit the Bull's Eye?* The Rate and Direction of Inventive Activity Revisited 361 (Josh Lerner & Scott Stern eds., Univ. of Chicago Press 2012), p. 368. ("much of the theoretical and empirical literature on the relationship between market structure and innovation emphasizes complexity while seeking to explain how different factors affect that relationship, recognizing that both market structure and innovation are endogenous. Nonetheless, I argue here that we *do* know enough to warrant a presumption that a merger between the only two firms pursing a specific line of research to serve a particular need is likely to diminish innovation rivalry, absent a showing that the merger will increase appropriability or generate R&D synergies that will enhance the incentive or ability of the merged firm to innovate.").
[27] Wesley Cohen, Richard Nelson & J. John Walsh, *Protecting Their Intellectual Assets: Appropriability Conditions and Why U.S. Manufacturing Firms Patent (or Not),* NBER, Working Paper No. 7552 (Feb. 2000), p. 24. ("[O]ur findings suggest that patents are still not the major mechanism for appropriating returns to innovations in most industries. Instead, we find that the key appropriability mechanisms in most industries are secrecy, lead time and complementary capabilities.").
[28] Carl Shapiro, *Competition and Innovation: Did Arrow Hit the Bull's Eye?* The Rate and Direction of Inventive Activity Revisited 361 (Josh Lerner & Scott Stern eds., Univ. of Chicago Press 2012).
[29] Carl Shapiro, *Competition and Innovation: Did Arrow Hit the Bull's Eye?* The Rate and Direction of Inventive Activity Revisited 361 (Josh Lerner & Scott Stern eds., Univ. of Chicago Press 2012), p. 400. ("The empirical literature discussed earlier makes it clear that ongoing innovation by an incumbent is promoted if the incumbent fears that failure to improve its own product will place it at risk of being displaced as the market leader. Likewise, innovation by entrants is promoted if an entrant that introduces a superior product will indeed gain substantial profitable sales, and perhaps even a dominant market position, at least for some period of time.").
[30] Carl Shapiro, *Competition and Innovation: Did Arrow Hit the Bull's Eye?* The Rate and Direction of Inventive Activity Revisited 361 (Josh Lerner & Scott Stern eds., Univ. of Chicago Press 2012), p.401. ("Some have argued for a laissez faire antitrust policy in industries subject to technological change on the grounds that monopoly power in these industries is fleeting. However, this argument is seriously incomplete … In a very important recent work, Segal and Whinston (2007) show that this argument also is seriously incomplete. In a model where two firms compete over time for market leadership by innovating, they provide surprisingly general conditions under which antitrust policies that protect entrants raise the rate of innovation.").

Kenneth Arrow (1962).[31,32] This explains that monopolists have weaker incentives to innovate because they already maximize profits under the status quo, whereas competitive firms must innovate to gain or retain market share.[33]

32. The role of competition in innovation is further supported by the empirical evidence of an "inverted-U" relationship between competition and innovation.[34] This inverted-U pattern reflects two opposing forces: at high levels of competition, firms are driven to innovation in order to "escape competition." However, as competition intensifies, lagging firms lose the incentive to innovate due to lower expected post-innovation profits.[35] The main result is that innovation peaks at moderate levels of competition, which implies that monopolies do not maximize innovation.

33. In addition, competition affects the type of innovation. The economics literature shows that monopolies often focus on sustaining innovations that reinforce their dominance, while competitive markets foster more disruptive and consumer-oriented innovation.[36] Disruptive innovations harm the monopolist who is deriving monopoly profits under the status quo.

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[31] Kenneth J. Arrow, *Economic Welfare and the Allocation of Resources to Invention*, The Rate and Direction of Inventive Activity: Economic and Social Factors 609 (Universities-National Bureau Committee for Economic Research and the Committee on Economic Growth of the Social Science Research Councils eds., Princeton University Press (1962).

[32] The economics literature has found that the Schumpeter position—typically referencing that large firms spur innovation—is compatible with Arrow's view. *See* Carl Shapiro, *Competition and Innovation: Did Arrow Hit the Bull's Eye?* The Rate and Direction of Inventive Activity Revisited 361 (Josh Lerner & Scott Stern eds., Univ. of Chicago Press 2012), p. 363. ("While he was no fan of entrenched monopolies, Schumpeter argued that larger firms have greater incentives and ability to invest in R&D. … Schumpeter: 'The prospect of market power and large scale spurs innovation.' … I also argue that the Arrow and Schumpeter perspectives are fully compatible and mutually reinforcing.").

[33] Carl Shapiro, *Competition and Innovation: Did Arrow Hit the Bull's Eye?* The Rate and Direction of Inventive Activity Revisited 361 (Josh Lerner & Scott Stern eds., Univ. of Chicago Press 2012), p. 362. ("Arrow (1962) famously argued that a monopolist's incentive to innovate is less than that of a competitive firm, due to the monopolist's financial interest in the status quo. This fundamental idea comports with common sense: a firm earning substantial profits has an interest in protecting the status quo and is thus less likely to be the instigator of disruptive new technology. In Arrow's words: 'The preinvention monopoly power acts as a strong disincentive to further innovation.'").

[34] Philippe Aghion, Nick Bloom, Richard Blundell, Rachel Griffith & Peter Howitt, *Competition and Innovation: An Inverted-U Relationship*, 120 Quarterly Journal of Economics, 701–728, p. 701. ("This paper investigates the relationship between product market competition and innovation. We find strong evidence of an inverted-U relationship using panel data.").

[35] Philippe Aghion, Nick Bloom, Richard Blundell, Rachel Griffith & Peter Howitt, *Competition and Innovation: An Inverted-U Relationship*, 120 Quarterly Journal of Economics, 701–728, p. 720. ("In this model competition may increase the incremental profit from innovating, labeled the "escape-competition effect," but competition may also reduce innovation incentives for laggards, labeled the "Schumpeterian effect." The balance between these two effects changes between low and high levels of competition, generating an inverted-CT relationship.").

[36] Maurice E. Stucke & Ariel Ezrachi, *Innovation Misunderstood*, American University Law Review, p. 1966. ("Being free from the need to service a large existing customer base and free from the short-term growth requirements of the leading organizations and their high-cost structures, the disruptive innovator can experiment and offer novel value propositions.").

34. For example, the economic literature emphasizes that more competition typically expands innovation from both rivals and potential new entrants.[37] In addition, disruptive innovation is rarely undertaken by monopolies. For example, Kodak, Xerox PARC, and IBM offer textbook cases of incumbents failing to act on radical innovation developed in-house. Kodak invented digital photography but shelved it to protect its film business—only to be overtaken by others and go bankrupt. Xerox PARC pioneered the graphical user interface and the mouse, but Xerox failed to commercialize them, leaving Apple and Microsoft to run with the ideas. IBM, despite early advances in laser printing, ceded leadership to competitors. In each case, the dominant firm had the innovation but could not—or would not—disrupt its own position. A more recent and relevant example is Large Language Models ("LLMs"). Google itself had advanced AI that it used, but LLMs could be a powerful competitor to Search, and indeed, took a leap not from within Google but from OpenAI, causing the large tech firms such as Google and Microsoft to invest heavily in this space.

35. In the case of Google, the U.S. District Court in *United States v. Google LLC* found that Google's technological advances in adtech came largely from acquisitions, particularly Double Click and Admeld.[38] After acquiring Admeld, Google reduced innovation by shutting down certain features to favor its own product DoubleClick for Publishers ("DFP").[39] Moreover, key innovation originated from "non-Google industry members" that collaborated to develop header bidding. In contrast, Google developed internal auction manipulation programs *against* the industry-driven header bidding innovation.[40] Such programs required serious intellectual effort but were hardly disruptive and beneficial for consumers.

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[37] Carl Shapiro, *Competition and Innovation: Did Arrow Hit the Bull's Eye?* The Rate and Direction of Inventive Activity Revisited 361 (Josh Lerner & Scott Stern eds., Univ. of Chicago Press 2012), p. 376. ("There is a very substantial body of empirical evidence supporting the general proposition that "more competition," meaning greater contestability of sales, spurs firms to be more efficient and to invest more in R&D.").

[38] *Memorandum Opinion*, United States v. Google LLC, No. 1:23-cv-00108, (Apr. 17, 2025), p. 27, https://ag.ny.gov/sites/default/files/court-filings/united-states-of-america-et-al-v-google-llc-memorandum-opinion-2025.pdf. ("Google's bolstering of its publisher-facing business through the DoubleClick acquisition helped it establish a dominant position on both sides of the ad tech stack.").

[39] *Memorandum Opinion*, United States v. Google LLC, No. 1:23-cv-00108, (Apr. 17, 2025), p. 27, https://ag.ny.gov/sites/default/files/court-filings/united-states-of-america-et-al-v-google-llc-memorandum-opinion-2025.pdf. ("But Google also shut down some of Admeld's features, including its ability to pass real-time AdX pricing into non-DFP publisher ad servers. … Google did so, even though some believed that maintaining this functionality would have required '[m]inimal effort,' because allowing AdX to submit real-time bids to publishers using non-Google ad servers would have '[t]ake[n] away a key differentiator for DFP.'").

[40] *Memorandum Opinion*, United States v. Google LLC, No. 1:23-cv-00108, (Apr. 17, 2025), p. 33-34, https://ag.ny.gov/sites/default/files/court-filings/united-states-of-america-et-al-v-google-llc-memorandum-opinion-2025.pdf. ("Working together, non-Google industry members and open-source advocates formed an organization called Prebid which developed header bidding, a technical solution that allowed publishers using DFP to solicit real-time bids from multiple ad exchange… Header bidding rapidly gained popularity and achieved widespread adoption by large publishers in 2015.… Instead, Google implemented new features and policy changes to counteract the growing threat of header bidding.").

36. Thus, without evidence of greater efficiencies and innovation by the monopolist compared to competition, Professor Hylton's critique loses much of its impact. Without a demonstration of efficiencies and innovation, Professor Hylton's analysis reduces to a dispute about the probability of paying the penalty. This is the issue to which I now turn.

4 Professor Hylton's Contention that the Probability of Detection and Enforcement of Monopolization is close to 100% is Unfounded

37. The penalty cap of "three times the value of the benefit derived from the anti-competitive practice" assumes that the probability of paying the penalty—the probability of a successful final enforcement action—is approximately one third. Professor Hylton takes the view—unlike under the standard deterrence model—that any penalty even modestly above his calculated "optimal" level is punitive. Based on his analysis, a penalty that triples the gain from a violation is always punitive if the probability of detection and enforcement exceeds one-third. But if that probability falls below one-third, then such a penalty is, by definition, non-punitive. This probability of paying the penalty comprises several steps including detection of the unlawful conduct, initiation of an enforcement action, and a successful final judgement that survives appeal.[41]

38. Despite this, Professor Hylton claims that while the "likelihood of antitrust enforcement can never be 100 percent … what I intend to convey is a scenario where the likelihood of antitrust enforcement is high."[42] Professor Hylton appears to rule out a detection and enforcement probability of one third or less—indeed he considers unrealistic a detection and enforcement probability below 60 percent.[43] Professor Hylton makes clear that he views the probability of actually paying the penalty at issue as a near certainty—"the likelihood of antitrust detection and enforcement is high, and usually close to 100 percent."[44]

39. Professor Hylton's basis for his assumption of near-certain detection and enforcement is a single study.[45] That study examined 70 "second requests" issued by the Federal Trade Commission ("FTC") on horizontal mergers between 1982 and 1987. The study found that when both the FTC's lawyers and economists agreed that a proposed merger violated all three of the key merger guideline factors—excessive concentration, barriers to entry, and

[41] Hylton Report, ¶ 29. ("As a general matter, the probability of antitrust enforcement can be ascribed to two factors: the probability of detection and the probability of enforcement conditional on detection.")
[42] Hylton Report, ¶ 42.
[43] Hylton Report, ¶ 68. ("If I am wrong and the probability of detection of the monopolizing conduct alleged is less than 60 percent, then as explained above, the optimal penalty would be calculated as dividing the amount that equates to the internalization of consumer harm by the probability of detection.").
[44] Hylton Report, ¶ 29.
[45] Hylton Report, ¶ 29. (Paper cites "Coate, M.B., Higgins, R.S. & McChesney, F. (1990). Bureaucracy and Politics in FTC Merger Challenges. *Journal of Law and Economics*, 33(2), 463-482.")

probability of collusion—the FTC issued a complaint 97% of the time.[46] In other words, the study found that mergers, where there was internal consensus among enforcers that they clearly violated the most important elements of the agency guidelines, were highly likely to be challenged.

40. I do not find this evidence instructive nor helpful for evaluating monopolization enforcement. First, Professor Hylton's evidence considers mergers, rather than monopolization cases. Second, certain mergers, unlike monopolization cases, must be reported to the FTC and the Department of Justice under the Hart Scott Rodino Act in the United States.[47] This means that the detection rate for anticompetitive mergers is likely to be higher than the detection rate for monopolization cases. Third, the study concerns the probability of issuing a complaint without considering the success rate of the complaints. I consider a judicial injunction to be a final resolution for merger cases, not a complaint. Professor Hylton cites a 97% probability of issuing a complaint among internally identified and agreed-upon problematic mergers—not a 97% probability of detection *and enforcement*.

41. Recent data reinforce this point. In 2023 there were 1,805 transactions reported in the United States, resulting in 37 second requests,[48] and approximately 14 complaints filed.[49] These filings resulted in 3 litigated wins.[50] At least in 2023 the probability of a second request resulting in an agency win in court was 0.08, or eight percent. On one hand, it might be contended that while second requests represent suspected anticompetitive mergers, they overstate the number of mergers that were anticompetitive (where prices likely would rise post-merger). On the other hand, some anticompetitive mergers may not receive second requests. A retrospective study of consummated mergers, i.e., mergers that were cleared, shows that of the 49 mergers studied, 36 (73%) resulted in a price increase. [51] Although this

[46] Malcolm B. Coate, Richard S. Higgins & Fred S. McChesney, *Bureaucracy and Politics in FTC Merger Challenges*, 33 Journal of Law and Economics, 463–82 (1990), p. 480. ("if both bureaus [lawyers and economists] agree that all three factors present potential problems, the probability of a challenge is.").
[47] United States Code, *15 USC 18a: Premerger notification and waiting period*, (Jul. 3, 2025), http://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title15-section18a&edition=prelim.
[48] Federal Trade Commission & Department of Justice, *Hart-Scott-Rodino Annual Report for Fiscal Year 2023,* (2023), p. 8. ("Of the 1,805 reported transactions in fiscal year 2023, Second Requests could have been issued in 1,735 of them. The FTC issued 26 Second Requests in FY 2023. In FY 2023, the Division issued 11 Second Requests.").
[49] Federal Trade Commission & Department of Justice, *Hart-Scott-Rodino Annual Report for Fiscal Year 2023* (2023), p. 2. ("The Commission took action against 16 deals: two in which it issued consent orders for public comment; ten in which the transaction was abandoned or restructured as a result of antitrust concerns raised during the investigation; and four in which the Commission initiated administrative or federal court litigation. The Division took action against 12 merger transactions: two that were blocked through lawsuits in U.S. district courts and ten in which the transaction was abandoned or restructured after the Division raised concerns about the threat it posed to competition.").
[50] Federal Trade Commission & Department of Justice, *Hart-Scott-Rodino Annual Report for Fiscal Year 2023* (2023), p. 3, 5.
[51]John Kwoka, *Mergers, Merger Control, and Remedies: A Retrospective Analysis of U.S. Policy*, The MIT Press, (2015), p. 110. There has been a critique of Kwoka's book by Michael Vita and F. David Osinski (Michael Vita & F.

evidence is not definitive, it is instructive, and it certainly undermines the claim that 97% of all anticompetitive mergers are detected and successfully prosecuted.

42. Economists have studied the probability of detection of price fixing cartel activity—another form of antitrust violation and thus a relevant data point for the issue of probability of detection in this case. The evidence shows that the probability of detection for cartels is also quite low. The most quoted paper on this[52] finds that "the average conspiracy lasts about 5 to 7 years [and] … The probability of getting caught is at most between .13 and .17." Another study finds a similar probability of detection for the EU: "The probability of detection in any given year is at most between 12.9% and 13.2%."[53]

43. Cartels take steps to maintain secrecy. However, once a price fixing cartel is detected, the antitrust standard is per se illegality and convictions are likely. For example, Connor and Lande estimate that the conviction rate for cartels is about 80 percent.[54] In contrast, in a monopolization case, the conduct can be more public, but in many cases the monopolist takes steps to avoid transparency. For example, the Commissioner of Competition has alleged that Google deliberately concealed the existence of its "Project Bernanke" conduct to the public and to publishers.[55,56] The U.S. District Court's opinion in *United States v. Google LLC*, the adtech case, found that the systems Google set up for communications and the action taken by Google employees resulted in some discussions which were "too sensitive for email" taking place in Google's chat system and were therefore systematically deleted. It also found that "Google employees and executives also misused the attorney-client privilege" and that some of them "routinely labeled emails as attorney-client privileged even though the emails clearly did not involve privileged communications."[57] The U.S. District Court concluded the "Google's systemic disregard of the evidentiary rules

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David Osinski, *John Kwoka's Mergers, Merger Control, and Remedies: A Critical Review,* Antitrust Law Journal, (2018), p. 361–388) with a reply by Kwoka (John Kwoka, *Mergers, Merger Control, and Remedies*: *A Response to the FTC Critique*, (March 2017)) and further rejoinder by Vita (Michael Vita, *Mergers, Merger Control, and Remedies*: *Rejoinder to Kwoka*, Research in Law and Economics, Volume 28, (2018), p. 433–444). From my reading of this exchange, I do not see the critique of Kwoka to be convincing.

[52] Peter Bryant & E. Woodrow Eckard, *Price Fixing: The Probability of Getting Caught*, 73 Journal of Economics & Statistics 531, (1991).

[53] Emanuel Combe, Constance Monnier & Renaud Legal, *Cartels: Probability of Getting Caught in the European Union*, BEER Paper No. 2, (March 2008).

[54] John M. Connor, and Robert H. Lande, *Cartels as rational business strategy: crime pays*, Cardozo Law Review, 34 (2012), p. 468. ("Note that the probability of a cartel being detected (25% to 30%) and convicted (80%) then becomes 20% to 24% (depending on whether low or high estimates are used).").

[55] *Notice of Application*, Commissioner of Competition v. Google Canada Corporation and Google LLC, No. CT-2024-010, (Nov. 28, 2024), ¶ 181. ("Google's manipulation of its bids was done covertly and with the intention of reinforcing its dominant position in the relevant markets. Through Project Bernanke, Google steered more ad spend towards Google Ads and AdX, and away from rival buying tools and ad exchanges.").

[56] Jeff Horwtiz & Keach Hagey, *Google's Secret 'Project Bernanke' Revealed in Texas Antitrust Case*, Wall Street Journal, (Apr. 11, 2021, 11:41 AM), https://www.wsj.com/business/media/googles-secret-project-bernanke-revealed-in-texas-antitrust-case-11618097760.

[57] *Memorandum Opinion,* United States v. Google LLC, No. 1:23-cv-00108, (Apr. 17, 2025), pp. 113-114, https://ag.ny.gov/sites/default/files/court-filings/united-states-of-america-et-al-v-google-llc-memorandum-opinion-2025.pdf.

regarding spoliation of evidence and its misuse of the attorney-client privilege may well be sanctionable. But because the Court has found Google liable under Sections 1 and 2 of the Sherman Act based on trial testimony and admitted evidence, including those Google documents that were preserved, it need not adopt an adverse inference or otherwise sanction Google for spoliation at this juncture."[58] In another monopolization case, the Court sanctioned Google for deleting internal messages relevant to the litigation.[59] This fact contrasts with Professor Hylton's claim that "in many cases of monopolization … that the potentially unlawful acts are generally not concealed."[60] In any event, once detection occurs, it typically takes years to successfully prosecute a monopoly case, and the success rate is low.

44. Monopolization cases have a low probability of a successful final judgment because of the substantial legal burdens in rule of reason cases. The Canadian enforcement record supports this pattern and contradicts Professor Hylton's claim that the probability of detection and enforcement of monopolization is close to 100%. In nearly four decades, there have been only eight contested abuse of dominance cases, thirteen settlements, and one pending matter.[61] This Canadian enforcement history is consistent with the broader patterns observed in monopolization enforcement elsewhere. For example, a study of 738 rule of reason antitrust cases in the United States showed that only 222 involved a final court determination (the others were either dismissed or settled) and plaintiffs prevailed in just one of those 222. Thus the probability of enforcement based on this study for monopolization was less than one percent.[62]

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[58] *Memorandum Opinion,* United States v. Google LLC. No. 1:23-cv-00108, (Apr. 17, 2025), p. 114. *See also Memorandum Opinion*, United States v. Google LLC. No. 1:20-cv-03010, (Aug. 5, 2024), p. 275, (the Google Search monopolization decision, where the Court observed: "Still, the court is taken aback by the lengths to which Google goes to avoid creating a paper trail for regulators and litigants. It is no wonder then that this case has lacked the kind of nakedly anticompetitive communications seen in Microsoft and other Section 2 cases… Google clearly took to heart the lessons from these cases. It trained its employees, rather effectively, not to create 'bad' evidence. Ultimately, it does not matter. Section 2 liability does not rise or fall on whether there is 'smoking gun' proof of anticompetitive intent.'"), https://www.courtlistener.com/docket/18552824/1033/united-states-of-america-v-google-llc/.

[59] *Findings of Fact and Conclusions of Law re Chat Preservation*, In re Google Play Store Antitrust Litigation, No. 3:21-md-02981, (Mar. 28, 2023), https://docs.justia.com/cases/federal/district-courts/california/candce/3%3A2020cv05671/364325/401.

[60] Hylton Report, ¶ 56.

[61] James Musgrove, Willaim Wu & Mishail Adeel, *Canadians Behaving Dominantly: The Recent Transformation of Abuse of Dominance Under the Canadian Competition Act,* The Antitrust Source, (Feb. 2025), https://www.americanbar.org/content/dam/aba/publications/antitrust/source/2025/february/canadians-behaving-dominantly.pdf. ("That has not been the case. Indeed, as of this writing, since 1986, there have been only eight contested cases and 13 cases resolved by settlement, plus one case currently pending.")

[62] Michael Carrier, *The Rule of Reason: An Empirical Update for the 21st Century*, George Mason Law Review 16, p. 827, (2009), ("I reviewed 738 cases. Of these, 222 involved a court's final determination in a rule of reason case. Out of the 222 cases, 215 were resolved on the grounds that the plaintiff did not prove an anticompetitive effect … In 221 of 222 cases (all except a single balancing case), the defendant won") Thus, the probability of enforcement based on his study for monopolization was 0.4% (=1/222).

45. Another problem with Professor Hylton's assumption of almost certain detection and enforcement of monopolization is that his analysis does not account for the considerable time it takes to identify and prosecute a monopolization case. For example, according to the court opinion in *U.S. v. Google,* Google achieved monopoly power in the adtech space in approximately 2011, but the trial decision was not returned until 2025.[63] Another example is when Epic Games sued Google for monopolizing app distribution and overcharging for in-app delivery of digital content. According to the complaint, Google maintained monopolistic control over Android app distribution and in-app payments for nearly a decade, beginning around 2014 until the jury verdict was returned in 2023.[64] In *Epic Games v. Google* the jury verdict confirmed what had long been visible but took nearly a decade to conclude in court.[65] Furthermore, as legal liability and cessation of conduct create further gaps in enforcement, Google continues to benefit from the same structures until remedies will be finalized, and all appeals exhausted.

46. Professor Hylton likely derives his probability of detections by collapsing the time period of analysis and asking whether the monopoly is *ever* successfully prosecuted (but even so the probability is low). This is not the correct way to calculate probability. In 2011, I suspect that the probability of prosecution for Google was miniscule. As years went by and Google became larger and more aggressive, the probability increased. If the penalty were calculated on a year-by-year basis incorporating these small probabilities in the early years, the resulting penalty would be significantly larger.[66]

5 Professor Hylton Overlooks Several Other Categories of Harm Caused by Monopolization

47. Another problem with Professor Hylton's analysis is that he unjustifiably restricts the social harm caused by monopolization to simply the monopoly profits and the loss of consumer surplus. Economic theory suggests that harm from monopoly includes much more, including barriers to entry, lost innovation from competition, and umbrella price effects, among others. While there are numerous reasons an economy and a society can be damaged by monopoly, I will mention only three prominent examples of such harmful effects that are ignored by Professor Hylton. The internalization approach is supposed to sum all of the harm and include all affected individuals and entities. When some types of harm are

[63] *Memorandum Opinion,* United States v. Google LLC, No. 1:23-cv-00108, (Apr. 17, 2025), p. 77, https://ag.ny.gov/sites/default/files/court-filings/united-states-of-america-et-al-v-google-llc-memorandum-opinion-2025.pdf.
[64] Nico Grant, *Google Loses Antitrust Court Battle With Makers of Fortnite Video Game*, (Dec. 11, 2023), https://www.nytimes.com/2023/12/11/technology/epic-games-google-antitrust-ruling.html.
[65] Furthermore, as legal liability and cessation of conduct create further gaps in enforcement, Google continues to benefit from the same structures until remedies will be finalized, and all appeals exhausted.
[66] John Nash, *Optimal Civil Penalties,* FTC Working Paper, No. 138, (Feb. 1986). ("A dynamic model which incorporates the time necessary for detection shows that the optimal fine is larger than when only the final probability of detection is considered.").

excluded from the model, it results in inefficiently small penalty caps. I believe that would be the case here.

48. One important harm to consumers not accounted for by Professor Hylton results from the fact that when the monopolist raises prices above competitive levels to consumers, its competitors also raise prices. This well-known effect is referred to by economists as the umbrella effect.[67] It is my understanding that Canada's Supreme Court allows plaintiffs to sue for umbrella damages in some contexts.[68] Depending on the size of the competitive fringe (the monopolist's competitors), the loss to consumers can be substantial. For example, in *U.S. v. Google*, Google was found to have approximately "63% to 71% of the worldwide open-web display transactions among the ad exchanges that produced data for [the *U.S. v. Google*] litigation."[69] This means that about 30% of the market is served by small competitors. If the 20% price by Google is above competitive levels it can reduce the constraints on competitor prices. Consumers purchasing from competitors of Google could be harmed by monopolization.

49. Monopolists also create barriers to entry and exclude competitors and new entrants from the market. For example, in the Epic case against Google there was evidence that Google took steps to reduce the ability of rival app stores to compete with Google Play on the Android platform. When monopolists impede new entry, losses include the consumer surplus, the profits, innovations, and other contributions of the excluded firms and their customers. Again, this potential harm caused by monopolization is not captured by Professor Hylton's model.

50. Finally, monopolies can impact the political process. Economic research suggests that once a firm gains significant market power its lobbying efforts also increase. For example, a recent study shows that lobbying expenditures increase following large mergers.[70] Another recent study shows that mergers lead to higher levels of lobbying and are associated with legislation that benefits the merged firm.[71] To the extent that lawmakers pass competition

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[67] Roman Inderst, Frank P. Maier-Rigaud & Ulrich Schwalbe, *Umbrella Effects*, 10 Journal of Competition Law and Economics 739, (2014), p. 2. ("As we discuss in this article, the increased demand for substitutes typically leads to higher prices for the substitute products. Such price increases are called umbrella effects and may arise either in the same relevant market —for example, in cases where a cartel covers less than 100 percent of the firms in that market—or in neighboring markets.").

[68] Mary Beth Savio, *Assessing Umbrella Pricing Incentives*, 35 Antitrust, (2020), p. 85. ("The Supreme Court of Canada was asked to address whether umbrella purchasers have the right to sue the members of a cartel for their economic losses. The majority ruled that umbrella purchasers have standing to sue if they can prove that their losses foreseeably resulted from unlawful behavior by the cartel members—that is, whether plaintiffs can show that non-cartel members increased their prices as a predictable result of the cartel members' price-fixing agreement.").

[69] *Memorandum Opinion*, United States v. Google LLC, No. 1:23-cv-00108, (Apr. 17, 2025), p. 82, https://ag.ny.gov/sites/default/files/court-filings/united-states-of-america-et-al-v-google-llc-memorandum-opinion-2025.pdf.

[70] Bo Cowgill, Andrea Pratt & Tommaso Valletti, *Political Power and Market Power*, NBER, Working Paper No. 33255, (Dec. 2024).

[71] Sarah Moshary & Cailin Slattery, *Consolidation and Political Influence in the Auto Retail Industry,* (May 2024).

laws in part to curb the political influence of large firms with monopoly power, the Hylton model would not recognize any such social impact.

51. My conclusion is that had Professor Hylton incorporated all the harms caused by monopolization it is likely the internalization approach would result in a much larger penalty than the penalty that results from the deterrence approach.

6 Professor Hylton Conflates the Cap and the Penalty

52. To understand why Professor Hylton is mistaken in characterizing a penalty capped at either "three times the benefit" or "three percent of global revenue" as punitive, it is helpful to consider the process by which such a penalty would be set. Under the well-established deterrence approach in economics, the optimal penalty—meaning one that promotes compliance with Section 79 of the *Competition Act*—is equal to the illicit gain divided by the probability of detection. This ensures that firms have no financial incentive to violate the law. A penalty below this level would fail to deter anticompetitive conduct, as the expected cost would remain lower than the expected gain. Conversely, a penalty that substantially exceeds this benchmark may be seen as overdeterrent, as it sets a deterrent penalty stronger than necessary.

53. I will consider two cases, which together exhaust the possibilities of this and any other monopolization case, both of which reflect the overarching economic principles set out above.

54. In the first case, sufficient information is available to determine the monopolist's benefit from the anticompetitive conduct. Assuming that the Tribunal has decided to order a firm to pay a penalty, the first step in the process would be for the Tribunal to set a penalty amount using the specific factors in Section 79(3.2) of the *Competition Act*, and "any other relevant fact"[72] and having regard to the purpose of the penalty (i.e., conformity, not punishment). Then, that penalty amount would be compared to the cap (i.e., three times the benefit, which in this case is known). If the penalty is above the cap, then the cap becomes the final penalty and is lower than the optimal penalty. However, if the penalty is below the cap, the lower (optimally calculated) penalty is the one that is implemented. I understand that this process is consistent with how the European competition authorities calculate antitrust penalties.[73]

[72] Canadian Competition Act, Section 79 (3.2.f), *Aggravating or mitigating factors*.
[73] UK Competition & Markets Authority, *CMA's guidance as to the appropriate amount of a penalty*, CMA 73, (Dec.2021), available at https://assets.publishing.service.gov.uk/media/622f73c58fa8f56c170b7274/CMA73final_.pdf; European Union, *Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003*, Official Journal of the European Union, 1.9.2006, available at https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX%3A52006XC0901(01).

55. Now consider the second case where there is insufficient information to calculate the monopolist's benefit. As in the first case, the Tribunal would use all available relevant information to calculate a penalty based on the factors in Section 79(3.2) and Section 79(3.3). The difference under the second case relates to the cap of up to 3% of gross worldwide revenues. The final penalty would be the lower of the penalty determined by the Tribunal as described above and 3% of gross worldwide revenues.

56. To illustrate how this operates in practice, consider a firm that has $2 billion in worldwide revenue. Though the benefit to the monopolist cannot be reasonably determined, imagine that the Tribunal's analysis based on the factors in Section 79(3.2) and Section 79(3.3) results in a penalty of $15 million. This penalty is below the 3% penalty cap ($60 million, corresponding to 3% of $2 billion). In this case, the $15 million dollar penalty would be the final penalty, not the penalty cap of $60 million.

57. The error in Professor Hylton's analysis is that he assumes that the final penalty will be equal to the penalty cap. This is not the case. Professor Hylton's analysis conflates the calculation of a penalty with the calculation of a penalty cap. For example, in respect of the 3% of worldwide gross revenues, Professor Hylton's primary complaint is that "[i]mposing a penalty based on the revenues Google generates outside of Canada, and from products and services competing in markets that are not alleged to have been monopolized in this proceeding, will result in inefficient overdeterrence of Google's participation in the marketplace, and be punitive from the perspective of antitrust economics."[74] Whether or not that assertion is correct, the key point under the deterrence model is that such information—if accepted—would be weighed alongside other relevant economic and market evidence to determine the optimal penalty. That is, a penalty large enough to deter unlawful conduct, but no larger than necessary to achieve that objective. This approach is consistent with the penalty framework set out in Sections 79(3.1) through 79(3.3) of the *Competition Act*. If the kind of evidence Professor Hylton references, including the material discussed above, were brought before the Tribunal and found to be relevant, it would, of course, be considered in setting the appropriate penalty amount. Professor Hylton ignores this and the fact that, as noted, the *Competition Act* requires the Tribunal to consider all relevant factors.

58. Professor Hylton also criticizes the penalty cap itself. He claims in his report that if the "financial penalty [cap] of three percent of global revenues continues to exceed the result of that calculation [of the optimal penalty under the internalization approach], then the financial penalty [cap] remains punitive from the perspective of antitrust economics."[75] This assertion implies that Professor Hylton misunderstands how the *Act* operates. Using the internalization approach, which is adopted by Professor Hylton, there must be sufficient

[74] Hylton Report, ¶ 67. Without any quantification of the benefit or calculation of an optimal penalty, his claim that the 3% penalty cap "would result in inefficient overdeterrence" remains speculative and unsubstantiated.
[75] Hylton Report, ¶ 68.

information to calculate an optimal penalty. This information must include the monopolist's benefit from the alleged anticompetitive conduct. But if this benefit is known, then the alternative cap of three percent of global revenue is not applicable. Instead, the final penalty-cap would be equal to three times the calculated benefit from the alleged conduct.

Appendix A: Steven Tadelis Curriculum Vitae

Steven Tadelis – c.v.

Haas School of Business
University of California Berkeley Berkeley, CA 94720

Email: stadelis “at” berkeley.edu
Homepage:
http://faculty.haas.berkeley.edu/stadelis/

Appointments

07/2015–present	Professor of Economics, Business and Public Policy, UC Berkeley, Haas School of Business, CA
03/2019–present	Sarin Chair in Strategy and Leadership
03/2018–present	Luohan Academy, Committee Member of the Academy
08/2017–02/2021	Amazon Scholar, Amazon Inc., Seattle, WA
07/2016–08/2017	VP, Economics and Market Design, Amazon Inc., Seattle, WA
07/2016–03/2019	James J. and Marianne B. Lowrey Chair in Business, UC Berkeley
07/2015–6/2016	Joe Shoong Chair in International Business, UC Berkeley
07/2005–06/2015	Associate Professor of Business and Public Policy, UC Berkeley, Haas School of Business, CA
08/2011–08/2013	Sr. Director, Distinguished Economist, eBay Research Labs, San Jose, CA
09/2012–12/2012	Visiting Professor of Economics, Columbia University GSB, New York, NY
01/2010–03/2010	Visiting Professor of Economics, MIT Sloan School, Cambridge, MA
11/2006–1/2009	Associate Dean for Strategic Planning, UC Berkeley, Haas School of Business, CA
09/2003	Visiting Assistant Professor of Economics, Arizona State University, Tempe, AZ
07/1997–06/2005	Assistant Professor of Economics, Stanford University, Stanford, CA

Education

Harvard University, Cambridge, MA USA: M.A. Economics, 1994; Ph.D. Economics, 1997.

Technion, Haifa, Israel: M.Sc. Economics (with Special Honors), 1992

University of Haifa, Haifa, Israel: B.A. in Economics (with Special Honors), 1991

Professional Affiliations

Research Network Fellow, Center for Economic Studies, ifo Institute (CESifo) 2017–present

Research Fellow, Centre for Economic Policy Research (CEPR), 2015–present

Research Associate, National Bureau of Economic Research (NBER), 2014–present

Publications

Journal Articles

1. "Transaction Cost Economics in the Digital Economy: A Research Agenda" with Frank Nagle and Robert Seamans. *Strategic Organization*, accepted.
2. "Communication, Learning, and Bargaining Breakdown: An Empirical Analysis" with Matthew Backus and Tom Blake. *Management Science*, accepted.
3. "Counter-stereotypical Messaging and Partisan Cues: Moving the Needle on Vaccines in a Polarized U.S." with Bradley J. Larsen, Timothy J. Ryan, Steven Greene, Marc J. Hetherington, and Rahsaan Maxwell. *Science Advances* 9(29) eadg9434 (2023). DOI:10.1126/sciadv.adg9434
4. "Raising the Bar: Certification Thresholds and Market Outcomes," with Xiang Hui, Maryam Saeedi and Giancarlo Spagnolo. *American Economic Journal: Microeconomics*. 15(2):599–626 (2023).
5. "The Response of Consumer Spending to Changes in Gasoline Prices," with Michael Gelman, Yuriy Gorodnichenko, Shachar Kariv, Dmitri Koustas, Matthew D. Shapiro and Dan Silverman. *American Economic Journal: Macroeconomics*. 15(2):129-60 (2023).
6. "Expectation, Disappointment, and Exit: Reference-Point Formation in a Marketplace," with Matthew Backus, Tom Blake and Dmitriy Masterov. *Journal of the European Economic Association*. 20(1):116–149 (2022)
7. "Price Salience and Product Choice," with Tom Blake, Sarah Moshary and Kane Sweeney. *Marketing Science*. 40(4):619-636 (2021)
8. "People Management Skills, Employee Attrition, and Manager Rewards: An Empirical Analysis," with Mitchell Hoffman. *The Journal of Political Economy*. 129(1):243-285 (2021)
9. "Buying Reputation as a Signal of Quality: Evidence from an Online Marketplace," with Lingfang (Ivy) Li and Xiaolan Zhou. *Rand Journal of Economics*. 51(4):965-988 (2020)

   "How Individuals Respond to a Liquidity Shock: Evidence from the 2013 Government Shutdown," with Michael Gelman, Shachar Kariv, Matthew D. Shapiro and Dan Silverman. *The Journal of Public Economics*. 189 (2020) 103917
10. "Sequential Bargaining in the Field: Evidence from Millions of Online Bargaining Interactions," with Matthew Backus, Tom Blake and Brad Larsen. *The Quarterly Journal of Economics*. 135(3):1319–1361 (2020)
11. "On the Empirical Content of Cheap-Talk Signaling: An Application to Bargaining," with Matthew Backus and Tom Blake. *The Journal of Political Economy*. 127(4):1599-1628 (2019)
12. "Reputation and Feedback Systems in Online Platform Markets," *Annual Review of Economics*, 8(1):321-340 (2016)
13. "Returns to Consumer Search: Evidence from eBay," with Tom Blake and Chris Nosko. *17th ACM Conference on Electronic Commerce*, (EC 2016) pp.531-545 (2016)

14. "The Economics of Reputation and Feedback Systems in eCommerce Marketplaces," *IEEE Internet Computing*, 20(1):12-19 (2016)
15. "Canary in the e-Commerce Coal Mine: Detecting and Predicting Poor Experiences Using Buyer-to-Seller Messages," with Dmitriy Masterov and Uwe Mayer *16th ACM Conference on Electronic Commerce*, (EC 2015) pp.12-19 (2015)
16. "Is Sniping A Problem For Online Auction Markets?," with Matthew Backus, Tom Blake and Dmitriy Masterov *Proceedings of the 24th ACM International World Wide Web Conference*, (WWW24) pp.12-19 (2015)

    "Information Disclosure as a Matching Mechanism: Theory and Evidence from a Field Experiment," with Florian Zettelmeyer *American Economic Review*, 105(2):886-905 (2015)
17. "Consumer Heterogeneity and Paid Search Effectiveness: A Large Scale Field Experiment," with Chris Nosko and Tom Blake *Econometrica*, 83(1):155-174 (2015)

    Finalist: 2016 ISMS/MSI Gary Lilien Marketing Science Practice Prize
18. "Harnessing Naturally-Occurring Data to Measure the Response of Spending to Income," with Michael Gelman, Shachar Kariv, Matthew D. Shapiro and Dan Silverman *Science*, 345(6193):212-215 (2014)

    "Bidding for Incomplete Contracts: An Empirical Analysis," with Pat Bajari and Stephanie Houghton *American Economic Review*, 104(4):1288-1319 (2014)
19. "Public Procurement Design: Lessons from the Private Sector," *International Journal of Industrial Organization*, 30(3):297-302 (2012)

    "A Theory of Moral Persistence: Crypto-Morality and Political Legitimacy," with Avner Greif *Journal of Comparative Economics*, 38(3):229-244 (2010)

    Recipient: Montias prize - best article published in JCE in 2010-2011
20. "Contracting for Government Services: Theory and Evidence from U.S. Cities," with Jonathan Levin *Journal of Industrial Economics*, 58(3):507-541 (2010)
21. "Auctions versus Negotiations in Procurement: An Empirical Analysis," with Pat Bajari and Rob McMillan *Journal of Law, Economics and Organization*, 25(2):372-399 (2009)
22. "Seller Reputation," with Heski Bar-Isaac *Foundations and Trends in Microeconomics*, 4(4):273-351(2008)
23. "The Innovative Organization: Creating Value through Outsourcing," *California Management Review*, 50(1):261-277 (2007)
24. "Profit Sharing and the Role of Professional Partnerships," with Jonathan Levin *Quarterly Journal of Economics*, 120(1):131-172 (2005)
25. "Firm Reputations with Hidden Information," *Economic Theory*. 18(2):537-553 (2003)
26. "The Market for Reputations as an Incentive Mechanism," *The Journal of Political Economy*. 110(4):854-882 (2002)
27. "Complexity, Flexibility and the Make or Buy Decision," *American Economic Review Papers and Proceedings*.92(2):433-437 (2002)

28. "Incentives versus Transactions Costs: A Theory of Procurement Contracts," with Pat Bajari *Rand Journal of Economics*, 32(3):387-407 (2001)
29. "What's in Name? Reputation as a Tradeable Asset," *American Economic Review*. 89(3):548-563 (1999)
30. "Pareto Optimality and Optimistic Stability in Repeated Extensive Form Games," *Journal of Economic Theory*. 69(2):270-299 (1996)

Book Chapters and Invited Papers

35. "Reputation, Feedback and Trust in Online Platforms," in B. Heydari, O. Ergun, R. Dyal-Chand and Y. Bart (Eds.) *Reengineering the Sharing Economy: Design, Policy, and Regulation*. Cambridge University Press. (forthcoming)
36. "Bargaining in Online Markets," with Matthew Backus and Thomas Blake in E. Karagozoglu, K.B. Hyndman (Eds.) *Bargaining.* Palgrave Macmillan, Cham. (2022)
37. "Algorithmic Pricing: What Every Antitrust Lawyer Needs to Know," with David Smith *The Price Point, Newsletter of the ABA Section of Antitrust Law's Pricing Conduct Committee*. 22(1):6-11 (2021)
38. "How Artificial Intelligence and Machine Learning Can Impact Market Design," with Paul R. Milgrom in A. Agarwal, J. Gans and A. Goldfarb (Eds.) *The Economics of Artificial Intelligence: An Agenda*. University of Chicago Press. (2019)
39. "Two-Sided eCommerce Marketplaces and the Future of Retailing," in E. Baskar (Ed.) *Handbook on the Economics of Retail and Distribution*. Edward Elgar Publishing. (2016)
40. "Property Rights and Transaction Costs Theories," in Aghion, P., M. Dewatripont, P. Legros and L. Zingales (Eds.) *The Impact of Incomplete Contracts on Economics*. Oxford University Press. (2016)
41. "Transaction Cost Economics," with Oliver E. Williamson in R. Gibbons and J. Roberts (Eds.) *Handbook of Organizational Economics*. Princeton University Press. (2012)
42. "Jonathan Levin: 2011 John Bates Clark Medalist," with Liran Einav *Journal of Economics Perspectives*, 26(2), 207-222 (2012)
43. "A Tribute to Oliver Williamson: Williamson's Contribution and Its Relevance to 21st Century Capitalism," *California Management Review*, 52(2):159-166 (2010)
44. "Incentives and Transaction Costs in Public Procurement," in C. Menard and M. Ghertman (Eds.) *Regulation, Deregulation & Reregulation*. Edward Elgar Publishing. (2009)
45. "Incentives and award procedures: competitive tendering vs. negotiations in procurement," with Patrick Bajari in N. Dimitri, G. Piga and G. Spagnolo (Eds.) *Handbook of Procurement*.

Working Papers and Papers Under Review

46. "Digital Advertising and Market Structure: Implications for Privacy Regulation," with Daniel Deisenroth, Utsav Manjeer, Zarak Sohail, and Nils Wernerfelt, July 2024
47. "Learning, Sophistication, and the Returns to Advertising: Implications for Differences in Firm Performance " with Christopher Hooton, Utsav Manjeer, Daniel Deisenroth, Nils Wernerfelt, Nick Dadson, and Lindsay Greenbaum, April 2023
48. "The Economics of Algorithmic Pricing: Is collusion really inevitable?" with Kai-Uwe Kuhn. January 2018
49. "The Limits of Reputation in Platform Markets: An Empirical Analysis and Field Experiment," with Chris Nosko. February 2015
50. "The Power of Shame and the Rationality of Trust," March 2011
51. "A Costly Contracting Approach to the Organization of Production," with Jonathan Levin. December 2006
52. "Apprenticeships: Human Capital and Competitive Signaling in a Dynamic Labor market," with Antonio Rangel. December 2001
53. "Renegotiation in Agency Contracts: The Value of Information," with Ilya Segal. December 1996

Books

1. *Game Theory: An Introduction.* Princeton University Press, 2012.
2. *Solutions to Exercises: Microeconomic Theory, by A. Mas-Colell, M. Whinston and J.Green.* (with Chiaki Hara and Ilya Segal) Oxford University Press, 1996.

Grants

Vaccine Confidence Fund Grant (Steven Greene, Marc Hetherington, Brad Larsen, Rahsaan Maxwell, and Timothy Ryan, co-PIs), 2021-2022

NSF grant: "Bilateral Bargaining through the Lens of Big Data," (Matt Backus, Brad Larsen and Matt Taddy, co-PIs), 2016-2018 (SES-1629060).

Sloan Foundation grant "Harnessing Naturally-Occurring Data to Study Financial Change of Older Americans," (Mathew D. Shapiro, PI; Daniel Silverman, Shachar Kariv, Steve Tadelis, co-PIs), 2014-2016

Sloan Foundation grant "Database Development Project," (Mathew D. Shapiro, PI; Daniel Silverman,

Shachar Kariv, Steve Tadelis, co-PIs), 2012-2014

Yahoo! Faculty Research grant "'Shame and Reputation in Online Transactions," 2008

Research Bridging Grant, UC Berkeley "Identifying the Incentive Effects of Shame," 2007-2009 NSF CAREER grant: "The Organization and Reputation of Firms," 2003-2009 (SES-0239844).

NSF grant: "Market Monitoring and Organizational Form," 2002-2003 (SES-0214555).

NSF grant: "Reputation, Incentives, and Transaction Costs in Firms," 2000-2002 (SES-0079876).

NSF grant: "Reputation with Hidden Information," 1999-2000 (SBR-9818981).

Honors, Awards, & Fellowships

Fellow of the Econometric Society, elected 2020

Honorable Mention, Cheit Teaching Award, Full-Time MBA Program, 2010-2011

Montias prize - best article published in the Journal of Comparative Economics in 2010-2011

Barbara and Gerson Bakar Faculty Fellow, UC Berkeley Haas School of Business, 2008-2015

Honorable Mention, Cheit Teaching Award, Full-Time MBA Program, 2006-2007

Phi Beta Kappa Undergraduate Teaching Award, Stanford 2005.

Economics Department Advising Award, Stanford 2002.

National Fellow, Hoover Institution, 1999-2000.

Review of Economic Studies European Tour Speaker, May 1997

Alfred P. Sloan Doctoral Dissertation Fellowship, 1995-1996

Graduate Society Fellowship Term Time Award, Harvard University 1995-1996

Graduate Fellowship, Harvard University 1992-1994

Graduate Fellowship, Technion Graduate School 1991-1992

Merit Scholarship, University of Haifa 1988-1991

Ph.D. Advising

Principal or co-Principal Advisor (first placement in parenthesis):

1. Nhat Le (2000); (Australian National University)
2. Ravi Singh (2003); (Harvard Business School)
3. Ales (Bobby) Filipi (2003); (Bates-White Consulting)
4. Navin Kartik (2004); (UC San Diego)
5. Peter Lorentzen (2007) (UC Berkeley)

6. Ian Larkin (2007) (Harvard Business School)
7. Marina Halac (2009) (Columbia Business School)
8. Rob Seamans (2009) (NYU Stern School of Business)
9. Constanca Esteves-Sorensen (2009) (Yale School of Management)
10. Victor Bennett (2010) (USC Marshall School of Business)
11. Sanny Liao (2010) (Private industry)
12. Vito Sciaraffia (2011) (UT Austin McComb Business School)
13. Amy Nguyen-Chyung (2013) (University of Michigan)
14. Orie Shelef (2013) (Stanford Institute for Economic Policy Research Post Doc)
15. Tarek Ghani (2015) (Washington University, St. Louis)
16. Yujin Kim (2016) (Shanghai University of Science and Technology)
17. Moshe Barach (2016) (Georgetown University)
18. Hyo Kang (2019) (University of Southern California)
19. Oren Reshef (2020) (Washington University, St. Louis)
20. Xin Chen (2020) (Singapore Management University)
21. Andres Gonzales (2021) (PUC, Chile)

Committee member (first placement in parenthesis):

1. Pablo Ruis-Verdu (2001); (U. Carlos III Spain)
2. Brent Goldfarb (2001); (U. of Maryland)
3. Hongbin Li (2001); (Chinese University of Hong Kong)
4. Luis Rayo (2002); (University of Chicago GSB)
5. David Miller (2004); (UC San Diego)
6. Brian Chen (2009) (Post-Doc at Stanford Law School)
7. Deepak Hegde (2010) (NYU Stern School of Business)
8. Asaf Plan (2010) (Post-Doc at University of Michigan)
9. Dylan Minor (2011) (Northwestern, Kellogg School of Management)
10. Maciej Kotowski (2011) (Harvard Kennedy School)
11. Mitchell Hoffman (2012) (University of Toronto)

12. Valentina Paredes (2013) (University of Chile)
13. Daniel Gross (2015) (Harvard Business School)
14. Christopher Whaley (2016) (RAND corporation)
15. Jordan Ou (2017) (Analysis Group)
16. Hsin-Tien Tiffany Tsai (National University of Singapore)
17. Alon Rubinstein (2023) (Postdoc, U-Penn Wharton)
18. Muhammad Zia Mehmood (2024) (Research Fellow at Princeton University)
19. Qianmiao (Michelle) Chen (2024) (DIME, World Bank)
20. Yunhao Huang (2025) (USC)
21. Yikun Jiang (2025) (Purdue University)

Professional Activities

Referee for: *American Economic Review; Quarterly Journal of Economics; Journal of Political Economy; Econometrica; Review of Economic Studies; Review of Economics and Statistics; Management Science; American Economic Journal: Microconomics; American Economic Journal: Applied Economics; Rand Journal of Economics; Games and Economic Behavior; International Economic Review; International Journal of Industrial Organization; Journal of Economic Theory; Journal of Law and Economics; Journal of Law Economics and Organization; Journal of Economics and Management Strategy; and more.*

Editor/co-Editor

Journal of Law, Economics and Organization, 2011-2014

Editorial Boards/Associate Editor

American Economic Journal: Microeconomics, 2019-2024

California Management Review, 2006-2016

American Economic Review, 2005-2008

International Journal of Industrial Organization, 2005-2008

Steering/Scientific/Program Committee Member

16th Annual Federal Trade Commission Microeconomics Conference, Washington, D.C. November, 2023

23rd ACM Conference on Economics and Computation (EC'22), U. of Colorado Boulder, July 2022

20th ACM Conference on Economics and Computation (EC'19), Phoenix, June 2019

18th ACM Conference on Economics and Computation (EC'17), MIT, June 2017

17th ACM Conference on Economics and Computation (EC'16), Maastricht, July 2016

24th International World Wide Web Conference (WWW 2015), Florence, May 2015

15th ACM Conference on Economics and Computation (EC'14), Stanford, June 2014

Public Procurement and Sustainable Growth Conference, Venice, October 20-21, 2011

EARIE 2011, Stockholm, Sweden, Sept 1-3, 2011

First Interdisciplinary Symposium on Reputation Mechanisms in Online Communities, MIT, April 2003

Conference co-organizer

"18th Annual Berkeley/Columbia/Duke/MIT/Northwestern IO Theory Conference," Berkeley, Nov 2019

"European Summer Symposium in Economic Theory," (ESSET), Gersenzee, Switzerland, July 2015

"Private and Public Sector Contracting," SITE, Stanford, summer 2004

"Incentives in Markets and Organizations," SITE, Stanford, summer 2003

"The Theory of Contracts," SITE, Stanford, summer 2000

"Contracts and Organizations," SITE, Stanford, summer 1999

"Contractual Incompleteness," SITE, Stanford, 1998

University Service

Member, Committee on Courses of Instruction, UC Berkeley, 2023 - present

Group Chair, Business and Public Policy, Haas School of Business, July 2022 - present

Interviewer/evaluator, Regents' and Chancellor's Scholarship Program, 2016 - present

Member, Committee on Research, UC Berkeley, 2015 - 2016

Ph.D. Program Advisor, Business and Public Policy, Haas School of Business, July 2014 - July 2016

Invited Presentations

Keynote Speaker

Paris IO Day, Paris, France November 25, 2024

The First ZEW Conference on Research with and within Organisations, Mannheim, German September 9-10, 2024

15th Paris Conference on Digital Economics, Paris, France March 21-22, 2024

16th Annual FTC Microeconomics Conference, Washington, D.C. USA, November 2-3, 2023

Berkeley-Padova-Paris Seventh Organizational Economics Workshop, Padova, Italy June 16-17, 2022

CESifo Area Conference on the Economics of Digitization, Munich, Germany November 30 - December 1, 2018

International Workshop on Competition, Regulation and Procurement, National Research University Higher School of Economics, Moscow, Russia, May 28-29, 2018

Conference on Auctions, competition, regulation, and public policy, Lancaster University, U.K., May 24-25, 2018

Online Platform Competition Conference, University of Florida, Florida, March 23, 2018

Industrial Organization, Regulation And Competition Policy In Israel, Hebrew University, Jerusalem, Israel December 28, 2017

Microsoft Research Digital Economics Conference 2017, Redmond, WA, October 20-21, 2017

15th ZEW Conference on The Economics of Information and Communication Technologies, Mannheim, Germany, June 23-24, 2017

INFORMS Conference on Information Systems and Technology, Nashville, TN, November 12-13, 2016

43rd EARIE Annual Conference, Lisbon, Portugal, August 26-28, 2016

International Conference on Game Theory and Multilateral Economic Cooperation, Xi'an, China, June 17-19, 2016

"4th Annual Lithuanian Conference on Economic Research," August 17-18, 2015, , Lithuania

"Eighth bi-annual Postal Economics conference: E-commerce, Digital Economy and Delivery services," April 3-4, 2014, Toulouse, France

"Public procurement and sustainable growth," conference, October 20-21, 2011, Venice, Italy

European School for New Institutional Economics, May 19-23, 2008, Corsica, France

"Public Private Partnerships," conference, December 7-8, 2007, The Sorbonne, Paris, France

"Public services and Management: designs, issues and implications for local governance," conference, January 12-14th, 2006, Toulouse, France

Recent Invited Conferences and Seminar Presentations

2022-2023: NYU-Stern (03/23); ABA-Antitrust Spring Meetings (03/23); Penn-Wharton (04/23); CalTech (04/23); UC-Davis (04/19); UC-Berkeley (04/23); Berkeley IO Seminar (05/23); Fifth Economics of Platforms Workshop, Capri IT (05/23); European University Institute, Florence IT (05/23); U. of Rome Tor Vergata (05/23); 14th Economics of Ads and Marketing Conference, Sofia, BG (06/23);

2021-2022: ACE Barcelona 2021 conference - Barcelona, Spain (11/21); 2022 Stigler Center Antitrust and Competition Conference, U-Chicago (04/22); Bocconi U. Milan IT (05/22); 19th session of the Institutional and Organizational Economics Academy, Corsica FR (05/22); 2022 USC Global Competition Law Thought Leadership Conference (06/22);

2019-2020: EARIE-Barcelona (08/19); Harvard-HBS (10/19); U.Toronto-Rotman (11/19); Northwestern-Kellogg (12/19); Hebrew U.- Jerusalem (12/19);

2018-2019: Melbourne Business Analytics Conference, Melbourne, Australia (07/18); Technology Policy Institute Aspen Forum, Aspen (08/18); FTC Hearing #3: Competition and Consumer Protection in the 21st Century, Arlington, VA (10/18); Monash U., Melbourne (04/19); Melbourne U., Melbourne (04/19); Canterbury U., Christchurch (04/19); UTS, Sydney (04/19); UNSW, Sydney (04/19); Boconni U., Milan (05/19); Collegio Alberto, Turin (05/19); HKUST IO workshop, Hong Kong (06/19); SUFE IO 2019 conference, Shanghai (06/19); ESSET Conference, Gersenzee, Switzerland (7/19)

2017-2018: Annual Reputation Symposium 2017, Oxford University, UK (08/17); NBER Economics of Artificial Intelligence Conference, Toronto (09/17); Carols III University, Madrid, Spain (10/17); CEMFI, Madrid, Spain (10/17); University of Melbourne Business School, Australia (11/17); MSI Conference, SF (02/18); Columbia University IO Seminar, NY (03/18); IJIO Conference, Indianapolis, (04/18); University of Indiana, Bloomington (04/18); Platform Economics Conference, Enaudi, Rome (04/18); ReStud Reunion Conference, Copenhagen (05/18); Third BCCP Conference and Policy Forum, Berlin, Germany (06/18); 2018 CPMD Workshop on Market Design, Sydney, Australia (06/18); BEET 2018 Conference, Columbia University (06/18);

2016-2017: UChicago Law School (11/16); Workshop on Data Ownership, Access and Trade, EU Commission, Brussels (03/17); Columbia University Law School (04/16); Santa Clara University (05/17); Technion, Israel (06/17); Theory of the Firm Conference, Oxford University, UK (06/17); CRESSE Conference, Crete (06/17);

Teaching

UC Berkeley

Managerial Economics (Executive MBA program)

Economic Analysis for Business Decisions (1st year MBA core microeconomics)

Incentives in Organizations (PhD class in the business school)

The Economics of Institutions (PhD class in the business school)

Contract Theory (2nd year PhD class in the economics department)

Economic Analysis for Business Decisions (12-28 hour Executive Education module)

Strategic Sourcing (3 hour Executive Education module)

Strategic Pricing (3 hour Executive Education module)

Stanford University

Contract Theory (2nd year PhD class)

Microeconomic Theory (1st year PhD class)

Game Theory and Economic Applications (Undergraduate class)

Intermediate Microeconomics (Undergraduate class)

Columbia University GSB - Visting Professor

Microeconomics, Fall 2012 (MBA Core class)

MIT Sloan School of Management - Visiting Professor

Strategic Thinking, Spring 2010 (MBA elective class)

Arizona State University - Visiting Assistant Professor

Contract Theory, Fall 2003 (2nd year PhD class)

Expert Witness Experience

Depositions

DZ Reserve v. Facebook, Inc., Case No. 3:18-cv-04978, United States District Court for the Northern District of California, deposed April 6, 2021.

Epic Games Inc. v. Google LLC, et al., Case No. 3:20-cv-05671-JD, United States District Court for the Northern District of California, deposed March 13, 2023.

Edible IP, LLC, et al. v. 1-800-Flowers.com, Inc., et al., Civil Action No. 1:20-cv-2405-VMC, The United States Court for the Northern District of Georgia Atlanta Division, deposed May 3, 2023

Rex - Real Estate Exchange, Inc., v. Zillow Group, Inc., Case No. C21-0312-TSZ, United States District Court Western District of Washington at Seattle, deposed May 30, 2023

Attorney General for the Commonwealth Of Massachusetts, v. UBER Technologies, Inc. and LYFT, Inc., C.A. No. 2084CV01519-BLS1, Superior Court of the Commonwealth Of Massachusetts for the County of Suffolk, deposed January 31, 2024.

Maximilian Klein, et al., on behalf of themselves and all others similarly situated, v. META Platforms, Inc., Case No. 3:20-CV-08570-JD, United States District Court for the Northern District of California, deposed March 1, 2024.

Testimony

Paid Search Engine Tools, LLC v. Google Canada Corporation, Google LLC and Alphabet Inc., Citation 2021 FC 1435, The Federal Court of Canada, testified at trial (remotely) June 29, 2021.

Rex - Real Estate Exchange, Inc., v. Zillow Group, Inc., Case No. C21-0312-TSZ, United States District Court Western District of Washington at Seattle, testified at trial (jury, in person) September 27, 2023.

Epic Games Inc. v. Google LLC, et al., Case No. 3:20-cv-05671-JD, United States District Court for the Northern District of California, testified at trial (jury, in person) November 28, 2023.

Corporate Experience

Advisor to Startups (2014 - current)

Advise marketplace startups on matters related to market design, pricing, customer growth, trust and safety, and consumer behavior analyses.

Amazon, Seattle, WA, Amazon Scholar (2017-2021)

Guide and support economic analysis for business decisions across the company

Amazon, Seattle, WA, VP Economics and Market Design (2016-2017)

Lead and support economic analysis for business decisions across the company

Help recruit and build teams of economists

eBay Inc, San Jose, CA, Distinguished Economist–Research Consultant (2013-2017)

Lead and conduct economic research and decision support for eBay

eBay Inc, San Jose, CA, Jose, CA, Distinguished Economist/Senior Director (2011-2013)

Lead and conduct economic research for eBay Research Labs (eRL)

Lead and support economic analysis for business decisions across the company

Recruit and build a team of economic researchers to grow eRL

Elbit LTD, Haifa, Israel - Sales and contracts manager (1990-1992)

Estimate and analyze costs for small and large scale avionic and optronic military systems.

Prepare and submit management/cost proposals for governments and corporations.

Negotiate proposals and finalize contract clauses with customer representatives.

Elbit LTD, Haifa, Israel - Systems engineer, Avionics (1986-1990)

Prepare technical proposals for avionic systems.

Characterize, design and develop avionic systems and test equipment.

Prepare development and maintenance documentation in accordance with US military specifications.

Appendix B: Materials Relied Upon

Type	Source
Public document	Canadian Competition Act, Section 1.1
Public document	Canadian Competition Act, Section 79
Public document	European Union, *Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003*, Official Journal of the European Union, 1.9.2006, available at https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX%3A52006XC0901(01)
Public document	*Findings of Fact and Conclusions of Law re Chat Preservation*, In re Google Play Store Antitrust Litigation, No. 3:21-md-02981, (Mar. 28, 2023), https://docs.justia.com/cases/federal/district-courts/california/candce/3%3A2020cv05671/364325/401
Public document	Federal Trade Commission & Department of Justice, *Hart-Scott-Rodino Annual Report for Fiscal Year 2023*, (2023).
Public document	James Musgrove, William Wi & Mishail Adeel, *Canadians Behaving Dominantly: The Recent Transformation of Abuse of Dominance Under the Canadian Competition Act, The Antitrust Source*, (Feb. 2025), https://www.americanbar.org/content/dam/aba/publications/antitrust/source/2025/february/canadians-behaving-dominantly.pdf
Public document	Jeff Horwtiz & Keach Hagey, *Google's Secret 'Project Bernanke' Revealed in Texas Antitrust Case,* Wall Street Journal, (Apr. 11, 2021, 11:41 AM), https://www.wsj.com/business/media/googles-secret-project-bernanke-revealed-in-texas-antitrust-case-11618097760.
Public document	*Memorandum Opinion*. United States v. Google LLC. No 1:20-cv-03010, (Aug. 5, 2024), https://www.courtlistener.com/docket/18552824/1033/united-states-of-america-v-google-llc/.
Public document	*Memorandum Opinion*, United States v. Google LLC, No. 1:23-cv-00108, (Apr. 17, 2025), https://ag.ny.gov/sites/default/files/court-filings/united-states-of-america-et-al-v-google-llc-memorandum-opinion-2025.pdf.
Public document	Nico Grant, *Google Loses Antitrust Court Battle With Makers of Fortnite Video Game*, (Dec. 11, 2023), https://www.nytimes.com/2023/12/11/technology/epic-games-google-antitrust-ruling.html.
Public document	*Notice of Application*, Commissioner of Competition v. Google Canada Corporation and Google LLC, No. CT-2024-010, (Nov. 28, 2024)
Public document	Royal Swedish Academy of Sciences, *The Prize in Economic Sciences 2014*, (2014), https://www.kva.se/en/news/ekonomipriset-2014-2.
Public document	UK Competition & Markets Authority, *CMA's guidance as to the appropriate amount of a penalty*, CMA 73, (Dec. 2021), available at https://assets.publishing.service.gov.uk/media/622f73c58fa8f56c170b7274/ CMA73final_.pdf
Public document	United States Code, *15 USC 18a: Premerger notification and waiting period*, (Jul. 3, 2025), http://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title15-section18a&edition=prelim.

Type	Source
Produced document	Keith N. Hylton, "Expert Report of Professor Keith N. Hylton," (May 6, 2025), *In re: Commissioner of Competition v. Google LLC and Google Canada Corporation*, No. CT-2024-010.
Journal article	Bo Cowgill, Andrea Pratt & Tommaso Valletti, *Political Power and Market Power*, NBER, Working Paper No. 33255, (Dec. 2024).
Journal article	Carl Shapiro, *Competition and Innovation: Did Arrow Hit the Bull's Eye?* The Rate and Direction of Inventive Activity Revisited 361 (Josh Lerner & Scott Stern eds., Univ. of Chicago Press 2012).
Journal article	Emanuel Combe, Constance Monnier, & Renaud Legal, *Cartels: Probability of Getting Caught in the European Union*, BEER Paper No. 2 (March 2008).
Journal article	John M. Connor, and Robert H. Lande, *Cartels as rational business strategy: crime pays*, Cardozo Law Review, 34 (2012).
Journal article	John Kwoka, *Mergers, Merger Control, and Remedies: A Response to the FTC Critique*, (March 2017).
Journal article	John Kwoka, *Mergers, Merger Control, and Remedies: A Retrospective Analysis of U.S. Policy*, The MIT Press, (2015).
Journal article	John Nash, *Optimal Civil Penalties*, FTC Working Paper, No. 138, (Feb. 1986).
Journal article	Keith N. Hylton, *A Unified Framework for Competition Policy and Innovation Policy,* 22 Tex. Intell. Prop. L.J. 163 (2014).
Journal article	Keith N. Hylton, *Antitrust Enforcement Regimes: Fundamental Differences*, in The Oxford Handbook of International Antitrust Economics (Roger D. Blair & D. Daniel Sokol eds., 2015).
Journal article	Kenneth J. Arrow, *Economic Welfare and the Allocation of Resources to Invention*, The Rate and Direction of Inventive Activity: Economic and Social Factors 609 (Universities-National Bureau Committee for Economic Research and the Committee on Economic Growth of the Social Science Research Councils eds., Princeton University Press (1962).
Journal article	Malcolm B. Coate, Richard S. Higgins & Fred S. McChesney*, Bureaucracy and Politics in FTC Merger Challenges*, 33 Journal of Law and Economics, 463–82 (1990).
Journal article	Mary Beth Savio, *Assessing Umbrella Pricing Incentives*, 35 Antitrust, (2020).
Journal article	Maurice E. Stucke & Ariel Ezrachi, *Innovation Misunderstood,* American University Law Review.
Journal article	Michael Carrier, *The Rule of Reason: An Empirical Update for the 21st Century*, George Mason Law Review 16, (2009).
Journal article	Michael Vita & F. David Osinski, *John Kwoka's Mergers, Merger Control, and Remedies: A Critical Review*, Antitrust Law Journal, (2018).
Journal article	Michael Vita, *Mergers, Merger Control, and Remedies: Rejoinder to Kwoka*, Research in Law and Economics, Volume 28, (2018).
Journal article	Peter Bryand & E. Woodrow Eckard, *Price Fixing: The Probability of Getting Caught*, 73 Journal of Economics & Statistics 531 (1991).

Type	Source
Journal article	Philippe Aghion, Nick Bloom, Richard Blundell, Rachel Griffith & Peter Howitt, *Competition and Innovation: An Inverted-U Relationship*, 120 Quarterly Journal of Economics, 701–728.
Journal article	Roman Inderst, Frank P. Maier-Rigaud & Ulrich Schwalbe, *Umbrella Effects*, 10 Journal of Competition Law and Economics 739, (2014).
Journal article	Sarah Moshary & Cailin Slattery, *Consolidation and Political Influence in the Auto Retail Industry*, (May 2024).
Journal article	Wesley Cohen, Richard Nelson & J. John Walsh, *Protecting Their Intellectual Assets: Appropriability Conditions and Why U.S. Manufacturing Firms Patent (or Not)*, NBER, Working Paper No. 7552 (Feb. 2000).

CT-2024-010

THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34;

AND IN THE MATTER OF certain conduct of Google Canada Corporation and Google LLC relating to the supply of online advertising technology services in Canada;

AND IN THE MATTER OF an application by the Commissioner of Competition for one or more orders pursuant to section 79 of the *Competition Act*.

B E T W E E N:

COMMISSIONER OF COMPETITION

Applicant

and

GOOGLE CANADA CORPORATION AND GOOGLE LLC

Respondents

ACKNOWLEDGEMNENT OF EXPERT WITNESS

I, **Steve Tadelis**, acknowledge that I will comply with the Competition Tribunal's code of conduct for expert witnesses which is described below:

1. An expert witness who provides a report for use as evidence has a duty to assist the Tribunal impartially on matters relevant to his or her area of expertise.
2. This duty overrides any duty to a party to the proceeding, including the person retaining the expert witness. An expert is to be independent and objective. An expert is not an advocate for a party.

July 4, 2025 _____

Date

_____

Steve Tadelis

CT-2024-010

THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34;

AND IN THE MATTER OF certain conduct of Google Canada Corporation and Google LLC relating to the supply of online advertising technology services in Canada;

AND IN THE MATTER OF an application by the Commissioner of Competition for one or more orders pursuant to section 79 of the *Competition Act*.

B E T W E E N:

COMMISSIONER OF COMPETITION

Applicant
and

GOOGLE CANADA CORPORATION AND GOOGLE LLC

Respondents

AFFIDAVIT OF STEVE TADELIS
AFFIRMED JULY 4, 2025

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Counsel for the Applicant,
The Commissioner of Competition

CT-2024-010

THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34;

AND IN THE MATTER OF certain conduct of Google Canada Corporation and Google LLC relating to the supply of online advertising technology services in Canada;

AND IN THE MATTER OF an application by the Commissioner of Competition for one or more orders pursuant to section 79 of the *Competition Act*.

B E T W E E N:

COMMISSIONER OF COMPETITION

Applicant

and

GOOGLE CANADA CORPORATION AND GOOGLE LLC

Respondents

AFFIDAVIT OF MALLORY KELLY
AFFIRMED JULY 4, 2025

I, **MALLORY KELLY**, of the City of Ottawa, in the province of Ontario, **AFFIRM THAT**:

1. I am a Senior Litigation Paralegal at the Competition Bureau Legal Services unit in the Department of Justice and as such have knowledge of the matters herein deposed.
2. I make this affidavit in support of the Commissioner of Competition's ("**Commissione**r") Response to the Respondent's Constitutional Challenge.
3. I have reviewed the Senate Standing Committee on Banking, Trade and Commerce, 40th Parliament, Second Session, Issue No. 7, dated May 13-14, 2009, a copy of which is attached and marked as **Exhibit A**.

4. I have reviewed the House of Commons Standing Committee on Finance, 44th Parliament, First Session, dated May 24, 2022, Meeting 40, a copy of which is attached and marked as **Exhibit B**.

5. I have reviewed the Senate Debates, Second Reading, Sitting 53 Hon. Lucie Moncion, dated June 14, 2022 a copy of which is attached and marked as **Exhibit C**.

6. I have reviewed the Senate Debates, Second Reading, Sitting 58 Hon. Lucie Moncion, dated June 22, 2022 a copy of which is attached and marked as **Exhibit D**.

7. I have reviewed the House of Commons Debates, 44th Parliament, First Session, Volume 151, dated September 25, 2023, Sitting 223a copy of which is attached and marked as **Exhibit E**.

8. I have reviewed the House of Commons Debates, 44th Parliament, First Session, Volume 151, dated November 23, 2023, Sitting 254 a copy of which is attached and marked as **Exhibit F**.

9. I have reviewed the House of Commons Debates, 44th Parliament, First Session, Volume 151, dated December 5, 2023, Sitting 262 a copy of which is attached and marked as **Exhibit G**.

10. I have reviewed the House of Commons Debates, 44th Parliament, First Session, Volume 151, dated December 11, 2023, Sitting 265 a copy of which is attached and marked as **Exhibit H**.

11. I have reviewed the Senate Debates, 44th Parliament, First Session, Volume 153, December 14, 2023, Sitting 172a copy of which is attached and marked as **Exhibit I**

12. Attached and marked as **Exhibit J** to this affidavit is a true copy of "Council Regulation (EC) No 1/2003", dated December 16, 2002. The said document can be found on the internet and is publicly available. The document was issued by The Council of the European Union and, to the best of my knowledge and belief, it is authentic and unaltered.

13. Attached and marked as **Exhibit K** to this affidavit is a true copy of the "Guidelines on the method of setting files imposed pursuant to Article 23(2)(a) of Regulation No 1/2003", dated September 1, 2006. The document was issued by the European

Commissioner in the Official Journal of the European Union and, to the best of my knowledge and belief, it is authentic and unaltered. The said document can be found on the internet and is publicly available.

14. Attached and marked as **Exhibit L** to this affidavit is a true copy of the European Commission's press release titled "Antitrust: Commission sends Statement of Objections to Google over abusive practices in online advertising technology", dated in Brussels on June 14, 2023. The document, to the best of my knowledge and belief, is authentic and unaltered. The said document can be found on the internet and is publicly available.

15. Attached and marked as **Exhibit M** to this affidavit is a true copy of the United Kingdom's *Competition Act 1998 (c. 41)*, dated January 19, 2025. The document was issued by the United Kingdom and, to the best of my knowledge and belief, it is authentic and unaltered. The said document can be found on the internet and is publicly available.

16. Attached and marked as **Exhibit N** to this affidavit is a true copy of the "CMA's guidance as to the appropriate amount of a penalty", dated December 16, 2021. The document was issued by the United Kingdom's Competition & Markets Authority and, to the best of my knowledge and belief, it is authentic and unaltered. The said document can be found on the internet and is publicly available.

17. Attached and marked as **Exhibit O** to this affidavit is a true copy of the United Kingdom's Competition & Markets Authority press release titled "CMA objects to Google's ad tech practices in bid to help UK advertisers and publishers", dated September 6, 2024. The document, to the best of my knowledge and belief, is authentic and unaltered. The said document can be found on the internet and is publicly available.

18. Attached and marked as **Exhibit P** to this affidavit is a true copy of the European Commission's press release titled "Antitrust: Commission fines Google €2.42 billion for abusing dominance as search engine by giving illegal advantage to own comparison shopping service", dated June 26, 2017. The document, to the best of

my knowledge and belief, is authentic and unaltered. The said document can be found on the internet and is publicly available.

19. Attached and marked as **Exhibit Q** to this affidavit is a true copy of the General Court of the European Union's press release No 197/21 titled "The General Court largely dismisses Google's action against the decision of the Commission finding that Google abused its dominant position by favoring its own comparison shopping service over competing comparison shipping services", dated November 10, 2021. The document, to the best of my knowledge and belief, is authentic and unaltered. The said document can be found on the internet and is publicly available.

20. Attached and marked as **Exhibit R** to this affidavit is a true copy of the Court of Justice of the European Union's press release No 135/24, titled "The Court of Justice upholds the fine of €2.4 billion imposed on Google for abuse of its dominant position by favoring its own comparison shopping service", dated in Luxembourg on September 10, 2024. The document, to the best of my knowledge and belief, is authentic and unaltered. The said document can be found on the internet and is publicly available.

21. Attached and marked as **Exhibit S** to this affidavit is a true copy of "Guidance on the CMA's investigation procedures in Competition Act 1998 cases", dated December 19, 2024. The document, was issued by the United Kingdom's Competition and Markets Authority and to the best of my knowledge and belief, is authentic and unaltered. The said document can be found on the internet and is publicly available.

22. Attached and marked as **Exhibit T** to this affidavit is a true copy of the European Commission Director General for Competition's manual of procedures for the application of Articles 101 and 102 of the Treaty on the Functioning of the European Union ("**European Commission's Manual of Procedures**") titled "Antitrust Manual of Procedures – Internal DG Competition working documents on procedures for the application of Articles 101 and 102 TFEU", dated November, 2019. The document, to the best of my knowledge and belief, is authentic and unaltered. The said document can be found on the internet and is publicly

available.

23. Attached and marked as **Exhibit U** to this affidavit is a true copy of an updated chapter of the European Commission's Manual of Procedures on the initiation of proceedings titled "Antitrust Manual of Procedures – Initiation of Proceedings", dated April, 2025. The document, to the best of my knowledge and belief, is authentic and unaltered. The said document can be found on the internet and is publicly available.

24. Attached and marked as **Exhibit V** to this affidavit is a true copy of an updated chapter of the European Commission's Manual of Procedures on the power to take statements titled "Antitrust Manual of Procedures – Power to take statements", dated September, 2024. The document, to the best of my knowledge and belief, is authentic and unaltered. The said document can be found on the internet and is publicly available.

25. Attached and marked as **Exhibit W** to this affidavit is a true copy of an updated chapter of the European Commission's Manual of Procedures on interim measures titled "Antitrust Manual of Procedures – Interim Measures", dated August, 2024. The document, to the best of my knowledge and belief, is authentic and unaltered. The said document can be found on the internet and is publicly available.

26. Attached and marked as **Exhibit X** to this affidavit is a true copy of an updated chapter of the European Commission's Manual of Procedures on informal guidance titled "Antitrust Manual of Procedures – Informal Guidance", dated August, 2024. The document, to the best of my knowledge and belief, is authentic and unaltered. The said document can be found on the internet and is publicly available.

27. Attached and marked as **Exhibit Y** to this affidavit is a true copy of an updated chapter of the European Commission's Manual of Procedures on the publication of decisions titled "Antitrust Manual of Procedures – Publication of decisions", dated September, 2024. The document, to the best of my knowledge and belief,

is authentic and unaltered. The said document can be found on the internet and is publicly available.

28. Attached and marked as **Exhibit Z** to this affidavit is a true copy of an updated chapter of the European Commission's Manual of Procedures on the closure of proceedings titled "Antitrust Manual of Procedures – Closure of Proceedings", dated April, 2025. The document, to the best of my knowledge and belief, is authentic and unaltered. The said document can be found on the internet and is publicly available.

29. Attached and marked as **Exhibit AA** to this affidavit is a true copy of an updated chapter of the European Commission's Manual of Procedures on the administrative closure of a file titled "Antitrust Manual of Procedures – Administrative closure of the file", dated April, 2025. The document, to the best of my knowledge and belief, is authentic and unaltered. The said document can be found on the internet and is publicly available.

AFFIRMED by Mallory Kelly of the City of Gatineau, in Province of Quebec, before me at the City of Gatineau, in the Province of Quebec, on July 4, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

J. Fleischer P20709
Commissioner for Taking Affidavits
(or as may be)

MALLORY KELLY

P20709

This is Exhibit “A” to the affidavit of **Mallory Kelly,** affirmed
remotely and stated as being located
in the city of Gatineau, in the province of Quebec,
before me at the city of Ottawa in the province of Ontario,on
July 4, 2025, in accordance with
O. Reg 431/20, Administering Oath or Declaration Remotely.

Second Session
Fortieth Parliament, 2009

SENATE OF CANADA

Proceedings of the Standing Senate Committee on

Banking, Trade and Commerce

Chair:
The Honourable MICHAEL A. MEIGHEN

Wednesday, May 13, 2009
Thursday, May 14, 2009

Issue No. 7

First and second meetings on:

Elements contained in Bill C-10, the Budget Implementation Act, 2009 dealing with the Competition Act (Part 12)

WITNESSES:
(*See back cover*)

Deuxième session de la
quarantième législature, 2009

SÉNAT DU CANADA

Délibérations du Comité sénatorial permanent des

Banques et du commerce

Président :
L'honorable MICHAEL A. MEIGHEN

Le mercredi 13 mai 2009
Le jeudi 14 mai 2009

Fascicule n^{o} 7

Première et deuxième réunions concernant :

Les éléments du projet de loi C-10, Loi d'exécution du Budget de 2009, concernant la Loi sur la concurrence (partie 12)

TÉMOINS :
(*Voir à l'endos*)

47222-47227

THE STANDING SENATE COMMITTEE ON BANKING, TRADE AND COMMERCE

The Honourable Michael A. Meighen, *Chair*

The Honourable Céline Hervieux-Payette, P.C., *Deputy Chair*

and

The Honourable Senators:

* Cowan
(or Tardif)
Eyton
Fox, P.C.
Gerstein
Greene
Harb

* LeBreton, P.C.
(or Comeau)
Massicotte
Moore
Oliver
Ringuette

*Ex officio members

(Quorum 4)

LE COMITÉ SÉNATORIAL PERMANENT DES BANQUES ET DU COMMERCE

Président : L'honorable Michael A. Meighen

Vice-présidente : L'honorable Céline Hervieux-Payette, C.P.

et

Les honorables sénateurs :

* Cowan
(ou Tardif)
Eyton
Fox, C.P.
Gerstein
Greene
Harb

* LeBreton, C.P.
(ou Comeau)
Massicotte
Moore
Oliver
Ringuette

* Membres d'office

(Quorum 4)

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ORDER OF REFERENCE

Extract of the *Senate Journals* of Thursday, March 12, 2009

The Honourable Senator Cowan moved, seconded by the Honourable Senator Hubley:

That, notwithstanding any rules or usual practices, and without affecting any consideration or progress made by the Senate with respect to Bill C-10, the Budget Implementation Act, 2009, the following committees be separately authorized to examine and report on the following elements contained in that bill:

(a) The Standing Senate Committee on Energy, the Environment, and Natural Resources: those elements dealing with the Navigable Waters Protection Act (Part 7);

(b) The Standing Senate Committee on Banking, Trade, and Commerce: those elements dealing with the Competition Act (Part 12);

(c) The Standing Senate Committee on Human Rights: those elements dealing with equitable compensation (Part 11); and

(d) The Standing Senate Committee on National Finance: all other elements of the bill, in particular those dealing with employment insurance; and

That each committee present its final report no later than June 11, 2009.

After debate,

The question being put on the motion, it was adopted.

ORDRE DE RENVOI

Extrait des *Journaux du Sénat* du jeudi 12 mars 2009 :

L'honorable sénateur Cowan propose, appuyé par l'honorable sénateur Hubley,

Que, nonobstant tout article du Règlement ou toute pratique habituelle, et sans que cela touche tout examen ou progrès fait par le Sénat relativement au projet de loi C-10, Loi d'exécution du budget de 2009, les comités nommés ci- après soient autorisés séparément à examiner, pour en faire rapport, les éléments suivants de ce projet de loi :

a) le Comité sénatorial permanent de l'énergie, de l'environnement et des ressources naturelles : les éléments concernant la Loi sur la protection des eaux navigables (Partie 7);

b) le Comité sénatorial permanent des banques et du commerce : les éléments concernant la Loi sur la concurrence (Partie 12);

c) le Comité sénatorial permanent des droits de la personne : les éléments concernant la rémunération équitable (Partie 11);

d) le Comité sénatorial permanent des finances nationales : tous les autres éléments du projet de loi, particulièrement ceux qui ont trait à l'assurance-emploi;

Que chaque comité présente son rapport final au plus tard le 11 juin 2009.

Après débat,

La motion, mise aux voix, est adoptée.

Le greffier du Sénat

Paul C. Bélisle

Clerk of the Senate

MINUTES OF PROCEEDINGS

OTTAWA, Wednesday, May 13, 2009
(13)

[*English*]

The Standing Senate Committee on Banking, Trade and Commerce met this day at 4:02 p.m., in room 9, Victoria Building, the chair, the Honourable Michael A. Meighen, presiding.

Members of the committee present: The Honourable Senators Fox, P.C., Gerstein, Greene, Harb, Hervieux-Payette, P.C., Massicotte, Meighen, Moore, Oliver and Ringuette (10)

Other senator present: The Honourable Senator Day (1).

In attendance: Mark Mahabir, Marc-André Pigeon and John Bulmer, Analysts, Parliamentary Information and Research Service, Library of Parliament.

Also in attendance: The official reporters of the Senate.

The chair of the committee presided over the election of the deputy chair.

The Honourable Senator Oliver moved that the Honourable Senator Hervieux-Payette, P.C., be deputy chair of the committee.

The question being put on the motion, it was adopted.

Pursuant to the order of reference adopted by the Senate on Thursday, March 12, 2009, the committee began its examination of the elements dealing with the Competition Act (Part 12) contained in Bill C-10, the Budget Implementation Act, 2009.

WITNESSES:

Competition Bureau Canada:

Melanie Aitken, Interim Commissioner of Competition.

Industry Canada:

Colette Downie, Director General, Marketplace Framework Policy Branch.

Canadian Chamber of Commerce:

Shirley-Ann George, Senior Vice-President, Policy;

George Addy, Chair, Canadian Chamber Board Policy Committee.

Retail Council of Canada:

Peter Woolford, Vice-President, Policy Development and Research.

Ms Downie and Ms Aitken made statements and answered questions.

At 5:08 p.m., the committee suspended.

At 5:13 p.m., the committee resumed.

Ms George, Mr. Addy and Mr. Woolford made statements and answered questions.

PROCÈS-VERBAUX

OTTAWA, le mercredi 13 mai 2009
(13)

[*Traduction*]

Le Comité sénatorial permanent des banques et du commerce se réunit aujourd'hui, à 16 h 2, dans la pièce 9 de l'édifice Victoria, sous la présidence de l'honorable Michael A. Meighen (*président*).

Membres du comité présents : Les honorables sénateurs Fox, C.P., Gerstein, Greene, Harb, Hervieux-Payette, C.P., Massicotte, Meighen, Moore, Oliver et Ringuette (10).

Autre sénateur présent : L'honorable sénateur Day (1).

Également présents : Mark Mahabir, Marc-André Pigeon et John Bulmer, analystes, Service d'information et de recherche parlementaires, Bibliothèque du Parlement.

Aussi présents : Les sténographes officiels du Sénat.

Le président du comité préside à l'élection du vice-président.

L'honorable sénateur Oliver propose que l'honorable sénateur Hervieux-Payette, C.P., assume la vice-présidence du comité.

La motion, mise aux voix, est adoptée.

Conformément à l'ordre de renvoi adopté par le Sénat le jeudi 12 mars 2009, le comité entreprend l'étude des éléments concernant la Loi sur la concurrence (partie 12) contenus dans le projet de loi C-10, Loi d'exécution du budget de 2009.

TÉMOINS :

Bureau de la concurrence Canada :

Mélanie Aitken, commissaire intérimaire de la concurrence.

Industrie Canada :

Colette Downie, directrice générale, Direction générale des politiques-cadres du marché.

Chambre de commerce du Canada :

Shirley-Ann George, vice-présidente principale, Politiques;

George Addy, président, Comité des politiques du conseil d'administration de la Chambre de commerce du Canada.

Conseil canadien du commerce de détail :

Peter Woolford, vice-président, Élaboration des politiques et recherche.

Mmes Downie et Aitken font une déclaration, puis répondent aux questions.

À 17 h 8, le comité suspend ses travaux.

À 17 h 13, le comité reprend ses travaux.

Mme George, M. Addy et M. Woolford font une déclaration, puis répondent aux questions.

At 6:00 p.m., the committee adjourned to the call of the chair.

ATTEST:

OTTAWA, Thursday, May 14, 2009
(14)

[*English*]

The Standing Senate Committee on Banking, Trade and Commerce met this day at 10:30 a.m., in room 9, Victoria Building, the deputy chair, the Honourable Céline Hervieux-Payette, P.C., presiding.

Members of the committee present: The Honourable Senators Fox, P.C., Gerstein, Greene, Harb, Hervieux-Payette, P.C., Massicotte, Moore, Oliver and Ringuette (9).

Other senators present: The Honourable Senator Kenny and Tkachuk (2).

In attendance: Mark Mahabir and Marc-André Pigeon, Analysts, Parliamentary Information and Research Service, Library of Parliament.

Also in attendance: The official reporters of the Senate.

Pursuant to the order of reference adopted by the Senate on Thursday, March 12, 2009, the committee continued its examination of the elements dealing with the Competition Act (Part 12) contained in Bill C-10, the Budget Implementation Act, 2009.

WITNESSES:

Canadian Bar Association:

John D. Bodrug, Chair, National Competition Law Section;

Paul Collins, Vice-Chair, (Enforcement) National Competition Law Section;

Janet Bolton, Chair, Legislation and Competition Policy Committee, National Competition Law Section;

Omar Wakil, Chair, Mergers Committee, National Competition Law Section.

Osler, Hoskin & Harcourt LLP:

Tim Kennish, Counsel.

Public Interest Advocacy Centre:

Michael Janigan, Executive Director/General Counsel.

Option Consommateurs:

Anu Bose, Head of the Ottawa Office.

Mr. Bodrug, Ms Bolton, Mr. Collin and Mr. Wakil made statements and answered questions.

At 11:30 a.m., the committee suspended.

At 11:32 a.m., the committee resumed.

Mr. Kennish made a statement and answered questions.

À 18 heures, le comité suspend ses travaux jusqu'à nouvelle convocation de la présidence.

ATTESTÉ :

OTTAWA, le jeudi 14 mai 2009
(14)

[*Traduction*]

Le Comité sénatorial permanent des banques et du commerce se réunit aujourd'hui, à 10 h 30, dans la pièce 9 de l'édifice Victoria, sous la présidence de l'honorable Céline Hervieux-Payette, C.P. (vice-présidente).

Membres du comité présents : Les honorables sénateurs Fox, C.P., Gerstein, Greene, Harb, Hervieux-Payette, C.P., Massicotte, Moore, Oliver et Ringuette (9).

Autres sénateurs présents : Les honorables sénateurs Kenny et Tkachuk (2).

Également présents : Mark Mahabir et Marc-André Pigeon, analystes, Service d'information et de recherche parlementaires, Bibliothèque du Parlement.

Aussi présents : Les sténographes officiels du Sénat.

Conformément à l'ordre de renvoi adopté par le Sénat le jeudi 12 mars 2009, le comité poursuit son examen des éléments concernant la Loi sur la concurrence (Partie 12) contenus dans le projet de loi C-10, Loi d'exécution du budget de 2009.

TÉMOINS :

Association du Barreau du Canada :

John D. Bodrug, président, Section nationale du droit de la concurrence;

Paul Collins, vice-président (application), Section nationale du droit de la concurrence;

Janet Bolton, présidente, Comité de la législation des politiques, Section nationale du droit de la concurrence;

Omar Wakil, président, Comité des fusions, Section nationale du droit de la concurrence.

Osler, Hoskin & Harcourt LLP :

Tim Kennish, avocat.

Centre pour la défense de l'intérêt public :

Michael Janigan, directeur exécutif et avocat conseil.

Option Consommateurs :

Anu Bose, responsable du bureau d'Ottawa.

M. Bodrug, Mme Bolton, M. Collin et M. Wakil font une déclaration, puis répondent aux questions.

À 11 h 30, le comité suspend ses travaux.

À 11 h 32, le comité reprend ses travaux.

M. Kennish fait une déclaration, puis répond aux questions.

At 12:01 p.m., the committee suspended.

At 12:02 p.m., the committee resumed.

Ms Bose and Mr. Janigan made statements and answered questions.

At 12:17 p.m., the committee adjourned to the call of the chair.

ATTEST:

À 12 h 1, le comité suspend ses travaux.

À 12 h 2, le comité reprend ses travaux.

Mme Bose et M. Janigan font une déclaration, puis répondent aux questions.

À 12 h 17, le comité suspend ses travaux jusqu'à nouvelle convocation de la présidence.

ATTESTÉ :

Le greffier du comité,

Line Gravel

Clerk of the Committee

EVIDENCE

OTTAWA, Wednesday, May 13, 2009

The Standing Senate Committee on Banking, Trade and Commerce met this day at 4:02 p.m. for the election of a deputy chair; and to examine those elements dealing with the Competition Act (Part 12) contained in Bill C-10, the Budget Implementation Act, 2009.

Senator Michael A. Meighen (*Chair*) in the chair.

[*English*]

The Chair: Honourable senators, before we get into our business of hearing from witnesses today, we have a pleasant administrative matter to take care of.

As you all know, Senator Goldstein retired from the Senate. Accordingly, it behoves us to elect a new deputy chair. I would welcome any nominations.

Senator Oliver: I would be honoured to propose the name of Senator Hervieux-Payette for the position.

The Chair: Thank you, Senator Oliver. Are there any other nominations? If not, will someone move that the nominations are now closed?

Senator Harb: I so move.

The Chair: Thank you. That is seconded by Senator Fox. Nominations are closed and I have pleasure the declaring Senator Hervieux-Payette the new deputy chair of the committee.

Welcome and congratulations. I look forward to working with you.

[*Translation*]

I am sure that we will have a productive relationship, but we have business to attend to, so we should get started with our witness presentations for this afternoon.

Today, we will examine the elements of the Budget Implementation Act, 2009, better known as Bill C-10, that pertain to the Competition Act.

[*English*]

The committee was authorized by the Senate to undertake its review of changes to the Competition Act, found in Bill C-10, on March 12, 2009, the same day that Bill C-10 received Royal Assent.

Among other things, Bill C-10 changed the Competition Act to include new information disclosure requirements for large mergers, an expanded definition of "bid rigging," and amended penalty provisions that are expected to increase consumer protection from misleading advertising and deceptive marketing practices.

TÉMOIGNAGES

OTTAWA, le mercredi 13 mai 2009

Le Comité sénatorial permanent des banques et du commerce se réunit aujourd'hui, à 16 h 2, pour procéder à l'élection d'un vice-président et pour étudier les éléments ayant trait à la partie 12 de la Loi sur la concurrence qui figurent dans le projet de loi C-10, Loi d'exécution du budget de 2009.

Le sénateur Michael A. Meighen (*président*) occupe le fauteuil.

[*Traduction*]

Le président : Chers collègues, avant d'entendre la déclaration des témoins d'aujourd'hui, nous devons régler une agréable question administrative.

Comme vous le savez tous, le sénateur Goldstein a pris sa retraite. Il nous incombe donc d'élire un nouveau vice-président. Je suis prêt à recevoir des propositions.

Le sénateur Oliver : Je me fais un honneur de proposer la candidature du sénateur Hervieux-Payette.

Le président : Merci, sénateur Oliver. Y a-t-il d'autres candidatures? Si non, quelqu'un peut-il proposer que la période de mise en candidature est maintenant terminée?

Le sénateur Harb : J'en fais la proposition.

Le président : Merci. La proposition est appuyée par le sénateur Fox. La période de mise en candidature est terminée, et j'ai le plaisir d'annoncer que le sénateur Hervieux-Payette est la nouvelle vice-présidente du comité.

Bienvenue et félicitations. J'ai bien hâte de travailler avec vous.

[*Français*]

Je suis certain que nous aurons une relation fructueuse, mais nous avons du pain sur la planche et donc nous devrions passer tout de suite à la présentation de nos témoins pour cet après-midi.

Aujourd'hui, nous étudions les éléments du projet de Loi d'exécution du budget de 2009, mieux connu sous l'appellation de projet de loi C-10, qui relèvent de Loi sur la concurrence.

[*Traduction*]

Le Sénat a autorisé le comité à entreprendre son examen des changements à la Loi sur la concurrence proposés dans le projet de loi C-10. Le comité a entamé l'examen le 12 mars 2009, le même jour où le projet de loi a reçu la sanction royale.

Le projet de loi C-10 a modifié, entre autres, la Loi sur la concurrence pour y inclure de nouvelles exigences de divulgation de renseignements pour les grandes fusions, une définition élargie de « truquage d'offres », et des dispositions modifiées relatives aux sanctions qui sont prévues pour mieux protéger les consommateurs contre la publicité trompeuse et les pratiques commerciales fallacieuses.

To discuss these and other changes, we are pleased to have with us, from the Competition Bureau of Canada, Melanie Aitken, Interim Commissioner of Competition; and, from Industry Canada, Colette Downie, Colette Downie, Director General, Marketplace Framework Policy Branch.

Welcome to both of you. Thank you for being with us. I understand you both have an introductory statement. Please proceed in whatever order you have determined.

Colette Downie, Director General, Marketplace Framework Policy Branch, Industry Canada: Thank you, members of the committee, for providing us with the opportunity to address you about the Competition Act amendments in Bill C-10.

[*Translation*]

I will be providing an overview of the main elements of the amendments in Part 12 of the bill and the policy rationale for them. My colleague will address issues pertaining to the implementation and enforcement of the amendments.

Competitive markets provide the greatest potential for lower prices, more product choices, better quality products and innovation, benefiting not only the lives of individual Canadians, but also the economy as a whole.

[*English*]

Effective competition laws and policies are key elements in ensuring the competitiveness and efficiency of our economy. Prior to Bill C-10, the Competition Act had not been modified since 1986. For the conspiracy provision, that period was even longer — not significantly since 1889.

Perhaps it is an understatement to say that a number of key provisions required updating to better reflect the realities of a modern, global economy. Only a few minor initiatives, including proposals for legislative reform, have been undertaken since 1986 with a view to modernizing Canada's Competition Act.

[*Translation*]

As you know, in July 2007, the Competition Policy Review Panel, chaired by Lynton Ronald "Red" Wilson, was created to review Canada's investment and competition policies. The panel received more than 155 written submissions and consulted extensively throughout Canada and internationally.

[*English*]

The panel reported to the government in June 2008. It concluded that for Canada to succeed internationally, it must ensure that its domestic markets are competitive and that unnecessary barriers to entry are reduced or eliminated. The

Pour discuter de ces ajouts et d'autres changements, nous sommes ravis d'accueillir, du Bureau de la concurrence Canada, Mme Melanie Aitken, commissaire intérimaire de la concurrence. Nous recevons également Mme Colette Downie, directrice générale des politiques-cadres du marché à Industrie Canada.

Je vous souhaite la bienvenue. Merci d'être des nôtres. Je crois savoir que vous avez toutes les deux une déclaration préliminaire. Allez-y dans l'ordre que vous avez choisi.

Colette Downie, directrice générale, Direction générale des politiques-cadres du marché, Industrie Canada : Merci, honorables députés, de nous donner l'occasion de nous exprimer sur les modifications à la Loi sur la concurrence proposées dans le projet de loi C-10.

[*Français*]

Je vais vous présenter un aperçu des principaux éléments des modifications proposées à la partie 12 de la loi et leur raison d'être. Ma collègue présentera les questions portant sur la mise en œuvre et l'application de ces modifications.

Les marchés concurrentiels offrent le meilleur moyen d'avoir les prix les plus bas, davantage de produits et des produits de meilleure qualité, ainsi que de stimuler l'innovation, des facteurs qui profitent non seulement aux Canadiens mais à l'ensemble de l'économie.

[*Traduction*]

Des lois et des politiques efficaces en matière de concurrence sont essentielles pour assurer la compétitivité et l'efficacité de notre économie. Avant le projet de loi C-10, aucune modification n'avait été apportée à la Loi sur la concurrence depuis 1986. Les derniers changements à la disposition relative au complot remontent à bien plus longtemps, soit depuis 1889.

C'est peut-être un euphémisme de dire qu'il était essentiel de mettre à jour un certain nombre de dispositions clés afin de mieux tenir compte des réalités de l'économie mondiale moderne. Seulement quelques initiatives de moindre importance, y compris des propositions de réforme législative, ont été menées depuis 1986 dans le but de moderniser la Loi canadienne sur la concurrence.

[*Français*]

Comme vous le savez, en juillet 2007, le Groupe d'étude sur les politiques en matière de concurrence, présidé par Lynton Ronald « Red » Wilson a été créé afin de revoir les politiques canadiennes en matière de concurrence et d'investissement. Le Groupe d'étude a reçu plus de 155 soumissions écrites et a longuement consulté à travers le Canada et à l'étranger.

[*Traduction*]

Le groupe d'étude a présenté son rapport au gouvernement en juin 2008. Selon les conclusions de ce dernier, la réussite internationale du Canada dépend de la compétitivité de ses marchés intérieurs et de sa capacité de réduire, voire d'éliminer,

panel's core recommendations included modernizing the Competition Act, particularly in the areas of conspiracy, merger review and abuse of dominance.

The amendments to the Competition Act in Bill C-10 respond to the core recommendations of the panel and are an important element in the government's economic action plan to spur long-term growth.

I will now address each of the key changes in Bill C-10 in turn.

First, the conspiracy provision of the Competition Act, also known as the cartel or price-fixing provision, had remained unchanged since 1889. It was out of step with the laws of our major trading partners. In many industrialized countries, if the court is satisfied that two or more businesses conspired to fix prices, the perpetrators are guilty — end of story. This was not the case in Canada. Under the old provision, even when it was clear that competitors had conspired to fix prices, the courts were still required to go further and to consider complicated economic evidence to be satisfied beyond a reasonable doubt that the effect of the price-fixing agreement in the market was significant.

[*Translation*]

Proving the economic evidence beyond a reasonable doubt, even in cases where it was clear that competitors had agreed to fix prices, often proved difficult — a hurdle not faced by prosecutors in the U.S. or other key jurisdictions.

With the amendments, the government has toughened its approach to hard-core cartels, amended the law to ensure it will not chill legitimate business activity and simplified the law in many respects.

[*English*]

The amendments remove the requirement to prove the economic effects of the conspiracy and narrow the conspiracy provision to apply only to hard-core cartels and agreements among competitors to fix prices, to allocate markets, or to restrict output. The process remains criminal, so the burden of proof on the Crown is still high — that is, proof beyond a reasonable doubt — and the amendments significantly increase the maximum jail time for conspiracies from 5 years to 14 years and possible fines from $10 million to $25 million for those convicted of conspiracy to fix prices.

les obstacles superflus à l'entrée. Les principales recommandations du groupe d'étude comprenaient la modernisation de la Loi sur la concurrence et, plus particulièrement, les dispositions relatives au complot, l'examen des fusions et l'abus de position dominante.

Les modifications à la Loi sur la concurrence proposées dans le projet de loi C-10 font suite aux principales recommandations du groupe d'étude et représentent une composante importante du Plan d'action économique du Canada en vue de stimuler la croissance à long terme.

Je vais maintenant expliquer un à un les principaux changements proposés dans le projet de loi C-10.

Premièrement, la disposition de la Loi sur la concurrence portant sur le complot, aussi connue sous le nom de disposition relative aux cartels ou à la fixation des prix, était demeurée la même depuis 1889. Elle ne cadrait plus avec les règlements de nos principaux partenaires commerciaux. Dans de nombreux pays industrialisés, si le tribunal est convaincu que deux ou plusieurs entreprises ont comploté pour fixer les prix, les auteurs sont déclarés coupables — point final. Ce n'était toutefois pas le cas au Canada. En vertu de l'ancienne disposition, même lorsqu'il était clair que des concurrents avaient comploté pour fixer les prix, les tribunaux devaient quand même approfondir davantage et examiner des éléments de preuve complexes sur le plan économique afin d'être convaincus hors de tout doute raisonnable que l'effet du complot en matière de fixation des prix sur le marché était considérable.

[*Français*]

Souvent, il s'est révélé trop difficile de confirmer la véracité des éléments de preuve sur le plan économique hors de tout doute raisonnable, même dans les cas où il était clair que les concurrents s'étaient entendus pour fixer les prix, un obstacle auquel ne sont pas confrontés les poursuivants aux États-Unis ou d'autres pays importants.

Avec ces modifications, le gouvernement a durci son approche face aux grands cartels, modifié la loi pour assurer de ne pas affecter le bon fonctionnement des entreprises honnêtes et simplifié plusieurs aspects de la loi.

[*Traduction*]

Les modifications éliminent la nécessité de prouver les effets économiques d'un complot et réduisent la portée de la disposition relative au complot qui s'applique seulement aux cartels injustifiables ainsi qu'aux accords de concertation sur les prix, de répartition des marchés ou de limitation de la production. Le processus relève tout de même du régime criminel, et donc la charge de la preuve qui incombe à l'État demeure élevée — c'est-à-dire une preuve qui doit être hors de tout doute raisonnable. Les modifications augmentent de manière significative les peines maximales d'emprisonnement de 5 à 14 ans, et les amendes peuvent se situer entre 10 et 25 millions de dollars pour ceux qui sont reconnus coupables de complot en vue de fixer les prix.

The government introduced a non-criminal provision for the review of all other forms of agreements among competitors, which requires proof of the economic effects of the agreement and does not carry the effect of a criminal sanction. These types of agreements were previously caught by the old criminal conspiracy provisions.

[*Translation*]

The amendments recognize the importance of providing businesses with a transition period, until March 2010, one year after royal assent, in which to ensure compliance with the new provisions.

During this one-year period, businesses can apply to the bureau, free of charge, for a written opinion on the applicability of the new conspiracy provisions to an existing agreement and will be able to revise their agreements before the new provisions take effect.

When the bill was tabled, there was a great deal of discussion about how the amended provisions would be enforced. Since then, the Competition Bureau has introduced enforcement guidelines to provide transparency and predictability regarding the bureau's approach to the enforcement of these provisions.

[*English*]

My colleague Ms. Aitken will elaborate more on these bureau initiatives.

Other key amendments included the reform of the merger review provisions. Assessing whether a combination of two companies is likely to substantially lessen competition is a fundamental aspect of ensuring that markets remain competitive. It is based on the premise that it is far better to stop anti-competitive mergers than to try to undo one after the fact, or to live with the likely consequences — higher prices, less innovation in products and services and less choice for consumers.

Before the recent amendments, the merger review provisions of the Competition Act had not been substantially revised since 1986, as I mentioned, and a lot has changed since then, including the pace of corporate transactions and the sophistication of data available and necessary to analyze markets.

The Competition Policy Review Panel recommended, and the government adopted, changes to the Competition Act to ensure that Canada's merger review process allows the Competition Bureau to get the information it requires from the merging parties to properly assess the effects of a merger and make the right decision to challenge or clear the merger in a timely manner.

Le gouvernement a mis en place une nouvelle disposition civile pour l'examen de toute autre forme d'entente entre concurrents, qui exige une preuve des incidences économiques de cette entente et qui ne comporte pas de menace de sanction pénale. Ces ententes étaient autrefois couvertes par les anciennes dispositions relatives au complot.

[*Français*]

Les modifications reflètent l'importance d'accorder une période de transition jusqu'en mars 2010, soit une année après la sanction royale, de manière à permettre aux entreprises de respecter les nouvelles dispositions.

Pendant cette période d'un an, les entreprises peuvent s'adresser au bureau pour obtenir un avis écrit sur les conditions d'application des nouvelles dispositions sur une entente existante. Ainsi, ces entreprises seront en mesure de revoir leurs ententes avant que les nouvelles dispositions entrent en vigueur et ce, sans frais.

Lorsque le projet de loi a été déposé, il y a eu beaucoup de discussions sur la manière dont les dispositions modifiées seraient appliquées. Depuis ce temps, le Bureau de la concurrence a publié les lignes directrices afin d'assurer la transparence et la prévisibilité concernant l'approche du bureau en matière d'application de ces dispositions.

[*Traduction*]

Ma collègue, Mme Aitken, vous en dira davantage sur les initiatives du bureau.

Parmi les autres modifications importantes, mentionnons la réforme des dispositions relatives à l'examen des fusions. L'évaluation permettant de savoir si le regroupement de deux entreprises est susceptible de diminuer considérablement la concurrence constitue un aspect fondamental pour s'assurer que les marchés demeurent confidentiels. Cette notion est basée sur le fait qu'il est de loin préférable d'empêcher des fusions anticoncurrentielles plutôt que de tenter d'en défaire une après le fait ou de vivre avec ses conséquences probables — des prix plus élevés, des produits ou des services moins innovateurs et moins de choix pour les consommateurs.

Avant ces récentes modifications, les dispositions de la Loi sur la concurrence portant sur l'examen des fusions n'avaient pas fait l'objet d'une révision substantielle depuis 1986, comme je l'ai mentionné. Les choses ont beaucoup changé depuis, notamment le rythme des transactions entre sociétés et le degré de précision des données accessibles et nécessaires pour l'analyse des marchés.

Le Groupe d'étude sur les politiques en matière de concurrence a recommandé des changements à la Loi sur la concurrence, que le gouvernement a adoptés, pour faire en sorte que le processus d'examen des fusions au Canada permette au Bureau de la concurrence d'obtenir l'information requise de la part des parties à la fusion pour évaluer correctement les effets d'une fusion et prendre la bonne décision, soit contester, soit approuver la fusion, et ce, en temps opportun.

It also recommended, and this was emphasized by the panel, that companies need as much certainty as possible about the process and the timelines of their transactions. It is in this way that Canada maintains its reputation as a good place to invest.

Under the old provisions, parties could close a proposed merger after 42 days, even if they had not given the Competition Bureau the information it needed to determine whether the merger harmed the economy. Moreover, the bureau had to resort to court orders to compel the information from uncooperative parties, a process that was rigid and did not leave the Competition Bureau with sufficient time to responsibly review complex mergers in a timely and informed manner.

Under the new system, merging companies are told within 30 days whether their proposed transaction raises serious concerns. The vast majority of all transactions should be cleared within that initial 30-day period, and often in significantly less time.

For the small number of potentially harmful mergers — about four to six per year — companies will be told what supplementary information is required from them in order to complete a more in-depth analysis. Once that supplementary information is provided, the bureau will have 30 days to make a decision about whether to challenge the merger.

[*Translation*]

When the bill was tabled, there was a lot of discussion about how the new merger review provisions would operate. Since then, the Competition Bureau has issued draft enforcement guidelines in an effort to, among other things, describe the practices the bureau will follow to ensure the burden on parties in responding to a supplementary request for information is no greater than necessary. My colleague will elaborate further on this.

[*English*]

The third key amendment in Bill C-10 relates to abuse of dominance. That is a situation where a company with market power tries to exclude, discipline or eliminate a competitor in a way that harms competition or that has lasting or permanent effects. Under the old Competition Act, there were no financial consequences for this anti-competitive activity. All the Competition Tribunal could do was to order a company to stop the behaviour; but the company could keep all the money it made in the past from the activity.

The introduction of what are called ''administrative monetary penalties,'' or AMPs, provides greater deterrence, recognizes the seriousness of this conduct and brings Canada's law in line with other jurisdictions' laws.

Il a aussi recommandé — et ceci a été mis de l'avant par le groupe d'étude — que les entreprises doivent avoir le plus de certitude possible quant au processus et au calendrier de leurs transactions. C'est ainsi que le Canada maintient sa réputation de pays de choix pour l'investissement.

En vertu des anciennes dispositions, les parties pouvaient conclure un projet de fusion après 42 jours, même si elles n'avaient pas transmis au Bureau de la concurrence l'information dont il avait besoin pour déterminer si la fusion pouvait nuire à l'économie. Plus encore, le Bureau de la concurrence devait avoir recours aux tribunaux pour faire face à la non-coopération des parties, un processus qui était rigide et qui ne laissait pas au Bureau de la concurrence suffisamment de temps pour examiner adéquatement des fusions complexes d'une manière informée et rapide.

Dans le cadre du nouveau régime, les entreprises qui fusionnent apprennent en moins de 30 jours si leur projet de transaction soulève de graves préoccupations. La vaste majorité des transactions devraient être autorisées au cours de la période initiale de 30 jours, et souvent plus rapidement.

Quant au petit nombre de fusions pouvant être nuisibles — soit entre quatre et six par année environ — les entreprises seront informées des renseignements supplémentaires qu'elles devront fournir pour nous permettre d'effectuer une analyse plus approfondie. Lorsque l'information supplémentaire est communiquée, le Bureau de la concurrence disposera de 30 jours pour décider de contester ou non la fusion.

[*Français*]

Quand la loi a été déposée, il y a eu beaucoup de discussions pour savoir comment les nouvelles dispositions relatives aux fusions s'appliqueraient. Depuis, le Bureau de la concurrence a diffusé des lignes directrices provisoires dans le but, notamment, de décrire les pratiques que suivra le bureau afin de s'assurer que les parties qui devront répondre à un besoin d'information supplémentaire n'auront pas à supporter un fardeau plus lourd que nécessaire. Ma collègue apportera davantage de précision sur cette question.

[*Traduction*]

La troisième série de modifications clés du projet de loi C-10 portent sur l'abus de position dominante. C'est une situation où une entreprise qui exerce une emprise sur le marché tente d'exclure, de discipliner ou d'éliminer un concurrent d'une manière qui nuit à la concurrence de façon durable ou permanente. Selon l'ancienne Loi sur la concurrence, une activité anticoncurrentielle n'entraînait pas de conséquences financières. Tout ce que le Tribunal de la concurrence pouvait faire était d'ordonner à une entreprise de mettre fin à un tel comportement; l'entreprise pouvait toutefois conserver tout l'argent qu'elle avait déjà gagné grâce à cette activité.

La mise en place de ce qu'on appelle des « sanctions administratives pécuniaires », ou SPA, a un plus grand effet de dissuasion, reconnaît la gravité d'une telle conduite et harmonise la loi du Canada avec les lois d'autres administrations.

I will touch briefly on the last set of other key amendments. In addition to responding to the panel's recommendations, the amendments in Bill C-10 send a strong message to potential lawbreakers and the courts that the government is serious about cracking down on the crimes covered by the Competition Act.

Measures were introduced to protect consumers against misleading advertising by significantly increasing penalties and to provide a mechanism for restitution that will allow consumers that are victims of this conduct to secure a refund. These changes should help companies engage in honest marketing practices and instill confidence in advertising claims in the marketplace.

[*Translation*]

Thank you for giving me the opportunity to explain the highlights of Part 12 of Bill C-10.

[*English*]

I will be pleased to respond to any questions that you may have after Ms. Aitken's remarks.

Melanie Aitken, Interim Commissioner of Competition, Competition Bureau Canada: It is an honour to be here today to discuss the recent amendments to the Competition Act. Since January, I have had the privilege of serving as Interim Commissioner of Competition. Prior to that, I headed up the merger review branch of the Competition Bureau; and before that, I spent the bulk of my career in private legal practice in Toronto.

We are pleased with the amendments that Ms. Downie has described, which we firmly believe will materially help us fulfil our mission to contribute to the prosperity of Canadians by protecting and promoting competitive and honest markets, where efficiency and innovation are fostered and where consumers have the information they need to make informed choices.

An honest marketplace benefits everyone in the economy, businesses and consumers alike. It is the goal of the Competition Act and role of the bureau to ensure those conditions prevail.

Yet, as Ms. Downie has highlighted, before the amendments, our cornerstone cartel provision was ineffective and badly out of step with that of our major trading partners. This was a particular challenge for us at the bureau because combating cartels, given how harmful their effects are to the economy, was our number one priority and remains so.

At one and the same time, the cartel provision was too broad and too narrow. It was too narrow and an outlier around the world in that, in order to convict, the prosecution had to prove not just an agreement between competitors to fix their prices, but

Je vais parler brièvement du dernier ensemble de modifications clés. Outre le fait de répondre aux recommandations du groupe d'étude, les modifications proposées dans le projet de loi C-10 envoient un message sans équivoque à ceux qui voudraient violer la loi et aux tribunaux, à savoir que le gouvernement est sérieux dans sa volonté de sévir contre les crimes visés par la Loi sur la concurrence.

Certaines dispositions visent à protéger les consommateurs contre la publicité trompeuse en établissant des sanctions beaucoup plus sévères et à mettre en place un mécanisme de restitution, lequel permettra aux consommateurs qui sont victimes d'une telle conduite d'obtenir un remboursement. Ces changements devraient aider les entreprises à se livrer à des pratiques commerciales honnêtes et permettre aux Canadiens de faire davantage confiance aux messages publicitaires.

[*Français*]

En conclusion, je vous remercie de m'avoir donné l'occasion d'expliquer les points saillants de la partie 12 du projet de loi C-10.

[*Traduction*]

Après les remarques de Mme Aitken, je me ferai un plaisir de répondre à toute question que vous pourriez avoir.

Melanie Aitken, commissaire intérimaire de la concurrence, Bureau de la concurrence Canada : C'est un honneur pour moi d'être ici aujourd'hui pour discuter des modifications récemment proposées à la Loi sur la concurrence. Depuis janvier, j'ai eu le privilège d'occuper le poste de commissaire de la concurrence par intérim. Auparavant, j'ai administré la direction d'examen des fusions du Bureau de la concurrence. J'ai passé la majeure partie de ma carrière à travailler dans un cabinet d'avocats privé à Toronto.

Nous sommes satisfaits des modifications que Mme Downie a décrites. Nous sommes convaincus qu'elles nous aideront concrètement à remplir notre mission, qui consiste à contribuer à la prospérité des Canadiens en protégeant et en promouvant des marchés concurrentiels et honnêtes, où l'on favorise l'efficacité et l'innovation et où l'on communique aux consommateurs l'information nécessaire pour faire des choix éclairés.

Un marché honnête est profitable à tout le monde, tant aux entreprises qu'aux consommateurs. C'est l'objectif de la Loi sur la concurrence et le rôle du bureau de faire en sorte que ces conditions soient en place.

Et pourtant, comme Mme Downie l'a souligné, avant les modifications, notre disposition fondamentale relative aux cartels était inefficace et très déphasée par rapport à celle de nos principaux partenaires commerciaux. C'était un défi particulier auquel nous étions confrontés au bureau car en raison des effets néfastes des cartels sur l'économie, lutter contre ceux-ci était notre priorité et le reste.

La disposition relative aux cartels était à la fois trop vaste et trop étroite. Elle était trop étroite, car pour condamner quelqu'un, la partie poursuivante devait non seulement prouver qu'il y avait une entente entre les concurrents pour fixer leurs prix,

further, in this context of unambiguously harmful conduct, an anti-competitive effect. Needless to say, this consumed enormous resources to try to establish a complex economic effect, and very few prosecutions were successful as a result, even when we caught the conspirators red-handed.

At the same time, the previous cartel provision captured too much. Every business collaboration was potentially subject to the threat of a criminal investigation and a prosecution. That included things like franchise agreements, R&D agreements and the like. As a result, this broad cartel provision had the potential to discourage firms from entering into beneficial alliances and collaborations.

The government's fix, as Ms. Downie has explained, has been to narrow the criminal provision, explicitly decriminalizing all but the most egregious cartel activities while allowing for a review, under a civil track, of the vast majority of other agreements between competitors and only censoring those that seriously risk substantially lessening or preventing competition. Even then, the most that could be ordered is that the agreement be unwound.

[*Translation*]

Our method for reviewing mergers was also out of step. The old provisions did not provide the tools or the time necessary to review the few transactions a year that pose a serious risk to competition in Canada. We believe that the new provisions, which are based on the predictability of incentive harmonization, will allow the bureau to access the information it needs to conduct responsible reviews. At the same time, the new provisions will bring more certainty to the review process and time frame. They will also make it possible to harmonize our process with that of the U.S. That should help parties become more effective and efficient against the backdrop of the globalization of trade.

This is no small undertaking. Reducing the time frames for merger challenges and increasing the financial thresholds for merger notifications will increase predictability for merging parties and reduce the burden of the compliance requirement. That is especially true for small businesses, which have more trouble than other businesses paying the costs of filing a merger notification.

It is in the public interest that we have the tools we need to do the best job possible and to ensure that mergers do not result in the substantial lessening of competition, while making every reasonable effort to reduce the burden on businesses.

Significantly, the amendments decriminalize a number of pricing practices reflecting the reality and the international recognition that creative pricing can be pro-competitive and that hard and fast rules carrying the risk of criminal investigation can blunt entrepreneurial activities and incentives. Liberating

mais aussi qu'il y avait, dans le contexte d'une conduite indéniablement nuisible, un effet anticoncurrentiel. Il va sans dire qu'il a fallu d'énormes ressources pour essayer de créer un effet économique complexe et, par conséquent, très peu de poursuivants ont réussi, et ce, même quand les conspirateurs se faisaient prendre en flagrant délit.

La disposition relative aux cartels avait également une portée trop vaste. Chaque collaboration entre des entreprises pouvait éventuellement faire l'objet d'une enquête criminelle et d'une poursuite. On parle ici de contrats de franchise, d'ententes en matière de R-D, et cetera. Par conséquent, cette vaste disposition relative aux cartels pouvait dissuader des entreprises de conclure des alliances et des collaborations bénéfiques.

Comme l'a expliqué Mme Downie, le gouvernement suggère la solution de réduire la portée de la disposition criminelle, de décriminaliser explicitement toutes les activités de cartel sauf les plus flagrantes tout en permettant de procéder à un examen au civil de la grande majorité des autres ententes conclues entre des concurrents. Par ailleurs, il propose de ne censurer que les ententes qui risquent de réduire sensiblement ou d'empêcher la concurrence. Même là, tout ce qu'on a pu exiger, c'est de mettre un terme à l'entente.

[*Français*]

Notre méthode d'examen des fusions était également déphasée. Les anciennes dispositions ne nous offraient ni les outils ni le temps nécessaires pour examiner le peu de transaction annuelle qui risque de nuire considérablement à la concurrence au Canada. Nous croyons que les nouvelles dispositions, qui sont axées sur la prévisibilité de l'harmonisation des mesures incitatives, permettront au bureau d'obtenir l'information dont il a besoin pour effectuer des examens responsables. Parallèlement, ces nouvelles dispositions offriront davantage de certitudes quant au processus d'examen et à son échéancier. Elles permettront également d'harmoniser notre processus avec celui des États-Unis. Cela devrait aider les parties à l'exploiter plus efficacement dans le contexte de la mondialisation des échanges commerciaux.

Il ne s'agit pas d'une mince affaire. La réduction des délais de contestation des fusions, ainsi que l'augmentation des seuils financiers prévus pour les avis de fusion, augmenteront la prévisibilité pour les parties qui fusionnent et allégeront leur fardeau lié à l'exigence de se conformer, surtout pour les petites entreprises qui peuvent moins que les autres assumer les coûts relatifs au dépôt d'un avis de fusion.

Il est dans l'intérêt public que nous disposions des outils nécessaires pour effectuer le meilleur travail possible et veiller à ce que les fusions n'occasionnent pas de diminution sensible de la concurrence tout en faisant tout ce qui est raisonnablement possible pour alléger le fardeau des entreprises.

Les modifications décriminalisent sensiblement de nombreuses pratiques d'établissement des prix en tenant compte de la réalité et de la reconnaissance internationale voulant que les méthodes créatives de fixation des prix peuvent être favorables à la concurrence et que des règles rigoureuses pouvant mener à une

businesses to be innovative in organizing their pricing practices can only be a good thing. If that freedom is abused, there is still recourse under the civil provisions.

Finally, the amendments enhance penalties for those who break the law. Prior to these amendments, the level of deterrence for certain kinds of illegal conduct was negligible. For many, it was seen as simply a licence fee for misleading and cheating honest consumers and businesses. Now, in areas such as false and misleading advertising that target the vulnerable, not only can the courts and tribunals administer higher penalties, we can act on behalf of consumers in appropriate cases to seek restitution — an additional and powerful deterrent and a way for victims to get their money back. Similarly, the act did not effectively deter anti-competitive conduct in the area of abusive dominance. Generally, the tribunal was limited to requiring the offending company, even if we established that there had been an abuse of dominance, to discontinue the activity going forward. In other words, the company was able to keep all the money it had made having excluded healthy competition through anti-competitive conduct designed to eliminate competitors.

It is key that these amendments introduce material incentives to comply with the law and, in appropriate cases, could be sought. There is no doubt in my mind that the changes to the act, including the ones I have highlighted here, coupled with the strong investigative and analytical teams at the Competition Bureau, will allow us to enforce better the Competition Act on behalf of all Canadians. I would suggest that that is even more important in these recessionary times. Economic crime cuts closer to the bone when times are tough. If anything, we fear that the temptation to break the law might increase in tough times.

Cartels and anti-competitive conduct are more prevalent in declining industries, while the kind of innovation and productivity growth and cost-effectiveness that honest competition can unleash are important drivers of recovery. For that reason, the principled application of sound competition policy is critical for us to promote a speedy recovery from the economic downturn.

We are conscious that our role must be carefully calibrated. We must be measured and we must make extraordinary efforts to ensure that we communicate clearly what is onside and what is potentially illegal. Also, we must enforce the law so that legitimate business alliances, innovation and efficiencies in the economy can all flourish. Let me be clear: this is not about creating obstacles to legitimate business conduct; quite the contrary. We take seriously our duty to ensure that those in the marketplace understand this, and that is why we are out in the community conducting

enquête criminelle peuvent réduire l'effet des activités d'entrepreneuriat et des mesures incitatives. Encourager les entreprises à faire preuve de créativité dans l'organisation de leurs pratiques d'établissement des prix ne peut être qu'une bonne chose. Si on abuse de cette liberté, il reste un recours en vertu des dispositions civiles.

Pour terminer, les modifications alourdissent les sanctions pour ceux qui enfreignent la loi. Avant ces modifications, le niveau de dissuasion pour certains types de conduites illégales était négligeable. Bien des gens le percevaient simplement comme étant un droit de permis pour tromper les consommateurs et les entreprises honnêtes. Maintenant, dans des secteurs comme la publicité fausse ou trompeuse qui cible les personnes vulnérables, les cours et les tribunaux peuvent non seulement appliquer des sanctions plus sévères, mais nous pouvons aussi agir au nom des consommateurs, au besoin, pour demander un dédommagement — ce qui constitue un autre puissant moyen de dissuasion et une façon pour les victimes de récupérer leur argent. De même, la loi ne décourageait pas efficacement la conduite anticoncurrentielle dans les cas d'abus de position dominante. En général, le tribunal ne pouvait qu'obliger l'entreprise fautive, même si nous avions établi qu'il y avait eu abus de position dominante, à cesser l'activité à l'avenir. Autrement dit, l'entreprise pouvait garder tout l'argent qu'elle avait gagné en excluant la concurrence saine par l'adoption d'une conduite anticoncurrentielle en vue d'éliminer des concurrents.

Il est essentiel que ces modifications créent des incitatifs concrets pour encourager les gens à se conformer à la loi et que l'on puisse y avoir recours, au besoin. Il ne fait aucun doute dans mon esprit que les changements apportés à la loi, y compris ceux que j'ai soulignés ici, combinés au travail des excellentes équipes d'enquête et d'analyse au Bureau de la concurrence, nous permettront de mieux faire appliquer la Loi sur la concurrence pour le compte de tous les Canadiens. Je dirais que c'est d'autant plus important en cette période de récession. Les répercussions des crimes économiques sont plus néfastes quand les temps sont durs.

Les cartels et la conduite anticoncurrentielle sont plus présents dans les industries en déclin, tandis que le type d'innovation, de productivité et de rentabilité que la concurrence loyale peut offrir constituent des principaux moteurs de reprise. Pour cette raison, l'application fondée sur une politique de saine concurrence est essentielle pour que nous puissions promouvoir une reprise économique prompte.

Nous sommes conscients que notre rôle doit être judicieusement calibré. Nous devons faire preuve de diligence et nous devons déployer des efforts extraordinaires pour veiller à ce que nous communiquions clairement ce qui est en jeu et ce qui est peut-être illégal. De plus, nous devons faire appliquer la loi pour favoriser les alliances commerciales légitimes, l'innovation et le rendement. Soyons clairs : il ne s'agit pas de créer des obstacles pour rendre légitimes des activités commerciales, bien au contraire. Nous prenons au sérieux notre responsabilité visant à

consultations and education sessions with national consumer groups, the bar and the business communities across the country.

For example, last week we worked cooperatively with the chamber and the Canadian Council of Chief Executives, to whom we are grateful for their assistance, to put on an education session for their members in Toronto. We have met with Catherine Swift and her colleagues form the Canadian Federation of Independent Business. We have an event planned with the Retail Council of Canada. Last week in Vancouver and Montreal, we held open events for the local business communities. More are planned. The idea is to ensure that everyone who has an interest in being heard has an opportunity to present their input directly to us so that we can provide as much explanation and education as possible in return. The feedback so far has been positive and heartening. Many participants have described the sessions as valuable and said that they walked away feeling they could work well with the new legislation.

We are doing more than just talking, I assure honourable senators. We recognize that with this opportunity comes a significant responsibility. We are committed to ensuring that these amendments are implemented in the most effective and transparent way possible. We have issued draft guidelines outlining our approach to the two major, substantive changes to the law: the merger review process and how competitor collaborations are treated under the law. These draft guidelines lay out, as clearly as possible, how we intend to proceed in these two key areas. The draft merger process guidelines explain how we will ensure that we do everything we can do to keep the burden on merging parties as minimal as possible while enabling ourselves to conduct a sufficiently thorough review.

Our face-to-face consultations with the bar wrapped up last week. The exchange and reception were encouraging.

[*Translation*]

The draft Competitor Collaboration Guidelines were made public last Friday and will be the subject of extensive consultations this spring. The guidelines describe in detail our approach to each provision in the new bill and explicitly protect certain agreements from criminal sanctions. The guidelines also provide clear examples of the strict limits of our investigations under the criminal provision and outline our approach to other types of agreements. We state very clearly that we are interested only in cases that seriously undermine competition.

veiller à ce que les intervenants sur le marché le comprennent, et c'est la raison pour laquelle nous tenons des consultations et des séances d'éducation dans la communauté avec des représentants de groupes de consommateurs nationaux, du Barreau et du milieu des affaires partout au pays.

Par exemple, nous avons collaboré la semaine dernière avec la Chambre et le Conseil canadien des chefs d'entreprise — envers qui nous sommes reconnaissants pour leur aide — à mettre sur pied une séance d'éducation pour leurs membres à Toronto. Nous avons rencontré Mme Catherine Swift et ses collègues de la Fédération canadienne de l'entreprise indépendante. Une activité est prévue avec le Conseil canadien du commerce de détail. La semaine dernière, nous avons tenu des séances portes ouvertes pour les entreprises locales à Vancouver et à Montréal. Nous prévoyons en organiser d'autres. L'idée, c'est de veiller à ce que tous ceux qui veulent se faire entendre aient l'occasion de nous faire part directement de leurs opinions pour que nous puissions leur fournir le plus d'explications et d'informations possible en retour. Jusqu'à présent, les commentaires ont été positifs et encourageants. De nombreux participants ont décrit les séances comme étant utiles et ont dit qu'à la fin, ils avaient l'impression qu'ils pouvaient faire bon ménage avec la nouvelle loi.

Honorables sénateurs, je vous assure que nous ne nous contentons pas de discuter. Nous reconnaissons que cette possibilité s'accompagne d'une grande responsabilité. Nous nous engageons à veiller à ce que ces modifications soient mises en oeuvre de la manière la plus efficace et transparente possible. Nous avons rendu publiques des lignes directrices préliminaires qui présentent notre approche aux deux grands changements de fond apportés à la loi : le processus d'examen des fusions et la manière dont la loi traite les collaborations entre concurrents. Ces lignes directrices préliminaires énoncent le plus clairement possible la manière dont nous avons l'intention d'intervenir dans ces deux principaux secteurs. Les lignes directrices relatives au processus d'examen des fusions expliquent comment nous ferons tout en notre pouvoir pour alléger le plus possible le fardeau des parties à fusion tout en nous permettant de mener un examen assez approfondi.

Les consultations que nous avons menées avec le Barreau se sont conclues la semaine dernière. Les échanges ont été encourageants.

[*Français*]

Les lignes directrices préliminaires sur la collaboration entre concurrents ont été rendues publiques vendredi dernier et feront l'objet de consultations exhaustives ce printemps. Elles traitent en détail de notre approche à l'égard de chaque disposition de la nouvelle législation et mettent expressément certaines ententes à l'abri des sanctions criminelles. Elles offrent des exemples concrets qui illustrent les limites strictes de nos enquêtes en vertu de la disposition criminelle et décrivent notre approche à l'égard des autres formes d'ententes. Nous précisons clairement que nous ne nous intéressons qu'aux cas qui nuisent sérieusement à la concurrence.

We will draw on the expertise of our legal, business and consumer stakeholders, and make any necessary changes to our two sets of draft guidelines before preparing the final versions in the coming months.

[*English*]

I have had the great good fortune to lead the organization when these amendments passed. I have clearly communicated to all our staff that getting the implementation of these amendments right is absolutely our number one priority. As Interim Commissioner of Competition, I take my role as a law enforcement officer seriously. I will not hesitate to act when we uncover evidence of a breach of the law. Business crime costs everyone in the economy. Honest competitors deserve the full protection of the law. We are committed to doing our part at the Competition Bureau responsibly to ensure that legitimate business grows strongly in Canada. We believe that these amendments will help us to do so. With that, honourable senators, we welcome your questions.

The Chair: Thank you for the clarity and brevity of those opening statements. I am certain they have spawned questions in the minds of senators.

Senator Harb: These amendments are explicit. I have a specific question to ask about the new section 45(1) of the Competition Act, at page 391, which reads in part:

> Every person commits an offence who, with a competitor of that person with respect to a product, conspires, agrees or arranges
>
> (*a*) to fix, maintain, increase or control the price for the supply of the product.

Probably before you joined the Competition Bureau, a few years ago, two companies in Ottawa were charged under the Competition Act because it was alleged that they communicated with one another and, as a result of that communication, the price went down. One would presume that they broke the law at that time. Under this regime, with 45(1)(*a*) in place, that kind of dialogue would be responded to as at page 407, which is the exception, in section 90.1(4). As clarification to 45(1)(*a*), section 90.1(4) sets out as an exception gains in efficiency:

> The Tribunal shall not make an order under subsection (1) if it finds that the agreement or arrangement has brought about or is likely to bring about gains in efficiency that will be greater than, and will offset, the effects of any prevention of lessening or lessening of competition . . .

Nous profiterons de la sagesse de nos interlocuteurs des milieux du droit, des affaires et de la consommation, puis nous apporterons les modifications nécessaires à nos deux ensembles de lignes directrices préliminaires avant d'en produire les versions définitives dans les mois à venir.

[*Traduction*]

J'ai eu le grand bonheur de diriger l'organisation quand ces modifications ont été adoptées. J'ai fait clairement savoir à l'ensemble de notre personnel que notre priorité absolue est de mettre en oeuvre ces modifications de manière appropriée. En tant que commissaire intérimaire de la concurrence, je prends mon rôle d'agent d'exécution de la loi au sérieux. Je n'hésiterai pas à intervenir si nous démontrons qu'une infraction à la loi a été commise. Tout le monde paie pour les crimes commerciaux. Les concurrents honnêtes méritent d'être pleinement protégés par la loi. Nous nous engageons à faire notre part de manière responsable au Bureau de la concurrence pour veiller à ce que le nombre d'entreprises légitimes augmente vigoureusement au Canada. Nous croyons que ces modifications nous aideront à y parvenir. Sur ce, honorables sénateurs, nous nous ferons un plaisir de répondre à vos questions.

Le président : Merci pour la clarté et la brièveté de vos déclarations préliminaires. À la lumière de vos remarques, je suis certain que les sénateurs ont des questions à vous poser.

Le sénateur Harb : Ces modifications sont explicites. J'ai une question précise à poser au sujet du nouveau paragraphe 45(1) de la Loi sur la concurrence à la page 391, qui se lit en partie comme suit :

> Commet une infraction quiconque, avec une personne qui est son concurrent à l'égard d'un produit, complote ou conclut un accord ou un arrangement :
>
> *a)* soit pour fixer, maintenir, augmenter ou contrôler le prix de la fourniture du produit [...]

Il y a quelques années, avant que vous joigniez les rangs du Bureau de la concurrence probablement, deux entreprises d'Ottawa ont été accusées en vertu de la Loi sur la concurrence. On alléguait qu'elles communiquaient entre elles et qu'à la suite de ces échanges, les prix avaient baissé. On pourrait présumer qu'elles ont violé la loi à ce moment-là. En vertu de ce régime, aux termes de l'alinéa 45(1)*a)*, on invoquerait dans cette situation l'exception qui se trouve au paragraphe 90.1(4), à la page 407. Le paragraphe 90.1(4), qui est une exception dans les cas de gains en efficience, vient préciser l'alinéa 45(1)*a)* :

> Le Tribunal ne rend pas l'ordonnance prévue au paragraphe (1) dans les cas où il conclut que l'accord ou l'arrangement a eu pour effet ou aura vraisemblablement pour effet d'entraîner des gains en efficience, que ces gains surpasseront et neutraliseront les effets de l'empêchement ou de la diminution de la concurrence [...]

Based on this clarification and on 45(1)(*a*), would those two companies be charged with price fixing under today's Competition Act? Without naming the companies, obviously, because I do not know the result of the charges.

Ms. Aitken: I have the good fortune of having no idea what case you are referring to, so I can answer without worrying about the facts of the specific case. Needless to say, every case would be approached on the basis of its own facts and the evidence. I will attempt to respond to your question as a structural matter.

Under the new provision, we have two agreements provisions. We have a very narrow provision for unambiguously harmful price-fixing agreements. Those will be criminally looked at.

However, the vast majority of agreements, collaborations and communications as between competitors would be looked at, if at all, under the 90.1 provision, the second provision you turned to. In being analyzed under that provision, they would be analyzed in what we call the rule-of-reason approach, which effectively just means a civil approach, absolutely, but also means balancing all of the factors together.

Do we think this is an anti-competitive agreement that will substantially lessen competition? As part of the final answer to that question, there is an explicit efficiencies exception that says even if it is anti-competitive in its essence, if the efficiencies that would be associated with that agreement are greater than and offset that anti-competitive concern, then the agreement is perfectly free to stand.

Senator Harb: With respect to the efficiencies reducing the price, is that an efficiency or deficiency in the market?

Ms. Aitken: It can be a reflection of efficiencies. It is not, per se, an efficiency. An efficiency would be freeing up resources for other uses in the economy and things of that nature. However, it could very well be a reflection that because the companies have been able to collaborate and share some joint cost that they have in a perfectly legitimate way, they are able to lower their price and be more competitive and offer consumers lower prices.

Senator Harb: My second question deals with vertical integration provisions that many states in the United States have looked at. A number of states have introduced laws, as have certain parts of Europe and other countries around the world, whereby a producer may or may not be able to be a retailer at the end. If that producer is a retailer, the percentage that person can retail at the consumer level can be, say, 10 per cent or 15 per cent of what he or she produces.

Vertical integration would remove the whole concept of a conflict of interest of an institution that produces a product and itself sells the product on the market as well as other franchises selling it. It gives you control directly into the market through

D'après cette clarification et aux termes de l'alinéa 45(1)*a)*, ces deux entreprises seraient-elles accusées d'avoir fixé le prix d'un produit en vertu de la Loi sur la concurrence actuelle? Je ne nommerai évidemment pas les entreprises, car j'ignore quelle a été l'issue des accusations.

Mme Aitken : Heureusement, comme je n'ai pas la moindre idée de l'affaire dont vous parlez, je peux répondre sans m'inquiéter des faits de ce cas précis. Il va sans dire qu'on étudierait les faits et les témoignages de chaque affaire. Je vais tenter de répondre à la question sous l'aspect structurel.

En vertu de la nouvelle disposition, nous avons deux dispositions relatives aux ententes. Nous avons une disposition très étroite pour les ententes indéniablement préjudiciables pour fixer des prix. Ces cas feront l'objet d'une enquête au pénal.

Cependant, la grande majorité des ententes, des collaborations et des communications entre concurrents seront examinées, le cas échéant, aux termes de la disposition 90.1, la deuxième disposition à laquelle vous vous êtes reporté. Aux termes de cette disposition, elles seraient analysées dans le cadre de ce que nous appelons l'approche de la règle de raison, ce qui signifie simplement une méthode au civil, en termes absolus, mais aussi l'équilibre de tous les facteurs combinés.

Croyons-nous que c'est une entente anticoncurrentielle qui réduira substantiellement la concurrence? Pour conclure ma réponse à la question, il y a des exceptions explicites dans les cas de gains en efficience qui stipulent que même si l'entente est anticoncurrentielle de par sa nature, si les gains en efficience y étant associés sont supérieurs à la préoccupation sur le plan de la concurrence et qu'ils neutralisent cette inquiétude, l'entente a tout à fait lieu d'être.

Le sénateur Harb : En ce qui concerne les gains en efficience qui font baisser les prix, est-ce une efficience ou une lacune sur le marché?

Mme Aitken : Ça peut démontrer des gains en efficience. Ce n'en est pas un à proprement parler. On retirerait un gain en efficience si on dégageait des ressources à d'autres fins dans l'économie et ce genre de choses. Toutefois, ce pourrait très bien illustrer le fait que parce que des entreprises ont pu collaborer et partager certains frais qu'elles ont en commun tout à fait légitimement, elles peuvent diminuer leurs prix, être plus concurrentiels et offrir aux consommateurs des prix moins élevés.

Le sénateur Harb : Ma deuxième question porte sur les dispositions relatives à l'intégration verticale que bien des États américains ont envisagées. Un certain nombre d'États, de même que certaines régions d'Europe et d'autres pays partout dans le monde, ont mis en place des lois en vertu desquelles un producteur peut ou non être un détaillant au bout du compte. Le cas échéant, le pourcentage que le producteur peut vendre au détail peut être, disons, entre 10 et 15 p. 100 de ce qu'il produit.

L'intégration verticale dissiperait toute l'idée du conflit d'intérêts d'un établissement qui fabrique un produit et qui vend lui-même le produit, qui est aussi en vente dans d'autres franchises. Elle vous donne directement le contrôle sur le marché

your own outlet, but it also gives you indirect undue pressure on the agencies or the other groups that are also buying your product and selling it on the market.

Vertical integration provisions were introduced in order to eliminate that, indicating that you cannot have it both ways. You either want to be a producer and let others sell your product, or you want to be a producer and sell part of the product yourself. You have to decide what you want to be, a retailer or a producer. If you want to be both, we have to put some rules on it.

So I do not have to come back for a third question, in my other life, when I was in the House of Commons, there was a provision dealing with whistle-blowers. Have you applied that provision at all? If so, what has your experience been with that?

Ms. Aitken: You can let me know if there are gaps to my answer. As a response in general to your notion that we would put explicit criteria around the kinds of agreements that are or are not allowed, that has not been our approach. We have framework legislation here in Canada, and that is not because of the amendments; that is the way we have always approached looking at agreements, mergers or conduct otherwise in the marketplace.

The kinds of situations you were looking at could conceivably fall within the act for us to consider in the context of a merger. You could have a vertical merger in the sense of a supplier and one of their distributors merging, and you might be concerned to look at it, depending on the concentration levels. There is certainly nothing per se wrong with that.

Second, it could be an agreement of some sort. You might have a supplier who competes with some of the retailers that he sells his goods to, but he also sells into the secondary market. Again, that would be an agreement that clearly, under our new laws and in our guidelines, is explicitly reserved for civil treatment or examination, if you will. Again, it will only be a problem if it is on balance anti-competitive.

A final check on that sort of conduct would be if indeed a dominant player was engaged in that sort of arrangement; it might conceivably, in certain circumstances, give rise to a concern if it could be shown that the conduct that particular player was entering into had the intent of excluding competition and disciplining or excluding from the market one of its competitors.

I am not sure whether that is a complete answer. Ms. Downie may have something to add.

Ms. Downie: I do not have anything to add to that.

Ms. Aitken: On the whistle-blower question, whether we have ever used the provision, I have to confess I am not entirely acquainted with that. A lot of our work is initiated through complaints, but I think what you are driving at is an internal whistle-blower.

en ayant votre propre point de vente, mais elle exerce des pressions indues sur les organismes ou les autres groupes qui achètent aussi votre produit et qui le vendent sur le marché.

Les dispositions relatives à l'intégration verticale ont été mises en place pour éliminer cette situation, en indiquant qu'on ne peut pas avoir le beurre et l'argent du beurre. Soit vous voulez être un producteur et vous laissez d'autres personnes vendre votre produit, soit vous voulez être un producteur et vous vendez une partie de vos produits vous-même. Vous devez décider ce que vous voulez être, un détaillant ou un producteur. Si vous voulez être les deux, nous devons imposer certaines règles.

Je n'ai pas besoin de poser une troisième question, car dans une autre vie, quand je siégeais à la Chambre des communes, il y avait une disposition portant sur les dénonciateurs. Avez-vous déjà appliqué cette disposition? Le cas échéant, comment cela s'est-il passé?

Mme Aitken : Vous pouvez me dire s'il manque des éléments dans ma réponse. Pour répondre de façon générale à votre idée voulant que nous établissions des critères explicites entourant le genre d'ententes qui sont permises ou non, ce n'est pas l'approche que nous avons adoptée. Nous avons une loi-cadre ici au Canada, et ce n'est pas à cause des modifications; c'est l'approche que nous avons toujours adoptée à l'égard des ententes, des fusions ou des conduites sur le marché.

Le genre de situations que vous examiniez pourrait vraisemblablement tomber sous le coup de la loi pour que nous l'envisagions dans le contexte d'une fusion. Vous pourriez avoir une fusion verticale, c'est-à-dire un fournisseur et l'un de ses distributeurs qui fusionnent, et vous pourriez être inquiet et l'examiner, selon les niveaux de concentration. Il n'y a certainement aucun mal à cela à proprement parler.

Deuxièmement, ce pourrait être une entente quelconque. Vous pourriez avoir un fournisseur qui fait concurrence à quelques-uns des détaillants à qui il vend ses produits, mais qui vend aussi sur le marché secondaire. Ici aussi, ce pourrait être une entente qui, clairement, aux termes des nouvelles lois et de nos lignes directrices, est explicitement réservée à une méthode ou un examen au civil, si vous voulez. Ce sera seulement un problème si l'entente est plutôt anticoncurrentielle.

On ferait une dernière vérification si effectivement, un joueur prépondérant était partie à ce type d'entente; dans certaines circonstances, cela pourrait vraisemblablement donner lieu à une préoccupation si on pouvait démontrer que la conduite du joueur en question visait à éliminer la compétition et à discipliner ou à exclure l'un de ses concurrents.

Je ne suis pas certaine si ma réponse est complète. Mme Downie a peut-être quelque chose à ajouter.

Mme Downie : Je n'ai rien à ajouter.

Mme Aitken : En réponse à la question sur les dénonciateurs, à savoir si nous avons déjà eu recours à la disposition, je dois avouer que je ne suis pas trop au courant. Une grande partie de notre travail découle de plaintes, mais je pense que vous voulez parler d'un dénonciateur à l'interne.

In the criminal sphere for sure, we have an immunity and leniency policy, which is how we have had most of our success in the criminal area, because of the frailty we spoke about earlier in our law that had to do with the requirement to produce and establish economic harm. We have had whistle-blowers in that sense, under our immunity program, and it is vital to the administration of our criminal program.

Senator Ringuette: You have mentioned that the introduction of these amendments is to better coordinate our laws with U.S. laws. Could you elaborate on that a little bit? When I look at your statement, it seems many items have been removed. I am concerned that when you talk about hard-core cartels, your legislation will pretty much be restricted.

Could you please elaborate on that in regards to hard-core cartels, and the opposite of that, which I suppose would be soft-core cartels? How does that compare with U.S. legislation? I have some concern here.

Ms. Downie: There are three key areas where these provisions would line us up better with U.S. laws. The first is, as you point out, the new cartel provisions, and then there are the administrative monetary penalties for abuse of dominance, and the merger review process. I will start with cartels.

The premise of the amendments was to ensure that Canadian consumers enjoy the same extent of protection from price increases from cartels as U.S. consumers do. The provision was designed to make hard-core cartels, price-fixing market allocation and output restriction illegal per se, so without the requirement to introduce evidence of economic harm. That is also the case in the United States.

The other important thing about that is that often cartels are cross-border, so they do not affect only Canada or the U.S. but North America as a whole. Often the Competition Bureau was investigating cartels in parallel with U.S. enforcers, who only had to find evidence of a price-fixing agreement, for example, to then proceed to lay charges and hopefully get a conviction.

In Canada, the bureau was slowed down because on top of having to provide evidence of price-fixing it then had to go on and find evidence of an undue lessening of competition. In a recent case, that actually added two years to the investigation. Ms. Aitken might want to elaborate on that. Thus the bureau was previously very much behind other agencies, and not only U.S. agencies, but obviously they are the key partner.

With respect to mergers, the idea was to align the two processes, so the new merger review process is very similar, at least in structure, to the U.S. process, with similar timelines. If you have cross-border transactions, businesses will hopefully receive similar types of information requests at similar times, and

Dans le milieu criminel, nous avons certainement une politique en matière d'immunité et de clémence, et c'est ainsi que nous avons le mieux réussi, en raison de la fragilité de notre loi ayant trait à l'exigence de causer du tort sur le plan économique que nous avons évoqué tout à l'heure. Nous avons eu des dénonciateurs dans ces cas-là, dans le cadre de notre programme d'immunité, et c'est un élément essentiel à l'administration de notre programme pénal.

Le sénateur Ringuette : Vous avez dit que la mise en oeuvre de ces modifications vise à mieux coordonner nos lois avec celles des États-Unis. Pourriez-vous nous en dire un peu plus long à ce sujet? Quand je regarde votre déclaration, plusieurs éléments semblent avoir été supprimés. Je m'inquiète du fait que votre loi sera assez limitée en ce qui concerne les cartels injustifiables.

Pourriez-vous, s'il vous plaît, nous en dire un peu plus long au sujet des cartels injustifiables par opposition aux cartels provisoires? Comment cela se compare-t-il à la législation des États-Unis? J'ai quelques préoccupations à cet égard.

Mme Downie : Il y a trois principaux secteurs où ces dispositions seraient mieux alignées sur les lois des États-Unis. Il y a tout d'abord, comme vous l'avez souligné, les nouvelles dispositions relatives aux cartels, les sanctions administratives pécuniaires pour les cas d'abus de position dominante et le processus d'examen des fusions. Je vais commencer par les cartels.

Les modifications visaient à faire en sorte que les consommateurs canadiens bénéficient de la même protection contre la hausse des prix causée par des cartels que les consommateurs américains. La disposition était conçue pour rendre illégaux les cartels injustifiables et fixer le prix de l'attribution des marchés et de la limitation de la production, et ce, sans exiger des preuves qu'il y a eu préjudice sur le plan économique. C'est aussi le cas aux États-Unis.

L'autre élément important à cet égard, c'est que les cartels sont souvent transfrontaliers et n'ont donc pas seulement une incidence sur le Canada ou les États-Unis, mais sur l'Amérique du Nord en général. Le Bureau de la concurrence enquêtait souvent sur des cartels en parallèle avec des agents d'exécution de la loi, qui devaient seulement trouver des preuves d'une entente en vue de fixer des prix, par exemple, pour ensuite porter des accusations et, nous l'espérions, obtenir une condamnation.

Au Canada, le bureau a été ralenti car outre le fait de devoir fournir la preuve de la fixation des prix, il devait par la suite prouver une réduction indue de la concurrence. Dans une affaire récente, cela a prolongé l'enquête de deux ans. Mme Aitken voudra peut-être nous en dire plus long à ce sujet. Le bureau est très en retard par rapport aux autres organismes, et pas seulement aux agences américaines, mais elles sont évidemment le principal partenaire.

En ce qui concerne les fusions, l'idée était d'harmoniser les deux processus de sorte que le nouveau processus soit très semblable, sur le plan de la structure à tout le moins, à celui des États-Unis, et que les calendriers se ressemblent aussi. S'il y a des transactions transfrontalières, les entreprises recevront,

the two competition agencies will be required to proceed relatively in parallel.

The last one is administrative monetary penalties — the fines, essentially, for abuse of dominant position. As Ms. Aitken mentioned, in Canada, the Competition Tribunal did not have the ability to award any kind of financial penalties to deter that conduct. In the U.S. and the EU you see very significant penalties to deter that conduct. The idea was that Canadian businesses and consumers should be protected from that conduct, as they are in other jurisdictions.

Senator Ringuette: Ms. Downie, in your opening statement, with regard to abuse of dominance, you referred to "a situation where a company with market power tries to exclude, discipline or eliminate a competitor . . ."

Why is it "a company"? Why could it not be, for instance, two companies having 94 per cent of the market share?

Ms. Downie: It generally is a single competitor, which is why I refer to "a competitor," but you are right; it could also involve multiple competitors. The amendments change nothing about the abuse of dominance provision itself, so it continues to apply as it did to usually one or more competitors that abuse their dominant position, but it introduces administrative monetary penalties where the Competition Tribunal finds that that conduct has taken place.

Senator Ringuette: What percentage of market share would be considered abuse of dominance?

Ms. Aitken: I get the easy question. Market share is relevant to many of the things we look at under the act, and the thresholds that are material for us to become concerned about anti-competitive conduct vary depending on what you are looking at under the act.

In the abuse context, it has generally been significant. In the sense of mergers, for example, we might get concerned with as low a threshold as 35 per cent. We would unlikely be concerned about dominance in the context of either joint or single dominance at a level like that. There are no clear and fast rules, and it really depends on the particular marketplace whether you might find joint dominance, whether it be 70 per cent or 80 per cent. Certainly a monopoly is an easy question at 100 per cent.

Senator Ringuette: Joint dominance. I like that.

Senator Oliver: Following Senator Harb, I will have three short questions.

espérons-le, des demandes de renseignements semblables à des moments semblables, et les deux organismes de la concurrence devront travailler relativement en parallèle.

Le dernier point porte sur les sanctions administratives pécuniaires — ce sont essentiellement les amendes imposées dans les cas d'abus de position dominante. Comme Mme Aitken l'a mentionné, au Canada, le Tribunal de la concurrence n'était pas en mesure d'infliger aucune forme de sanctions financières pour décourager cette conduite. Aux États-Unis et dans les pays de l'Union européenne, on applique des sanctions très sévères pour dissuader les gens d'adopter une telle conduite. L'idée était que les entreprises et les consommateurs canadiens soient protégés contre une telle conduite, comme ils le sont ailleurs.

Le sénateur Ringuette : Madame Downie, dans votre déclaration préliminaire, concernant les cas d'abus de position dominante, vous avez parlé d'une « situation où une entreprise qui exerce une emprise sur le marché tente d'exclure, de discipliner ou d'éliminer un concurrent [...] ».

Pourquoi dites-vous « une entreprise »? Ne pourrait-on pas parler, par exemple, de deux entreprises qui détiennent 94 p. 100 du marché?

Mme Downie : Il s'agit généralement d'un seul concurrent; c'est pourquoi je parle d'» un concurrent «, mais vous avez raison; il pourrait y en avoir plusieurs. Les modifications ne changent en rien la disposition relative à l'abus de position dominante en tant que telle; elle s'applique donc, comme à l'habitude, qu'il s'agisse d'un ou de plusieurs concurrents qui abusent de leur position dominante, mais elle prévoit maintenant des sanctions administratives pécuniaires si le Tribunal de la concurrence conclut qu'une telle conduite a eu lieu.

Le sénateur Ringuette : Quelle part de marché, en pourcentage, serait considérée comme étant un abus de position dominante?

Mme Aitken : C'est moi qui réponds à la question facile. La part de marché s'applique à beaucoup de situations que nous examinons en vertu de la loi; quant à savoir à partir de quel seuil on doit commencer à s'inquiéter du comportement anticoncurrentiel, cela varie selon ce qu'on examine aux termes de la loi.

Dans le contexte de l'abus, c'est généralement un facteur important. Dans le cas des fusions, par exemple, il y a lieu de s'inquiéter devant un seuil aussi bas que 35 p. 100. Par contre, il est peu probable qu'on s'inquiète d'un niveau semblable de position dominante dans le contexte d'une domination unique ou conjointe. Il n'y a pas de règle coulée dans le béton, et cela dépend vraiment du marché particulier où se trouve une domination conjointe, qu'il s'agisse de 70 p. 100 ou de 80 p. 100. Bien entendu, pour ce qui est d'un monopole, la réponse est facile : c'est 100 p. 100.

Le sénateur Ringuette : La domination conjointe, j'aime ça.

Le sénateur Oliver : Pour suivre l'exemple du sénateur Harb, j'aimerais vous poser trois petites questions.

First, Red Wilson did a report on the Competition Policy Review Panel, and there was a Bill C-19 that included many of his recommendations. Is there anything in the bill that is now the law that is before us that were recommendations of Red Wilson's that are not here but are material and should be here?

Second, you both stressed that it is important in this bill that you have changed the penalties from 5 years to 14 years and that there are now fines between $10 million and $25 million; yet it is conceivable that there could be circumstances where $25 million would not be adequate. I want to know how that would compare with fines for similar offences in places like the United States and the United Kingdom.

Third, you both mentioned the importance in this bill of the possibility for people to get restitution. I just wanted to know what the quantum is. Will it be 100 per cent? What is the formula?

I notice, Ms. Aitken, that when you talked about where you have been working with stakeholders, you mentioned Toronto, Montreal and Vancouver, but there was no reference to the eastern part of Canada, in important cities such as Halifax, Nova Scotia, and Saint John, New Brunswick. Are they being excluded in your work?

The Chair: That is three and a half questions, senator. I know the half question was very important.

Ms. Aitken: We will deal with your questions in reverse order. At our consultations we have physically turned up. I have made a personal effort to make sure everyone knows that we are engaged at the highest levels in the bureau. I have not turned up in those cities as yet, but we have had participants phone in from other cities across Canada. We have ensured that our invitation was extended right across the country. If any interest is expressed, we would be more than happy to go.

We did make some initial explorations as to whether an eastern tour would attract a sufficient audience, and unfortunately at that time it did not. However, perhaps with our Competitor Collaboration Guidelines having been recently issued, that will generate some more interest. We will be open to doing that and anxious to hear from any Canadians interested in talking with us.

Ms. Downie: I will go back to your first question, whether the Competition Policy Review Panel recommended significant amendments that are not in Bill C-10. All of the significant Competition Act amendments recommended by the panel are there. They are not always there in exactly the way that the panel

Tout d'abord, M. Red Wilson a produit un rapport sur les travaux du Groupe d'étude sur les politiques en matière de réglementation, et bon nombre de ses recommandations ont été intégrées dans le projet de loi C-19. Y a-t-il des éléments manquants dans le projet de loi dont nous sommes saisis, c'est-à-dire des recommandations importantes formulées par M. Red Wilson qui ne sont pas incluses ici mais qui devraient l'être?

Deuxièmement, vous avez toutes deux souligné l'importance d'avoir fait passer les peines d'emprisonnement de 5 à 14 ans dans le projet de loi, et le fait qu'il y a maintenant des sanctions pécuniaires de 10 à 25 millions de dollars; pourtant, dans certains cas, il se peut qu'une sanction de 25 millions de dollars ne soit pas adéquate. J'aimerais savoir comment une telle amende se comparerait à celles prévues pour des infractions semblables dans des pays comme les États-Unis et le Royaume-Uni.

Troisièmement, vous avez tous deux mentionné l'importance de prévoir, dans le projet de loi, la possibilité d'obtenir un dédommagement. Je veux juste savoir quel est le pourcentage. Est-ce que ce sera un dédommagement de100 p. 100? Quelle est la formule?

J'ai constaté, madame Aitken, qu'au moment de parler des villes où vous avez consulté des intervenants, vous avez mentionné Toronto, Montréal et Vancouver, mais vous n'avez fait aucune allusion au Canada de l'Est, à des villes importantes comme Halifax, en Nouvelle-Écosse et Saint John, au Nouveau-Brunswick. Sont-elles exclues de votre travail?

Le président : Ça fait trois questions et demie, sénateur. Je sais que la demi-question est très importante.

Mme Aitken : Nous allons répondre à vos questions dans l'ordre inverse. Dans le cadre de nos consultations, nous nous sommes rendus sur place. J'ai fait un effort personnel pour m'assurer que tout le monde sache que le personnel du bureau est engagé jusqu'aux échelons supérieurs. Je n'ai pas encore eu l'occasion de me rendre dans ces villes, mais nous avons eu recours à la téléconférence pour entendre des participants d'autres villes partout au Canada. Nous avons fait en sorte que notre invitation soit lancée à la grandeur du pays. Si les gens manifestent un intérêt quelconque, nous nous ferons un grand plaisir de les rencontrer sur place.

Au début, nous avons mené quelques études exploratoires pour voir si une tournée dans l'Est attirerait assez de public et, malheureusement, à l'époque, l'intérêt manifesté n'était pas suffisant. Toutefois, peut-être grâce à la diffusion récente de nos lignes directrices sur la collaboration entre concurrents, ce travail suscitera un peu plus d'intérêt. Nous serons alors disposés à nous rendre sur place, et nous avons hâte de connaître l'avis des Canadiens qui souhaitent nous parler.

Mme Downie : Je vais répondre à la première question, à savoir si le Groupe d'étude sur les politiques en matière de concurrence a recommandé des modifications importantes qui ne figurent pas dans le projet de loi C-10. Toutes les modifications importantes recommandées par le groupe d'étude à la Loi sur la concurrence

recommended, but the majority of them actually are. They are very much based on that previous Bill C-19 as well, which you referred to.

Senator Oliver: Penalties?

Ms. Downie: You are referring to the penalties for the conspiracy provisions. In the other key jurisdictions, they can be significantly higher, although it is a bit of an apples and oranges comparison in the sense that the maximum fine of $25 million for conspiracy is per what prosecutors would call count, so per charge laid, per agreement. You can have multiple charges and higher fines.

For example, in the United States, they are significantly higher. The maximum is $100 million. Obviously, you have to take into account the relative size of our economy and the need for deterrence as well when you look at fine levels.

Senator Oliver: Restitutions?

Ms. Aitken: To be clear, currently we have entered into restitution agreements, with those who have offended the act, voluntarily in consent agreements. What we have never had before is to have given, through legislation, the power to the Competition Tribunal to consider it in appropriate cases before the tribunal. We are trying to extend it in that way.

In appropriate cases, we would recommend it to the tribunal, but whether we recommended it or not, it would be within the power of the tribunal to structure a restitution order if they thought one was appropriate in the circumstances. It would, of course, be customized to those circumstances.

Senator Greene: Have there been examples where illegal activity was identified in the U.S. and prosecuted and stopped, but because the activity was international in scope or continental, it continued on in Canada and could not be prevented because of our weak laws?

Ms. Aitken: I cannot think of specific examples, but I can tell you in principle what the response to that would be, not to get too legalistic. In terms of our jurisdiction, if there are direct or indirect effects on Canadians owing to a conspiracy — wherever it takes place — we have the jurisdiction. We would take the position to absolutely go after that behaviour, and we would not hesitate to do so. Was there another part to your question? Whether there had been a case where we were not able to prosecute successfully because of our weak laws.

Senator Greene: I was not asking for specific examples because I do not think that would be right.

Ms. Aitken: We have certainly had challenges. We are usually the last invited to the party historically, in terms of cartel enforcement. Our laws are sufficiently weak — until now and until next March — that we have not been the first one they come

ont été intégrées dans le projet de loi. Elles ne figurent pas nécessairement dans le libellé exact recommandé par le groupe d'étude, mais la plupart d'entre elles sont là. Elles s'inspirent, en grande partie, du projet de loi C-19 précédent, auquel vous avez fait allusion.

Le sénateur Oliver : Qu'en est-il des sanctions?

Mme Downie : Vous parlez des sanctions pour les dispositions relatives au complot. Dans les autres pays, elles peuvent être considérablement supérieures, même si c'est comme un peu comparer des pommes et des oranges, en ce sens que la sanction maximale de 25 millions de dollars pour un complot est déterminée par les procureurs pour chaque accusation ou entente. Il peut y avoir de multiples accusations, ce qui augmenterait les sanctions.

Par exemple, aux États-Unis, les sanctions sont nettement supérieures. Le maximum est de 100 millions de dollars. Évidemment, il faut tenir compte de la taille relative de notre économie et du besoin de dissuasion quand on examine les niveaux de sanctions.

Le sénateur Oliver : Les dédommagements?

Mme Aitken : À titre de précision, pour l'instant, nous avons conclu des ententes de réparation, avec ceux qui ont enfreint la loi, de façon volontaire dans le cadre d'ententes de consentement. Ce qui est nouveau, c'est le pouvoir accordé, par voie législative, au Tribunal de la concurrence pour en tenir compte dans des causes pertinentes devant le tribunal. Nous essayons d'étendre le pouvoir de cette façon.

Lorsque les circonstances le permettent, c'est ce que nous recommanderions au tribunal, mais peu importe si nous le recommandons ou non, le tribunal aurait le pouvoir de structurer une ordonnance de dédommagement s'il le jugeait approprié. Ce serait, bien entendu, adapté aux circonstances.

Le sénateur Greene : Y a-t-il eu des cas où une activité illicite a été dévoilée aux États-Unis, puis poursuivie en justice et arrêtée, mais en raison de sa portée internationale ou continentale, elle a continué d'exister au Canada à cause de la faiblesse de nos lois?

Mme Aitken : Je n'arrive pas à penser à des exemples précis, mais je peux vous dire en principe en quoi consisterait la réponse à un tel cas, sans entrer dans les détails juridiques. En ce qui concerne le ressort fédéral, si un complot a des effets directs ou indirects sur les Canadiens — peu importe l'endroit où il a lieu —, nous avons compétence. Nous ne manquerions pas de nous attaquer à ce comportement, sans aucune hésitation. Votre question comportait-elle une autre partie? Vous vouliez savoir si la faiblesse de nos lois nous avait empêchés de poursuivre avec succès un cas en particulier.

Le sénateur Greene : Je ne demande pas d'exemples précis parce que je ne pense pas que ce soit correct.

Mme Aitken : Nous avons assurément éprouvé des difficultés. Nous sommes habituellement les derniers à être invités à la fête, pour ce qui est de la lutte contre les cartels. Nos lois sont assez faibles — jusqu'à maintenant, plus précisément jusqu'en mars;

knocking on the door to worry about. In that sense, we can be often so late that it becomes a question of whether it is the right devotion of resources to pursue the particular behaviour.

However, at the end of the day, we are confident that these new provisions will allow us to play more actively — and I think this goes to Senator Ringuette's question as well — to really crack down on white collar crime, to do so in an effective and targeted way.

Senator Greene: I suppose there are occasions when the cartel might originate in Canada and have spillover effects in the U.S. as well?

Ms. Aitken: Sadly, that is the case. Certainly in particular in the misleading advertising and representations, deceptive telemarketing, we have had cases where that has been directed out of Canada into the United States. It has been a good illustration of how their strong penalties are a huge deterrent. You can see that the activity was happening here, and when we extradited those individuals they ended up with sentences in the range of 19 to 23 years.

While we have not gone there, I think we have struck a new good level in being able to actually have stiffer penalties for things like deceptive telemarketing.

Senator Day: Thank you both for being here. Ms. Aitken, you just referred to next March. What is next March?

Ms. Aitken: I apologize. All of the amendments are in force as of the date of Royal Assent, March 12, except the new cartel provision and the new collaborations provision, deliberately. Perhaps Ms. Downie can speak to that. Essentially, it is to give people time to organize their affairs. There is an obvious concern over the fact that it affects criminal conduct.

Senator Day: Thank you. I missed that.

Ms. Aitken: Pardon me. I should have been more explicit.

Senator Day: Ms. Downie, with respect to the amendments that you referred to as Part 12 of Bill C-10 — and there are 15 parts of this bill — you have been working at this at least since 2005, with Bill C-19 which died on the Order Paper when the house was dissolved. Instead of reintroducing the bill the same as Bill C-19, you then had Mr. Red Wilson's panel do further review, and that came out in June of last year.

Ms. Downie: That is right.

Senator Day: Presumably, you decided to take some of Bill C-19 of four years ago, and some of Mr. Wilson's panel's recommendations, and then crafted a new piece of legislation that became part of an omnibus bill called ''budget implementation'' at the time of an economic downturn.

c'est pourquoi nous ne sommes pas les premiers à être consultés en cas d'inquiétudes. À cet égard, on intervient si tard qu'on se demande même s'il vaut la peine de consacrer des ressources pour poursuivre le comportement particulier.

Toutefois, au bout du compte, nous sommes convaincus que les nouvelles dispositions nous permettront d'intervenir plus activement — et je crois que cela répond à la question du sénateur Ringuette également — pour mettre fin au crime du col blanc et ce, de façon efficace et ciblée.

Le sénateur Greene : Je suppose que, dans certains cas, un cartel d'origine canadienne a eu des effets aux États-Unis?

Mme Aitken : Malheureusement, c'est ce qui se passe. En particulier dans les publicités mensongères et les indications trompeuses, le télémarketing trompeur, nous avons eu des cas où un cartel a commencé au Canada pour aboutir aux États-Unis. C'est un bon exemple qui illustre à quel point leurs sanctions sévères constituent un motif de dissuasion énorme. L'activité avait lieu ici, et les personnes extradées ont fini par écoper des peines de 19 à 23 ans.

Bien que nous n'en soyons pas rendus là, je pense que le nouveau niveau que nous avons établi permet de rendre les sanctions plus sévères pour des comportements comme le télémarketing déloyal.

Le sénateur Day : Merci d'être ici. Madame Aitken, vous venez d'évoquer le mois de mars prochain. Que se passera-t-il à cette date?

Mme Aitken : Je suis désolée. Toutes les modifications entrent en vigueur à partir de la date de la sanction royale, soit le 12 mars, sauf pour les nouvelles dispositions concernant le cartel et les collaborations et ce, de façon délibérée. Mme Downie pourra peut-être en parler. En gros, ce délai permet aux gens d'avoir suffisamment de temps pour organiser leurs affaires. Il y a une crainte évidente relativement au fait que cela touche le comportement criminel.

Le sénateur Day : Merci. Ça m'avait échappé.

Mme Aitken : Je regrette. J'aurai dû être plus précise.

Le sénateur Day : Madame Downie, en ce qui concerne les modifications auxquelles vous avez fait allusion, concernant la partie 12 du projet de loi C-10 — qui comporte 15 parties —, vous y travaillez depuis au moins 2005, en commençant par le projet de loi C-19 qui est mort au *Feuilleton* à la dissolution de la Chambre. Au lieu de présenter à nouveau le même projet de loi, le C-19, vous avez demandé au groupe d'étude de M. Red Wilson de faire un examen plus poussé, et son rapport a été publié en juin, l'année dernière.

Mme Downie : C'est exact.

Le sénateur Day : Vous avez décidé, semble-t-il, de prendre une partie du projet de loi C-19, d'il y a quatre ans, et une partie des recommandations du groupe d'étude de M. Wilson, pour élaborer une nouvelle mesure législative qui fait partie d'un projet de loi omnibus appelé « exécution du budget » en période de ralentissement économique.

Why would you consider putting this kind of legislation, which, as you say, is a huge and significant change to the competition policy in Canada, into Bill C-10?

Ms. Downie: Obviously, I am not the person who made the decisions about how the Budget Implementation Act was crafted. I cannot comment on that, but I can tell you a couple of things.

First, the Competition Policy Review Panel found that strengthening the Competition Act was absolutely key to driving productivity and growth. It was very important in the view of the panel and of the government that the bureau, especially at this time, would have the tools that it needed to deal with anti-competitive conduct.

Second, in times of economic downturn and uncertainty, it can be tempting for dishonest businesses — not all businesses — to engage in anti-competitive activity in reaction to tough times. For example, some dishonest businesses might be tempted in such circumstances to engage in price-fixing activity or to engage in deceptive marketing practices — that is, to take a bit of a shortcut because times are tough. We wanted to ensure that the bureau has the tools it needs and that the framework is in place to deter and deal with that kind of conduct.

Senator Day: Ms. Aitken has explained a lot of consultation since the bill was passed, but we received significant representation from the Canadian Bar Association and from the Canadian Chamber of Commerce indicating their shock and dismay that this type of legislation would be introduced without consultation. I recognize that Mr. Wilson had a lot of consultation before his report, but, with the draft legislation, those who would be most affected by it felt that there was a lack of consultation.

It is sort of like a Senate committee reviewing a piece of legislation after it is passed, which is exactly what we are doing. It is sort of after the horse is out of the barn.

Do you feel that it was that important to get this legislation out that you would avoid and forego the usual pre-passing consultation?

Ms. Downie: I actually think the opposite, that in fact there was extensive consultation on all of the provisions in the bill, starting back a decade ago, when consultations were conducted by the Public Policy Forum on many of these same amendments. Many of them, as I explained earlier, were in Bill C-19. There were extensive parliamentary hearings on those amendments, preceded by a report of the industry committee as well, which held hearings on its report and made similar recommendations to what

Pourquoi auriez-vous envisagé de présenter ce genre de mesures législatives qui, selon vos dires, apporte un changement énorme et important à la politique de la concurrence au Canada, dans le cadre du projet de loi C-10?

Mme Downie : Évidemment, ce n'est pas moi qui ai pris les décisions quant à la rédaction de la Loi d'exécution du budget. Je ne peux pas me prononcer là-dessus, mais je peux vous dire deux ou trois choses.

Tout d'abord, le Groupe d'étude sur les politiques en matière de concurrence a constaté que la bonification de la Loi sur la concurrence était absolument nécessaire pour stimuler la productivité et la croissance. Il était primordial, selon le groupe d'étude et le gouvernement, que le bureau, surtout en cette période, dispose des outils dont il a besoin pour s'attaquer aux comportements anticoncurrentiels.

Deuxièmement, en période de ralentissement économique et d'incertitude, il peut être tentant pour des entreprises malhonnêtes — et je ne veux pas généraliser — de s'engager dans une activité anticoncurrentielle en réaction aux difficultés économiques. Par exemple, certaines entreprises malhonnêtes pourraient être tentées, dans de telles circonstances, de s'engager dans des activités de fixation des prix, ou de s'adonner à des pratiques commerciales dolosives — c'est-à-dire, prendre un raccourci parce que les temps sont durs. Nous voulions faire en sorte que le bureau dispose des outils nécessaires et que le cadre soit en place pour dissuader et contrer ce genre de comportements.

Le sénateur Day : Mme Aitken a dit qu'un grand nombre de consultations ont été menées depuis l'adoption du projet de loi, mais nous avons reçu des réactions importantes de la part de l'Association du Barreau canadien et de la Chambre de commerce du Canada qui ont exprimé leur stupéfaction et leur consternation devant l'approche utilisée pour adopter ce projet de loi sans aucune consultation. Je reconnais que M. Wilson a tenu beaucoup de consultations avant de publier son rapport, mais en ce qui concerne le projet de loi, les gens qui seraient les plus touchés ont estimé que le nombre des consultations n'était pas suffisant.

C'est comme si un comité sénatorial étudiait une mesure législative une fois que celle-ci a été adoptée; c'est exactement ce que nous sommes en train de faire. C'est comme si on mettait la charrue devant les bœufs.

Ne pensez-vous pas que l'adoption si urgente de ce projet de loi était une façon d'éviter la consultation habituelle qui a lieu au préalable?

Mme Downie : Je suis en fait d'avis contraire; on a bel et bien tenu de vastes consultations sur toutes les dispositions du projet de loi; le processus remonte à il y a 10 ans, à l'époque où le Forum des politiques publiques a mené des consultations sur un bon nombre des modifications. Comme je l'ai expliqué tout à l'heure, les modifications se trouvaient, pour la plupart, dans le projet de loi C-19. On a tenu des audiences parlementaires de longue haleine sur ces modifications, précédées d'un rapport du Comité

is contained in this bill. Recently, there were consultations by the Competition Policy Review Panel, as you have mentioned.

All the provisions had been consulted on extensively — more extensively, I think, than most proposals are consulted on, certainly for an extremely long period of time, and in detail as well, particularly on the cartel conspiracy provision. Multiple draft texts during that period were debated and discussed by a wide variety of commentators as well as by the Competition Bureau. There were expert groups on drafting and technical round tables as well to discuss the drafting of that provision, which was very helpful in the design of it.

Senator Day: Does my comment indicating that the Canadian Chamber of Commerce and the Canadian Bar Association were concerned about not having pre-consultation surprise you?

Ms. Downie: No, it is not a surprise because I read their testimony.

Senator Day: You reject those two bodies?

Ms. Downie: I have a different point of view about it.

Senator Day: I appreciate that. Thank you for your consultation, after the fact.

The Chair: I think the evidence was that it is still continuing in terms of the guidelines.

Senator Gerstein: Ms. Aitken, I noticed with great interest that in your first paragraph you indicated that since January, you have had the privilege of serving as Interim Commissioner of Competition for the Competition Bureau. I must say that January is a very important month to me because I have had the privilege of serving in the Senate of Canada since January.

In the four months that have ensued since I joined this wonderful place, my views have changed on a few matters. I would be interested to know if your perspective on the role of the Competition Bureau has changed at all, since you are now interim commissioner, from the time that you were head of the mergers area at the bureau.

Ms. Aitken: That is a very interesting question. It has been impressed upon me how important it is — and this may be a confluence of my appointment and the economic downturn — to stay the course in terms of enforcing principled and transparent competition policy to ensure that our markets stay competitive; to ensure we take our enforcement role seriously; and to provide as much guidance as we can, by talking to our stakeholders and by finding out what is happening with small and medium-sized businesses, big businesses and consumers and what is engaging them. It is particularly important in tough economic times to stay

de l'industrie, qui a tenu des séances là-dessus et qui a formulé des recommandations semblables à celles qui figurent dans le projet de loi. Récemment, le Groupe d'étude sur les politiques en matière de concurrence a tenu des consultations, comme vous l'avez mentionné.

L'ensemble des dispositions ont fait l'objet de vastes consultations — et je dirais que c'était plus vaste que la plupart des consultations relatives à des propositions; nous avons passé ces dispositions au peigne fin sur une période extrêmement longue, particulièrement en ce qui concerne la disposition relative au complot de cartel. Durant cette période, on a préparé de multiples ébauches qui ont été discutées par un large éventail de commentateurs ainsi que par le Bureau de la concurrence. On a organisé des groupes d'experts sur la rédaction et des tables rondes techniques afin de discuter de la rédaction de cette disposition, et ce travail s'est avéré très utile.

Le sénateur Day : Êtes-vous surprise de m'entendre dire que la Chambre de commerce du Canada et l'Association du Barreau canadien se disent préoccupées par l'absence d'une consultation préalable?

Mme Downie : Non, ce n'est pas une surprise parce que j'ai lu leur témoignage.

Le sénateur Day : Vous rejetez l'avis de ces deux organismes?

Mme Downie : J'ai un point de vue différent.

Le sénateur Day : Je vous en suis reconnaissant. Merci pour votre consultation, après le fait.

Le président : Je pense que les preuves montrent bien que les consultations se poursuivent relativement aux lignes directrices.

Le sénateur Gerstein : Mme Aitken, j'ai remarqué avec grand intérêt que dans votre premier paragraphe vous dites que depuis janvier, vous avez eu le privilège d'agir à titre de commissaire de la concurrence par intérim pour le Bureau de la concurrence. Je dois vous dire que le mois de janvier est un jalon pour moi aussi parce que j'ai le privilège de servir au Sénat du Canada depuis ce temps-là.

Quatre mois après le début de mon mandat dans cet endroit merveilleux, je dois dire que mes opinions ont changé sur quelques points. Je suis donc curieux de savoir si votre perspective sur le rôle du Bureau de la concurrence a changé depuis que vous êtes commissaire par intérim, par rapport à celle que vous aviez quand vous assumiez le rôle de chef de la direction des fusions au bureau.

Mme Aitken : C'est une question très intéressante. J'ai compris à quel point il est important — et c'est peut-être par un concours de circonstances, c'est-à-dire ma nomination et le ralentissement économique — de maintenir le cap pour appliquer des politiques objectives et transparentes en matière de concurrence afin de garantir la compétitivité de nos marchés; pour s'assurer que nous prenons au sérieux notre rôle d'application de la loi; et pour fournir le plus d'encadrement possible, en parlant à nos intervenants et en cherchant à savoir ce qui se passe avec les consommateurs et les entreprises, qu'elles soient grandes,

the course and ensure that you do not get persuaded, as some constituencies might try to make you think that applying "competition lite" is the right thing to do.

Senator Gerstein: I share the enthusiasm for the Senate that you are obviously sharing for your new position.

Ms. Aitken: Thank you.

The Chair: We wait with bated breath to see who lasts longer in their respective positions.

Senator Moore: Thank you, witnesses, for being here. The abuse of dominance question that I had was covered by Senator Ringuette.

In your remarks, Ms. Aitken, you said that combating cartels is the bureau's number one priority. You went on to say that very few prosecutions were successful under the old rules, even when conspirators were caught red-handed.

Maybe the Canadian public does not understand what a cartel is. Could you explain to us what a cartel is? Prosecution would be a matter of public record. Can you give us an example of a cartel that was prosecuted by your office, and the parties and the nature of the cartel?

Ms. Aitken: I would be delighted to do so. A cartel, in its fundamentals, is a bare agreement to fix prices between competitors or to allocate markets as among yourselves — that is, saying "I will not go into your territory if you do not go into mine" — or agreeing to restrict output so that there is less supply and the price will go up because people need your product. Those are three general categories of hard-core cartel agreements. They have to be between competitors, about those subjects and must have no pro-competitive rationale. They are not part of a broader agreement like a non-compete agreement in a big acquisition deal.

On its face, if looked at in isolation, one might say that is trying to control things that we might otherwise be worried about. However, in that context, we are not going to be. There is an explicit exclusion of those sorts of agreements from the coverage of the cartel provision.

An example of a cartel that we recently prosecuted was the price-fixing gas cartel in Quebec. In four markets in Quebec we uncovered evidence that they were fixing prices at the pump through prior conversations. They were timing the increases through communications among competitors. There were a number of co-conspirators.

moyennes ou petites, et ce qui les incite à s'engager. En période économique difficile, il est particulièrement important de maintenir le cap et de veiller à ce qu'on ne soit pas persuadé de faire des exceptions, étant donné que certains milieux pourraient essayer de vous faire croire qu'utiliser la « concurrence légère » est la bonne chose à faire du point de vue de la concurrence.

Le sénateur Gerstein : Je partage l'enthousiasme que vous ressentez pour votre nouveau poste — dans mon cas, c'est pour le Sénat.

Mme Aitken : Merci.

Le président : Nous avons bien hâte de voir qui, d'entre vous deux, restera à son poste le plus longtemps.

Le sénateur Moore : Merci, mesdames et messieurs, d'être des nôtres. J'avais une question sur l'abus de position dominante, mais elle a été abordée par le sénateur Ringuette.

Dans vos observations, madame Aitken, vous avez dit que la lutte contre les cartels est la priorité première du bureau. Vous avez ajouté en disant que très peu de poursuites avaient porté fruit aux termes des anciennes règles et ce, en dépit du fait que les comploteurs avaient été pris en flagrant délit.

La population canadienne ne comprend peut-être pas en quoi consiste un cartel. Pourriez-vous nous expliquer ce dont il s'agit? Les poursuites seraient de notoriété publique. Pouvez-vous nous donner un exemple de cartel dont la poursuite a été engagée par votre bureau, en nous précisant les parties en cause et la nature du cartel?

Mme Aitken : Avec grand plaisir. Un cartel est, au fond, une simple entente entre des concurrents pour fixer des prix ou diviser des marchés entre eux — un peu comme si on disait : « Je ne piétinerai pas sur ton territoire si tu ne piétines pas sur le mien » — ou encore, pour restreindre la production de sorte qu'il y ait moins d'approvisionnement, haussant ainsi le prix parce que les gens ont besoin de votre produit. Voilà les trois catégories générales d'accords de cartels injustifiables. Ces ententes doivent être conclues entre concurrents et viser de tels objectifs, sans aucune intention proconcurrentielle. Les cartels ne comprennent pas des ententes de nature plus générale, comme une clause de non-concurrence dans un gros contrat d'acquisition.

À première vue, si on examine la question de façon isolée, on pourrait se dire que c'est une façon de contrôler des comportements qui autrement nous inquiéteraient. Toutefois, dans ce contexte, ce n'est pas le cas. Ces types d'accords sont explicitement exclus du champ d'application de la disposition sur les cartels.

Un exemple d'un cartel que nous avons récemment poursuivi en justice a été le cartel de fixation des prix de l'essence au Québec. Sur quatre marchés au Québec, nous avons découvert des preuves que des concurrents étaient en train de fixer des prix à la pompe, en s'entretenant là-dessus au préalable. Ils étaient en train de synchroniser les hausses au moyen de communications. Plusieurs cocomploteurs étaient en cause.

It took us roughly three years to investigate that case to the point where we could recommend to the Director of Public Prosecutions to lay charges. A big part of that time was because we not only needed to figure out that they were in this agreement to fix prices, but we had to establish, to a beyond-a-reasonable-doubt standard, an anti-competitive undue lessening of competition.

Senator Moore: Were the parties to that transaction supply companies or individual gas stations?

Ms. Aitken: They were retailers; they were individuals.

Senator Moore: With the passage and proclamation of these new provisions, how soon could you go to prosecution today?

Ms. Aitken: I do not have the specific facts to unpack that, but I can give you a general sense. Gathering the evidence to establish the agreement probably took, at a rough guess, one third of that time.

You are still looking at a criminal standard. We are not going to casually prosecute people for cartels. We are looking for serious, hard-core behaviour. We are aware of the responsibility to ensure that if we are going to accuse someone of that, or recommend that the Director of Public Prosecutions do so, we have clear evidence beyond a reasonable doubt that they have the agreement.

We will now be relieved of the second step, which is to prove that undue lessening of competition. As I was saying to someone earlier, if you have two economists in a room, you get three opinions. It becomes very difficult to gather that case and put it to the standard of beyond a reasonable doubt.

Senator Moore: Will this expedite the investigation or prosecution of a case by one third of the time?

Ms. Aitken: I cannot say, in all cases, that it would, but it would materially reduce the time required to bring cases to the place that we can refer them for prosecution by the Director of Public Prosecutions.

Senator Moore: In your remarks, you said that the old provision was both too broad and too narrow. It was too narrow and an outlier around the world. Aside from being the name of a bestseller, which I have yet to read, can you tell us what an outlier is?

Ms. Aitken: I do commend the book to you. What I meant to convey by using the word ''outlier'' in that case was to say that among the sophisticated jurisdictions and our major trading partners, we were the only jurisdiction that required there to be an economic effect when you wanted to prosecute a hard-core cartel.

Senator Moore: "Outlier" means that we are outside of the standard legal rules that the rest of the industrialized world was using to prosecute cases; is that correct?

Il nous a fallu trois ans d'enquête sur ce dossier avant que nous puissions recommander au directeur des poursuites pénales de porter des accusations. S'il y a eu un tel délai, c'est en grande partie à cause du fait que nous devions non seulement déterminer si les concurrents s'étaient entendus pour fixer les prix, mais aussi prouver, hors de tout doute raisonnable, que la concurrence avait été indûment réduite.

Le sénateur Moore : Les parties à la transaction étaient-elles en train d'approvisionner des entreprises ou des stations-service?

Mme Aitken : Il s'agissait de détaillants, de particuliers.

Le sénateur Moore : Maintenant que ces nouvelles dispositions sont adoptées et proclamées, combien de temps faudrait-il pour intenter une poursuite?

Mme Aitken : Je ne connais pas les faits précis, mais je peux vous donner une idée générale. La collecte de preuves visant à confirmer l'entente occupait, grosso modo, le tiers du temps.

Il s'agit quand même d'une norme criminelle de preuve. On ne va pas poursuivre des gens sans fondement. On cherche des éléments de preuve qui démontrent un comportement grave et injustifiable. Nous sommes conscients de la responsabilité quand nous accusons quelqu'un de participer à un cartel ou quand nous recommandons au directeur des poursuites pénales de le faire; nous devons disposer d'une preuve claire, hors de tout doute raisonnable, qu'une telle entente a été établie.

Dorénavant, nous n'aurons plus à nous occuper de la deuxième étape, à savoir celle de prouver une réduction indue de la concurrence. Comme je l'ai dit tout à l'heure, si on a deux économistes dans une salle, on obtient trois opinions. Il devient très difficile de recueillir des éléments de preuve sur le dossier et de prouver l'absence de tout doute raisonnable.

Le sénateur Moore : Est-ce à dire que l'enquête ou la poursuite d'une cause sera accélérée du tiers du temps requis?

Mme Aitken : Je ne saurai vous dire s'il en sera ainsi dans tous les cas, mais le délai requis sera nettement réduit; on pourra ainsi faire avancer le dossier au point de pouvoir le renvoyer au directeur des poursuites pénales pour qu'il intente une poursuite.

Le sénateur Moore : Dans vos observations, vous avez dit que l'ancienne disposition était à la fois trop large et trop étroite. Non seulement la portée est trop étroite, mais elle constitue aussi une aberration. En plus d'être le titre d'un bestseller anglais, intitulé « Outliers », que je n'ai pas encore lu, pouvez-vous nous expliquer en quoi consiste une aberration?

Mme Aitken : En tout cas, je vous recommande de lire le livre. Ce que j'ai voulu dire en utilisant le mot « aberration » dans le cas qui nous occupe, c'est que parmi les pays avancés et nos grands partenaires commerciaux, le Canada était le seul pays à exiger la preuve d'un effet économique pour intenter une poursuite contre un cartel injustifiable.

Le sénateur Moore : Par « aberration », vous voulez dire qu'on ne suit pas les règles juridiques typiques qu'utilise le reste du monde industrialisé pour intenter des poursuites, n'est-ce pas?

Ms. Aitken: Yes, in the sense that we had the extra burden — we had to prove the economic effect. That was what was unusual about our jurisdiction. It put us out of line and made cooperation with our international counterparts more challenging.

[*Translation*]

Senator Hervieux-Payette: I have met with ambassadors from Europe, as we are about to engage in discussions with Europe regarding a common market with 27 countries. Most of them said that they were very unhappy with the amendments made to the Competition Act. I find that a bit worrisome, and I wonder whether you consulted them, whether Mr. Wilson consulted them and whether you were involved in the process before the bill was drafted.

[*English*]

Ms. Downie: I am surprised if the Europeans are upset, because as I explained with respect to the United States, there are many parallels with the proposals in this bill with the laws in the European Union, and in some of the member countries as well.

To answer your specific question, Mr. Wilson's panel did travel to the Organisation for Economic Co-operation and Development and to Europe to consult, and the panel very much had in mind making sure that our laws lined up with those jurisdictions. Many of the same considerations around enforcement, cooperation and ensuring that our processes are parallel apply to the European Union, as they do to the United States.

[*Translation*]

Senator Hervieux-Payette: In terms of decriminalization, were you taking a practical approach by saying that, rather than catching just the big fish with the new method, which involves presenting evidence in civil court, you will be able to stop illegal practices more easily with a level of proof that is less demanding than in criminal law?

[*English*]

Ms. Aitken: If I understood correctly, it was a question about whether we would be taking a practical approach in the cartels that we choose to enforce and looking for those that are having the greatest effect on consumers, as well as in our other new —

[*Translation*]

Senator Hervieux-Payette: You removed a number of provisions of a criminal nature. You made the activities offences, but you placed those provisions in the civil sphere. Was your goal simply to ensure that the act was effective, and so you were a little more practical or pragmatic in terms of its

Mme Aitken : Oui, en ce sens que nous avions un fardeau supplémentaire : prouver l'effet économique. Voilà en quoi notre approche était inhabituelle. Nous étions déphasés par rapport aux autres, ce qui rendait plus difficile la coopération avec nos homologues internationaux.

[*Français*]

Le sénateur Hervieux-Payette : J'ai rencontré des ambassadeurs européens, alors que nous sommes à la veille d'entamer des discussions avec l'Europe pour un marché commun avec 27 pays. La plupart des ambassadeurs m'ont dit qu'ils étaient très malheureux des amendements apportés à Loi sur la concurrence. Cela m'inquiète un peu et je me demande si vous les avez consultés, si M. Wilson les a consultés et si vous étiez impliqués dans le processus avant la rédaction du projet de loi.

[*Traduction*]

Mme Downie : Je suis surprise d'apprendre que les Européens sont contrariés, parce que comme j'ai expliqué pour les États-Unis, il y a de nombreux points en commun entre les propositions dans ce projet de loi et les lois de l'Union européenne et de certains des pays membres.

Pour répondre spécifiquement à votre question, le groupe d'étude de M. Wilson s'est entretenu avec les représentants de l'Organisation de coopération et de développement économiques et s'est rendu en Europe pour mener une consultation dans le but de s'assurer que nos lois sont conformes à celles de ces autorités législatives. Bon nombre des mêmes considérations en matière d'application de la loi et de coopération s'appliquent à l'Union européenne, comme c'est le cas avec les États-Unis, pour s'assurer que nos processus sont parallèles.

[*Français*]

Le sénateur Hervieux-Payette : Concernant la décriminalisation, est-ce que vous avez procédé d'une façon pratique en vous disant que, plutôt que d'attraper seulement les gros poissons avec la nouvelle formule consistant à amener une preuve au civil vous allez pouvoir faire cesser des pratiques illégales plus facilement, avec un niveau de preuve qui serait quand même moins exigeant que dans le domaine du criminel?

[*Traduction*]

Mme Aitken : Si je comprends bien, vous voulez savoir si nous avons l'intention d'adopter une approche pratique dans le cas des cartels, une approche que nous choisirions d'appliquer pour déterminer ceux qui ont le plus d'effet sur les consommateurs ainsi que dans notre autre nouveau...

[*Français*]

Le sénateur Hervieux-Payette : Vous avez enlevé plusieurs dispositions qui avaient un caractère criminel. Vous en faites une infraction mais vous avez mis CES dispositions au civil. Est-ce que l'objectif était tout simplement de vous assurer de l'efficacité de la loi, donc d'être un peu plus pratique ou pragmatique quant à

enforcement? Indeed, there were very few prosecutions, and it seemed as if the Competition Act was not really enforceable. [English]

Ms. Downie: The principle underlying the decision to decriminalize some of the provisions was based on the recognition that unambiguously harmful conduct should be reserved for the criminal sphere. Conduct where there can be harmful, anti-competitive effects but where also sometimes there can be pro-competitive effects should be dealt with in a non-criminal track by the expert Competition Tribunal, which can really sort out whether it is harmful or beneficial. That was the underlying principle for that particular proposal.

[*Translation*]

The Chair: Thank you, Senator Hervieux-Payette. It is now 5:08 p.m., so we must wrap up this half of our meeting. I want to thank each and every one of you.

The second part of our meeting this afternoon will shed light on the merchant's perspective on the amendments to the Competition Act under Bill C-10.

[*English*]

From the Canadian Chamber of Commerce, we are pleased to welcome Ms. Shirley-Ann George and Mr. George Addy. We are also happy to have with us, from the Retail Council of Canada, Mr. Peter Woolford and Mr. Terrance Oakey.

Ms. George, please proceed.

Shirley-Ann George, Senior Vice-President, Policy, Canadian Chamber of Commerce: With me is George Addy, who is chair of the policy committee. Mr. Addy is also a partner with the firm Davies Ward Phillips & Vineberg. In another life, he served as the competition commissioner.

It is my pleasure to present the views of the Canadian Chamber of Commerce and our members to this committee on the amendments to the Competition Act contained in the Budget Implementation Act. The Canadian Chamber of Commerce has been supportive of measures aimed at advancing the ongoing success and competitiveness of our economy.

As many of you know, the Canadian Chamber of Commerce is the largest business organization in Canada, representing over 175,000 businesses from all parts of the country. Our members include both the largest and the smallest companies, and we pride ourselves on being the voice of Canadian business. We work hard with all political stripes to ensure that the Canadian business community is able to maximize its economic and social contributions to our national well-being.

l'application de la loi? De fait, il y avait très peu de poursuites qui aboutissaient et on avait l'air d'avoir une Loi sur la concurrence relativement peu applicable.

Mme Downie : Le principe à la base de la décision de décriminaliser certaines des dispositions repose sur la reconnaissance que les comportements éminemment nuisibles devraient être réservés au régime criminel. Les comportements ayant des effets anticoncurrentiels nuisibles, mais ayant aussi parfois des effets proconcurrentiels, devraient être traités dans un contexte non pénal par le Tribunal de la concurrence, qui peut vraiment trancher la question de savoir si c'est nuisible ou bénéfique. C'est le principe à la base de cette proposition particulière.

[*Français*]

Le président : Merci sénateur Hervieux-Payette. Il est maintenant 17 h 08, il nous faut mettre fin à notre session. Je vous remercie tous et chacun.

La deuxième partie de notre rencontre cet après-midi nous donnera la perspective des commerçants par rapport aux changements à Loi sur la concurrence instaurés par le projet de loi C-10.

[*Traduction*]

Nous sommes heureux d'accueillir Mme Shirley-Ann George et M. George Addy, tous deux de la Chambre de commerce du Canada. Nous sommes également heureux de recevoir, du Conseil canadien du commerce de détail, MM. Peter Woolford et Terrance Oakey.

Madame George, on vous écoute.

Shirley-Ann George, vice-présidente principale, Politiques, Chambre de commerce du Canada : Je suis accompagnée de George Addy, qui est président du comité des politiques. M. Addy est également associé au sein du cabinet Davies Ward Phillips & Vineberg. Auparavant, il a également assumé la fonction de commissaire de la concurrence.

Je suis heureuse de présenter au comité les points de vue de la Chambre de commerce du Canada et de nos membres sur les modifications apportées à la Loi sur la concurrence dans le cadre de la Loi d'exécution du budget. La Chambre de commerce du Canada appuie les mesures destinées à favoriser le succès continu et la compétitivité de notre économie.

Comme bon nombre d'entre vous le savent, la Chambre de commerce du Canada est la plus grande organisation commerciale au Canada, représentant plus de 175 000 entreprises de toutes les régions du pays. Nos membres varient des entreprises les plus grandes aux entreprises les plus petites, et nous sommes fiers d'être le porte-parole des gens d'affaires canadiens. Nous travaillons fort avec toutes les allégeances politiques pour faire en sorte que le milieu d'affaires canadien soit en mesure de maximiser ses contributions économiques et sociales à notre bien-être national.

Turning to the amendments to the Competition Act, the Canadian Chamber of Commerce was not pleased that the government attached these important changes to framework legislation to Bill C-10. Of course, we were very supportive of the plan to get Canada's economy rolling again, but these amendments should have been subject to rigorous review and consultation prior to their passage, not after the fact. On the substantive side, the chamber is concerned that these amendments hold the potential for serious and unintended consequences for business. They could create an unnecessary and costly burden at a time when the business community is struggling to recover from the most serious recession in generations. In particular, the chamber is concerned with two key provisions: conspiracy and mergers.

We have had meetings with the Competition Bureau to discuss these amendments. The meetings were constructive dialogues aimed at putting a fence around the broad provisions of the proposed merger guidelines. Similar consultations are planned as well for the conspiracy provisions. We will put forward formal comments on both the merger review guidelines and the conspiracy provisions. While many of our members' concerns have been lessened by these consultations, it is important to note that the underlying and broad changes to law remain and that guidelines can be altered without parliamentary oversight. I will turn to Mr. Addy to discuss the specifics of these provisions more closely.

[*Translation*]

George Addy, Chair, Canadian Chamber of Commerce Board Policy Committee: Unfortunately, Mr. Chair, my presentation is only in English, but if you have any questions, I would be happy to answer in either language.

[*English*]

Before getting into the specifics of the amendments that we find troublesome, I would like to make a couple of remarks. The Canadian Chamber of Commerce and all of us here fully support the benefits that flow from competitive markets. No one is challenging that. None of our remarks are directed at anyone at the Competition Bureau. I have many friends there. My remarks are focused more on what we should do from a public policy perspective in administering our competition law in Canada, the policy and the legal framework.

The law has changed and we will deal with it. Personally speaking, some changes should not have been made, but it is now the law and we will deal with it, as will our members. I will focus today on ways to minimize the uncertainties that these changes in the law have triggered and suggest ways to improve them. As Ms. Aitken and Ms. George said, they have held round tables to try to address some of these concerns with guidelines. Despite

Pour ce qui est des modifications à la Loi sur la concurrence, la Chambre de commerce du Canada déplore le fait que le gouvernement a inscrit des changements importants à la loi-cadre dans le projet de loi C-10. Bien entendu, nous appuyons vigoureusement le plan visant à remettre l'économie canadienne sur les rails, mais ces modifications auraient dû faire l'objet d'une consultation et d'un examen rigoureux avant d'être adoptées, et non après coup. En ce qui concerne le fond, la Chambre de commerce craint que ces modifications entraînent de sérieuses conséquences non voulues pour les entreprises. Elles pourraient créer un fardeau inutile et coûteux à un moment où le milieu des affaires se démène pour faire face à la récession la plus grave depuis plusieurs générations. La Chambre de commerce est particulièrement inquiète de deux dispositions clés : le complot et les fusions.

Nous avons tenu des réunions avec le Bureau de la concurrence afin de discuter de ces modifications. Les réunions ont donné lieu à des dialogues constructifs qui nous ont permis de dresser une clôture autour des dispositions générales contenues dans les lignes directrices proposées sur les fusions. Des consultations semblables sont également prévues pour les dispositions en matière de complot. Nous présenterons des observations officielles sur les lignes directrices du processus d'examen des fusions et les dispositions en matière de complot. Même si ces consultations ont permis de dissiper bon nombre des préoccupations de nos membres, il est important de noter que les changements généraux sous-jacents apportés à la loi demeurent intacts et que les lignes directrices peuvent être modifiées, sans faire l'objet d'un examen parlementaire. Je cède maintenant la parole à M. Addy qui discutera de ces dispositions plus en détail.

[*Français*]

George Addy, président, Comité des politiques du conseil d'administration de la Chambre du commerce du Canada : Monsieur le président, malheureusement, mon exposé n'est qu'en anglais. Toutefois, si vous avez des questions, je serai heureux d'y répondre dans les deux langues.

[*Traduction*]

Avant d'entrer dans les détails des modifications que nous jugeons inquiétantes, j'aimerais faire quelques observations. La Chambre de commerce du Canada et tous les témoins ici présents appuient entièrement les avantages qui découlent des marchés concurrentiels. Personne ne les remet en question. Mes remarques ne visent personne en particulier au Bureau de la concurrence. J'ai beaucoup d'amis là-bas. Mes observations reposent davantage sur ce que nous devrions faire, du point de vue de la politique publique, pour administrer la Loi sur la concurrence du Canada, ainsi que les politiques et le cadre juridique qui s'y rattachent.

La loi a été modifiée, et on doit se rendre à l'évidence. Personnellement, certains changements n'auraient pas dû être apportés, mais ils font maintenant partie de la loi et nous devrons composer avec cette réalité, tout comme nos membres. Je vais m'attarder aujourd'hui sur les façons de réduire au minimum les incertitudes que soulèvent les changements apportés à la loi, et je vais proposer des moyens pour remédier à la situation. Comme

that, there is a tremendous amount of uncertainty in the business community, which is of concern to me as a board member of the Canadian Chamber of Commerce and as a former official. Those uncertainties do cost the economy. They are not costless.

What are our concerns? First, as identified by Ms. George, the process adopted for the passage of the legislation did not allow sufficient time to deal with the issues that we need to remedy now.

Second is the amount of discretion that is available to the Competition Bureau and the exercise of that discretion when we do not have an oversight mechanism in our system. Others countries have such oversight but Canada does not, judicial or otherwise. The concern on the accountability gap is that no ongoing review or mechanism is in place to know how the Competition Bureau is doing its job, how it deploys its resources, how many cases it brings in, and what kinds of cases it focuses on. We do not have that check and balance system in Canada. I appreciate that it is likely outside the parameters of the mandate of this committee, but I urge senators to think about that issue and how we might address that significant gap. That sentiment is shared by many of my colleagues, both in the profession and at the Canadian Chamber of Commerce.

One eminent retired jurist, Sir Christopher Bellamy, judge of both the Court of First Instance of the European Communities and the U.K. Competition Appeal Tribunal, has a great deal of background in this area. He summed it up succinctly when he said that for competition law to develop, it needs to have a sound basis in law and not just in administrative guidelines. In my view, the Competition Bureau is, first and foremost, a law enforcement agency, and mechanisms need to be developed to ensure that it is doing its job. Many other law enforcement agencies have those types of mechanisms, whether they are municipal police forces with police commissions or the Canadian Security Intelligence Service, CSIS, with its committees. We do not have that institution in Canada, and it is something that should be considered. Perhaps the committee could reflect on that in its deliberations.

Dealing specifically with the provisions of the legislation, the new conspiracy provisions, as you know and as explained by Ms. Aitken, create a dual track. The investigation takes place, and the commissioner can elect to bring a criminal case or, if she would prefer, bring a civil case. Criminal cases are referred to the Department of Justice, to the Director of Public Prosecutions, and go to the criminal courts. Civil cases go to the Competition Tribunal where, in effect, the bureau is the prosecutor.

Mmes Aitken et George l'ont dit, des tables rondes ont été tenues pour essayer de régler certaines des préoccupations relativement aux lignes directrices. Malgré tout, le milieu d'affaires nage dans l'incertitude, ce qui m'inquiète en tant que membre du conseil de la Chambre de commerce du Canada et en tant qu'ancien fonctionnaire. Ces incertitudes s'avèrent coûteuses pour l'économie. Il ne faudrait pas croire qu'elles ne coûtent rien.

Quelles sont nos préoccupations? Premièrement, comme Mme George l'a dit, le processus adopté pour l'adoption du projet de loi n'était pas assez long pour avoir le temps de régler les questions, ce qui fait que nous devons les corriger maintenant.

Deuxièmement, c'est le degré de discrétion dont dispose le Bureau de la concurrence et l'exercice de cette discrétion en l'absence d'un mécanisme de surveillance dans notre système. Contrairement aux autres pays, le Canada n'a pas de mécanisme de surveillance sur le plan judiciaire ou autre. Il existe donc une lacune en matière de responsabilisation, ce qui est inquiétant parce qu'on ne dispose pas d'examen continu ni de mécanisme pour déterminer comment le Bureau de la concurrence fait son travail, comment il déploie ses ressources, combien de cas il présente et sur quels types de cas il se penche. Ce genre de système n'existe pas au Canada. Je sais que cette question dépasse probablement le mandat du comité, mais je recommande fortement aux sénateurs d'y réfléchir et de voir comment nous pouvons combler cette lacune importante. Ce sentiment est partagé par bon nombre de mes collègues, tant dans la profession qu'à la Chambre de commerce du Canada.

Sir Christopher Bellamy, un éminent juriste à la retraite, qui a déjà été juge du Tribunal de première instance des Communautés européennes et du Tribunal d'appel de la concurrence du Royaume-Uni, s'y connaît dans ce domaine. Il a d'ailleurs parfaitement résumé la situation : selon lui, pour que le droit de la concurrence évolue, il doit être ancré dans la loi et non pas seulement dans des lignes directrices administratives. À mon avis, le Bureau de la concurrence est d'abord et avant tout un organisme d'application de la loi, et il faut élaborer des mécanismes pour s'assurer qu'il accomplit son travail. Bon nombre des autres organismes d'application de la loi utilisent ces types de mécanismes, que ce soit les forces de police municipales par l'intermédiaire des commissions de police ou le Service canadien du renseignement de sécurité, le SCRS, par l'entremise de ses comités. On ne trouve aucune institution de ce genre au Canada, et c'est quelque chose qu'il faudrait envisager. Le comité pourrait peut-être en tenir compte dans ses délibérations.

Je passe maintenant aux dispositions particulières de la loi. Comme vous le savez et comme Mme Aitken l'a expliqué, les nouvelles dispositions en matière de complot créent une approche à deux volets. Au terme d'une enquête, la commissaire peut choisir de présenter une affaire au criminel ou, si elle préfère, au civil. Les affaires au criminel sont renvoyées au ministère de la Justice, au directeur des poursuites pénales, et aboutissent aux tribunaux criminels. Les affaires au civil, pour leur part, sont renvoyées au Tribunal de la concurrence où le bureau agit à titre de partie poursuivante.

In my view, these provisions, on both sides of that election, could lead to unintended consequences, and those consequences could have a detrimental effect both on business and on consumers.

While undoubtedly no one likes hard-core cartels, the specifics of these amendments are broader than were needed. I think the new legislation will have a chilling effect on legitimate business collaborations.

In my day job, I have had clients tell me they are contemplating such and such an activity, and I explain there is a new law coming in next March; there is a risk, albeit a low risk. We have guidelines that are a bit unstable on this issue, so you have to be aware of the risk.

In today's environment, with respect to even a low risk — you all know how exposed CEOs, officers and directors are at the corporate level now — in today's environment, they do not want to take even a low risk, which is an unfortunate consequence of these amendments.

As the interim commissioner mentioned, she has been working to try to appease that concern with the draft guidelines. They are helpful, but guidelines are not binding on the interim commissioner, the next commissioner or the courts and, frankly, they can be changed at any moment.

When we heard about the transition provision — because the cartel provision does not come into effect until next March — people today are looking at future collaborations. The one-year grace period, as Ms. Aitken said, gives you a year to get your house in order. That is telling you two things: first, that there are deals today that are lawful that will be unlawful a year from now; and second, that when planning affairs that will continue past next March, you had better think of the future law as well today's law. There can be a future effect of chilling, in my view.

The other specific element of the provision is that there is no *de minimis* exception at all. No matter the agreement, whether it is between two competitors on price, two people with corner stores saying they will fix the price of bread, it is a criminal offense punishable by 14 years and $25 million in fines. There is no *de minimis* quotient there at all. Frankly, that was one of the rationales behind our effects test: we do not want people to be worried about things that do not have a significant market impact. The *de minimis* issue should be fixed.

With respect to the affiliates exemption, the law allows agreements between affiliates. That is not unlawful, but the definition of ''affiliate'' in the act is limited to corporate affiliates. Fifty plus one per cent and you are affiliated. It excludes joint

Selon moi, les dispositions liées à ce qui vient avant et après cette décision pourraient avoir des conséquences non voulues, et ces conséquences pourraient, à leur tour, nuire tant aux commerces qu'aux consommateurs.

Certes, personne n'aime les cartels irréductibles, mais la portée de ces modifications est plus vaste que nécessaire. Je pense que cette nouvelle mesure législative découragera les collaborations commerciales légitimes.

À mon travail, certains de mes clients me racontent qu'ils envisagent d'entreprendre telle ou telle activité, et je leur explique qu'une nouvelle loi comportant des risques, aussi minimes soient-ils, entrera en vigueur en mars prochain. Je leur dis également qu'étant donné la nature quelque peu changeante des lignes directrices relatives à cette question, ils doivent être conscients des risques.

De nos jours, même s'il s'agit de légers risques — vous connaissez tous les risques auxquels les PDG, les dirigeants et les administrateurs sont exposés maintenant —, les clients préfèrent ne pas en prendre et, malheureusement, ces modifications entraînent des risques.

Comme la commissaire par intérim l'a mentionné, elle s'efforce de calmer ces inquiétudes à l'aide de l'ébauche des lignes directrices. Ses efforts sont méritoires, mais les lignes directrices n'engagent en rien la commissaire par intérim, le prochain commissaire ou les tribunaux et, honnêtement, elles peuvent être modifiées à tout moment.

Depuis que les gens ont entendu parler de la disposition transitoire — parce que la disposition relative aux cartels n'entre pas en vigueur avant mars prochain —, ils examinent dès maintenant leurs collaborations à venir. Comme Mme Aitken l'a déclaré, le délai de grâce d'un an vous donne le temps de mettre de l'ordre dans vos affaires. Cette affirmation vous informe de deux choses : d'abord, qu'il y a des transactions légales aujourd'hui qui ne le seront plus dans un an, et ensuite que, si vous planifiez des affaires qui se poursuivront après le mois de mars prochain, vous feriez mieux de réfléchir aux répercussions de la loi à venir en plus de celles de la loi actuelle. Selon moi, cela pourrait contribuer à refroidir dans l'avenir les ardeurs commerciales de bon nombre d'entreprises.

L'autre problème que pose cette disposition, c'est qu'elle ne comporte aucune dérogation *de minimis*. Peu importe l'entente, qu'il s'agisse de deux concurrents qui s'entendent sur un prix ou de deux magasins du coin qui décident de vendre leur pain au même prix, c'est une infraction criminelle punissable d'une peine de 14 ans et d'une amende de 25 millions de dollars. Il n'y a aucun facteur *de minimis*. Honnêtement, c'est une des raisons qui nous a poussés à procéder à un examen des effets : nous ne voulons pas que les gens se préoccupent de choses qui n'ont pas de graves répercussions sur le marché. La question de la dérogation *de minimis* devrait être réglée.

Pour ce qui est de la dérogation relative aux entreprises affiliées, la loi leur permet de conclure des ententes. Ce n'est pas illégal mais, selon la définition du mot « affiliée » donnée dans la loi, seules les sociétés affiliées se rangent dans cette catégorie.

ventures and partnerships, as well as all sorts of other vehicles that people are using legitimately and lawfully in the environment today. That should be fixed as well.

You have heard today, and you will hear again tomorrow I am sure, that part of the rationale here was to better align our model with the U.S. There are a few points on that. First, on a number count, I suggest there are more countries with non-criminal cartel provisions than there are with criminal provisions.

In the European Union, as Senator Hervieux-Payette referred to, cartels are not criminal. They are an administrative offense, and they have secured billions of Euros in fines. It is not as if the Europeans have been sitting on their hands because it is not criminal.

If you want to align yourself with your major trading partners, which one will you choose, the U.S. or the Europeans? Europe is number two and U.S. is number one. If you want to align yourself with the U.S., let us fully align ourselves with them.

The cartel provision in the U.S. is basically one line: Thou shall not agree with your competition. Over decades, they developed law, called the rule of reason, because the courts realized that does not make sense. My *de minimis* example is an illustration. They have developed a rule of reason. The idea that by having a per se offense you are perfectly in line with the U.S. is not accurate.

Second, if we align ourselves with the U.S., they have a five-year limitation period. If the conduct is older than five years, it is irrelevant and not subject to criminal prosecution. Canada has no limitation period. In counselling and talking to other lawyers for clients around the world, it is a big issue. If we want to adjust and not be the outlier and focus on the U.S. as our model, we should have a limitation period. Why not?

Regarding the civil conspiracy provision, as I said, the commission can elect which track to go. Unfortunately, there is no prohibition against re-electing until you launch proceedings. The way the business works, parties are often in consultation with the bureau long before either charges are laid or an application is filed with the tribunal. Now you go into those discussions, and the bureau will not have to tell you which way they want to proceed. It is a bit strange from a process perspective.

Further, even if the commissioner elects one channel, if the commissioner elects to proceed civilly, class-action civil plaintiffs are not bound by that. You can resolve your issues with the

Vous et la société qui détient 51 p. 100 de vos actions êtes affiliées. Cela exclut les coentreprises et les partenariats, ainsi que tous les autres instruments que les gens utilisent aujourd'hui en toute légitimité et légalité. Ce problème devrait également être réglé.

On vous a dit aujourd'hui, et je suis certain qu'on vous le répétera demain, qu'une partie de la motivation derrière cette décision était de mieux harmoniser notre modèle avec celui des États-Unis. J'aimerais faire quelques observations à ce sujet. D'abord, si on fait le compte, je soutiens que les pays qui possèdent des dispositions de nature non criminelle à l'égard des cartels sont plus nombreux que ceux dont les dispositions sont de nature criminelle.

Comme le sénateur Hervieux-Payette l'a mentionné, les cartels ne sont pas des infractions criminelles dans l'Union européenne. Ils constituent des infractions administratives qui ont permis de recueillir des milliards d'euros en amendes. Ce n'est pas comme si les Européens se tournaient les pouces parce qu'ils n'accusent pas les entreprises d'infractions criminelles.

Si vous souhaitez harmoniser vos pratiques avec celles de vos principaux partenaires commerciaux, lesquels choisirez-vous, les États-Unis ou les Européens? Si vous choisissez les États-Unis, permettez-nous au moins de suivre exactement ce qu'ils font.

Aux États-Unis, la disposition relative aux cartels tient essentiellement en une ligne : tu ne t'entendras pas avec tes concurrents. Au fil des décennies, ils ont élaboré une loi, appelée la règle de raison, parce que les tribunaux se sont rendu compte que cela n'avait aucun sens. Mon exemple *de minimis* l'illustre. Ils ont conçu une règle de la raison. Il est faux de dire qu'en accusant automatiquement les entreprises d'une infraction, nos pratiques coïncident parfaitement avec celles des États-Unis.

Deuxièmement, si nous voulons faire comme les Américains, nous devons nous rappeler que leur loi prévoit un délai de prescription de cinq ans. Si la conduite remonte à plus de cinq ans, elle est dépourvue de pertinence et ne fait pas l'objet de poursuites criminelles. Le Canada n'a pas de délai de prescription. Au cours de la prestation de nos services de consultation et de nos discussions avec d'autres avocats de clients établis partout dans le monde, nous nous sommes rendu compte que c'était un grave problème. Si nous voulons rectifier les choses, ne pas être marginaux et nous inspirer du modèle américain, pourquoi n'aurions-nous pas un délai de prescription?

Comme je l'ai dit, en ce qui concerne la disposition relative au complot civil, la commission peut choisir la voie qu'elle désire emprunter. Malheureusement, rien ne l'empêche de modifier sa décision tant qu'elle n'a pas engagé des poursuites. Selon la façon dont les choses fonctionnent, les parties consultent souvent le bureau bien avant que des accusations soient portées ou que la demande soit déposée devant le tribunal. Maintenant, lorsque vous entamerez ces discussions, le bureau ne sera pas tenu de vous révéler la façon dont il procédera. Cela est un peu déroutant du point de vue de la procédure.

De plus, même si la commissaire choisit d'engager des poursuites civiles, les demandeurs des recours collectifs au civil ne sont pas liés par cette décision. Donc, vous pouvez résoudre

commissioner and have whatever remedy the tribunal deems appropriate, but you can still be subject to class-action civil litigation complaints by the class-action bar, and I think that should be fixed as well. If the commissioner makes an election, it should apply to everyone, both in the proceedings the bureau launches and off-shoot proceedings in the civil courts.

With respect to the merger amendments process, I think you are probably well aware of our concerns, apart from the process one. These information requests can be made unilaterally. Again, no judicial oversight or judicial approval is required to issue the second requests. The notion that somehow this will accelerate and provide certainty to the merger process I take exception to.

You have heard about the initial 30-day clock, when there is a request in that period, and the second 30-day clock. At the end of that 30-day clock, there is no statutory requirement for the commissioner to do anything. She does not have to make a decision. The guidelines say she will, but she has a year. She can sit on her hands and tell you to close at your own risk and we have a year to decide whether we want to challenge your transaction. That is a problem. If we go down this road, have the clock stopped. That should be fixed.

Again, if we are aligning ourselves with the U.S., we will live with it. Frankly, for the legal community, it is a stimulus bill. With respect to the average cost of compliance, the American Bar Association did a study two years ago on the average cost of complying with second requests, and it is $5 million a pop, in case any of you want to get into this business. When we hear it is four or six, that is $20 million or $30 million right away. That cost can be put on the business community without judicial oversight.

Last — I know we are short on time — I would like to put in a plug for another part of Bill C-10 that is outside your mandate. It deals with the Investment Canada Act. It had good news and bad news. The good news is they have increased the threshold, which now is the scope so that you focus only on big deals. The bad news, in our view, is the national security amendments. You may ask why, since national security is a good thing. However, it is not defined; there is no limitation period; and there is no financial threshold to be passed before it applies. If you are foreign and you buy 5 per cent of a company, you could be at risk in that.

vos problèmes avec la commissaire et recevoir la mesure que le tribunal juge appropriée, mais vous pourriez tout de même faire l'objet de recours collectifs au civil déposés par le barreau, et je pense que ce problème devrait également être réglé. Si la commissaire prend une décision, elle devrait s'appliquer tant aux poursuites engagées par le bureau qu'aux procédures intentées au civil qui en découlent.

En ce qui concerne le processus de modification des fusions, je pense que vous êtes probablement déjà au courant de nos préoccupations, mis à part celles liées au processus d'examen. Les demandes d'information peuvent être présentées unilatéralement. Encore une fois, on peut présenter une deuxième demande d'information sans qu'un contrôle judiciaire soit exercé ou qu'il soit nécessaire d'obtenir une approbation judiciaire. Je m'élève contre l'idée que, d'une manière ou d'une autre, ces dispositions accéléreront le processus d'examen des fusions et amélioreront sa prévisibilité.

Vous avez entendu parler du premier délai d'attente de 30 jours ainsi que du second délai d'attente de 30 jours lorsque la commissaire demande un supplément d'information pendant la première période. À la fin de ces délais d'attente, selon la loi, la commissaire n'est pas obligée de faire quoi que ce soit. Elle n'a pas besoin de prendre de décision. Les lignes directrices stipulent qu'elle le fera, mais elle a un an pour le faire. Elle peut se tourner les pouces et vous dire que, si vous concluez la transaction, vous le faites à vos propres risques et qu'elle a un an pour la remettre en cause. Cela est également un problème qu'on devrait régler. Si nous nous engageons dans cette voie, le délai d'attente devrait être interrompu.

Encore une fois, si nous suivons ce que les Américains font, nous devrons nous accommoder des résultats. Honnêtement, ces modifications sont un véritable plan de relance pour le secteur juridique. En ce qui concerne le prix moyen qu'il en coûte pour donner suite à une deuxième demande d'information, l'American Bar Association a mené une étude là-dessus il y a deux ans et a conclu que le coût s'élève à cinq millions de dollars par fusion. Je vous le mentionne au cas où vous voudriez vous lancer dans ce domaine. Donc, lorsqu'on entend parler de quatre ou six fusions, cela représente immédiatement des dépenses de l'ordre de 20 ou 30 millions de dollars. Ce coût peut être imposé au secteur des affaires sans contrôle judiciaire.

Enfin — je sais que nous sommes à court de temps —, j'aimerais colmater une autre section du projet de loi C-10 qui ne fait pas partie de votre mandat. Elle porte sur la Loi sur Investissement Canada. Il y a de bonnes nouvelles et de mauvaises nouvelles. La bonne nouvelle, c'est qu'ils ont augmenté le seuil et cette nouvelle portée vous permet maintenant de vous concentrer sur les transactions d'envergure. Les mauvaises nouvelles, à notre avis, ce sont les modifications relatives à la sécurité nationale. Vous vous demandez peut-être pourquoi il s'agit de mauvaises nouvelles puisque la sécurité nationale est une bonne chose. Malheureusement, elles ne sont pas définies, il n'y a pas de délai de prescription et il n'y a pas de seuil financier à franchir avant qu'elles s'appliquent. Si vous êtes étranger et que vous achetez 5 p. 100 des actions d'une entreprise, ces modifications pourraient vous faire courir certains risques.

I can tell you from my practice that that is creating concern in the investment community. In my mind, that is not encouraging investment in Canada. It is outside your topic area, but I thought given the opportunity, I would share that with you.

Peter Woolford, Vice-President, Policy Development and Research, Retail Council of Canada: Thank you to the Senate committee for agreeing to hear us this afternoon. I see in my notes I had a couple of remarks to introduce the Retail Council of Canada to the committee, but after the last month, it is probably superfluous.

We are in a somewhat different position than many other business representatives that may appear before you. As Ms. Aitken, the interim commissioner, mentioned this afternoon, in many sectors and many parts of act —

The Chair: Excuse me. I do not mean to interrupt you, but do you have a statement?

Mr. Woolford: I provided a statement, a set of talking points for the translators; that is all. I do not have a formal submission.

The Chair: Fine.

Mr. Woolford: I apologize. Let me start anew. In many sectors, the concern of the government and the focus of its amendments with respect to competition are driven by the small size of the Canadian marketplace and, as a result, the risk that there may be insufficient competition. In retail, the amendments that are of concern to us and were the focus of the bureau are the reverse. They are concerned that there is too much competition and that those animal spirits that retailers are so famous for will get out of control at times and lead to negative results. As a result, the changes that I am concerned about are those that flow out of such a highly competitive market rather than one that is too small and cozy. You have to adjust your headset when you look at the act as a retailer.

[*Translation*]

My presentation will touch on three things. First, I will discuss the role of the new fines in the bureau's investigations. Second, I will draw to the committee's attention an expert opinion on the constitutionality of those fines. And third, I will discuss the implications for price maintenance.

[*English*]

Let me address each of those in turn. First, there is the role of the administrative monetary penalties, the fines. I was pleased that either the interim commissioner or Ms. Downie called them fines. They are fines, not administrative penalties. When they were introduced in Bill C-19 some four years ago, we were opposed to them vigorously. That concern remains amongst the retail trade today. First, we believe that they are disproportionate to the

Je peux vous dire que, d'après ce que j'ai observé dans ma pratique, ces modifications inquiètent les investisseurs. À mon sens, cela n'incite pas les gens à investir au Canada. Je sais que ce n'est pas le sujet qui vous occupe aujourd'hui, mais j'ai pensé que, si j'en avais l'occasion, je vous ferais part de mes observations à ce sujet.

Peter Woolford, vice-président, Élaboration des politiques et recherche, Conseil canadien du commerce de détail : Je remercie les membres du comité sénatorial de nous avoir invités à comparaître devant eux aujourd'hui. Je vois dans mes notes que j'avais préparé quelques remarques pour présenter le Conseil canadien du commerce de détail au comité, mais après le mois dernier c'est probablement inutile.

Notre situation est quelque peu différente de celle de bon nombre de représentants commerciaux qui comparaîtront peut-être devant vous. Comme Mme Aitken, la commissaire par intérim, l'a mentionné cet après-midi, dans de nombreux secteurs et de nombreuses parties de la loi...

Le président : Excusez-moi. Je ne souhaite pas vous interrompre, mais avez-vous une déclaration?

M. Woolford : J'ai fourni une déclaration, une série de points de discussion, à l'intention des traducteurs et c'est tout. Je n'ai pas un exposé officiel.

Le président : C'est bien.

M. Woolford : Je suis désolé. Permettez-moi de recommencer à zéro. Dans de nombreux secteurs, la préoccupation du gouvernement et l'objectif de ses modifications en ce qui a trait à la concurrence sont motivés par la petite taille du marché canadien et, donc, par le risque que le nombre de concurrents y soit peut-être insuffisant. Dans le secteur du détail, les modifications qui nous préoccupent et sur lesquelles le bureau a mis l'accent sont diamétralement opposées. Elles se préoccupent qu'il y ait trop de concurrence et que le côté impitoyable des détaillants qui les a rendus célèbres dépasse de temps en temps les bornes et engendre des résultats négatifs. Par conséquent, les modifications qui m'inquiètent découlent d'un marché hautement concurrentiel plutôt que d'un marché trop petit et trop commode. Vous devez ajuster vos lunettes lorsque vous examinez la loi en tant que détaillant.

[*Français*]

Dans ma présentation, je toucherai trois questions. Je traiterai du rôle des nouvelles amendes dans les enquêtes du bureau. Deuxièmement, j'attirerai l'attention du comité sur une expertise touchant la constitutionnalité de telles amendes. Enfin, je parlerai des implications relativement au maintien des prix.

[*Traduction*]

Permettez-moi de les aborder une à la fois. D'abord, il y a le rôle des sanctions administratives pécuniaires, les amendes. Je suis content que la commissaire par intérim et Mme Downie leur aient donné le nom d'amendes parce que c'est ce qu'elles sont, et non pas des sanctions administratives. Lorsqu'elles ont été mises en vigueur dans le cadre du projet de loi C-19 il y a quatre ans de cela, nous nous sommes prononcés contre elles avec véhémence.

offences that they are being levied against; and second, we are concerned with the potential impact these offences could have on the bureau's practices as they are doing an investigation of misleading practices inside the retail trade. Let me explain.

Our members were already unhappy with the way bureau officers used their existing powers to induce retailers to cop a plea in the form of a consent agreement and to drive up the fine. The best example — and Mr. Addy referred to this in passing — is the commissioner's wide discretion in whether she will proceed by the civil track or by the criminal track when she is investigating a retailer. This flexibility allows officers to work the company and to induce the company to agree to cop a plea, as I said, in the interests of both getting this over and done with and avoiding much more serious charges against company officers and against the company itself.

Adding to that potential for criminal charges against the company or its officers, the threat of enormous potential fines and restitution gives the bureau even more tools than they had before to lever out of the company the result they want. Our argument would simply be that we unbalanced that relationship between the law enforcement agency that is investigating activities and the party being investigated.

I will now change gears a bit and stress that we have a very good working relationship with the bureau. We have worked with them over the years in terms of developing guidelines and best practices and encouraging the trade to comply with those. Recently, we worked with them closely on matters such as rebates and on the labelling of textiles. That has led to better results for the trade and for the bureau.

The emphasis in this area has been on enhancing compliance through the use of guidelines, best practices and consultation with the responsible players inside the marketplace, with a view to getting to something that makes sense in that marketplace and can be administrated and respects the law as the bureau sees it.

We continue to believe that for the great majority of retail marketplace issues that is the best way to go. That is the most effective way, rather than using prosecution and fines. It is particularly unfortunate that the new law is signalling a different approach. When you reach for large hammers like multi-million dollar fines, you are sending a signal that you are much more interested in prosecuting and levying large fines than in working with the trade to correct it through compliance enhancement.

Cette préoccupation existe toujours aujourd'hui au sein du commerce de détail. D'abord, nous croyons que ces amendes sont disproportionnées par rapport aux infractions qui les entraînent. Ensuite, nous sommes préoccupés par l'incidence potentielle que ces infractions pourraient avoir sur les actions du bureau lorsqu'il enquête sur les pratiques trompeuses du commerce de détail. Permettez-moi de vous expliquer de quoi il s'agit.

Nos membres sont déjà insatisfaits de la façon dont les agents du bureau utilisent leurs pouvoirs actuels pour inciter les détaillants à plaider coupables au moyen d'un accord consensuel, et faire augmenter le montant de l'amende. Le meilleur exemple de cela — et M. Addy l'a mentionné en passant — est le vaste pouvoir discrétionnaire dont dispose la commissaire pour choisir d'engager soit des poursuites civiles, soit des poursuites criminelles lorsqu'elle enquête sur un détaillant. Cette souplesse permet aux agents de manipuler l'entreprise et de l'inciter à plaider coupable, comme je l'ai dit, pour en finir une fois pour toutes et éviter que des accusations encore plus graves soient portées contre les dirigeants de l'entreprise et l'entreprise elle-même.

Outre le pouvoir de porter des accusations criminelles contre l'entreprise et ses dirigeants, le bureau peut faire peser sur eux la menace d'énormes amendes et d'un dédommagement, ce qui lui fournit un arsenal d'outils encore plus grand qu'avant pour soutirer à l'entreprise le résultat escompté. Nous sommes simplement d'avis qu'il faudrait rééquilibrer la relation qui existe entre l'organisme d'application de la loi qui mène les enquêtes et les parties qui en font l'objet.

Je vais maintenant changer un peu d'optique et insister sur le fait que nous entretenons une excellente relation avec le bureau. Au fil des années, nous avons collaboré avec eux afin d'élaborer des lignes directrices et des pratiques exemplaires, et d'encourager les commerçants à les respecter. Récemment, nous avons travaillé étroitement avec eux sur des questions telles que les remises et l'étiquetage des textiles. Cette collaboration a engendré de meilleurs résultats tant pour les commerçants que pour le bureau.

Jusqu'à maintenant, nous avons cherché à faire appliquer la loi en publiant des lignes directrices, en favorisant les pratiques exemplaires et en consultant les principaux intervenants du marché, pour que le tout ait un certain sens en contexte, soit gérable et respecte la loi selon l'interprétation que le bureau en fait.

Nous demeurons convaincus que, pour la grande majorité des problèmes touchant la vente au détail, c'est la bonne façon de faire. C'est beaucoup plus efficace, en tout cas, que les poursuites judiciaires et les amendes. C'est donc particulièrement malheureux que la nouvelle loi prenne une nouvelle direction. Si vous sortez vos gros canons et que vous imposez des amendes de plusieurs millions de dollars, vous dites aux gens que vous êtes beaucoup plus intéressé à les poursuivre en justice et à leur imposer des amendes qu'à compter sur la collaboration des acteurs du marché pour mieux faire appliquer la loi.

Let me touch briefly on the constitutionality issues. I would simply remind senators that when Bill C-19 was introduced, the Retail Council of Canada asked Peter Hogg, who is possibly the pre-eminent legal expert on the Constitution of Canada, to prepare an opinion on administrative monetary penalties for the particular changes that were contained in Bill C-19. Mr. Hogg concluded that the administrative monetary penalties would violate several provisions of the Charter of Rights and Freedoms and would not be reasonably justifiable because they do not provide for normal criminal process protections for those subject to the penalties. The administrative monetary penalties now passed into law are not dissimilar to those in Bill C-19, as I think was referred to earlier, and we suspect that they may not withstand a court challenge.

The final item is resale price maintenance. The retail market itself is a pretty noisy, bare-knuckle place. That high degree of competitiveness serves the value-focused Canadian consumer well. They are well-served by a noisy, vigorous marketplace where retailers are shouting out their best offers to the customer all the time. The changes now allow suppliers greater latitude to enforce minimum prices. We believe this will restrict competition and drive up retail prices to the final consumer. This is not theoretical; this is not ''what if.'' This is happening today.

The Retail Council of Canada has already heard from some of our members who are fighting their suppliers now about their efforts to force prices higher on the products that they carry. If I carry a national brand product as a retailer, some of those companies today are being pressured by their supplier to put in place minimum prices for particular products, driving up the price of that particular good in the marketplace. It will not affect competition in that there are lots of options out there for the consumer, but it will push the price up for some products.

Our understanding is that this change was introduced partly as a result of some U.S. court decisions. On the other hand, we are seeing that in the United States today, several U.S. states are in the process of passing laws to protect consumers against this kind of pressure from suppliers now that retailers no longer can prevent this increase in price.

Those are my opening remarks. I would now be glad to answer any questions.

The Chair: Thank you very much, Mr. Woolford. Before I turn to our first questioner, I wish to ask Mr. Addy about the magnitude of the fines. For people watching and listening, is it your argument that the amount in the act of the fine is too large in

Permettez-moi d'aborder brièvement l'aspect constitutionnel de la question. Je tiens simplement à rappeler aux membres du comité que, lorsque le projet de loi C-19 a été présenté, le Conseil canadien du commerce de détail a demandé à Peter Hogg, l'un des plus éminents experts sur la Constitution canadienne, de donner son avis sur les sanctions administratives pécuniaires associées aux changements bien précis que proposait le projet de loi C-19. M. Hogg a conclu que ces sanctions contreviendraient à plusieurs dispositions de la Charte canadienne des droits et libertés sans pour autant être raisonnablement justifiables, parce que les personnes ou organismes à qui l'on imposerait ces sanctions ne bénéficieraient pas des protections habituellement associées au processus pénal. Les sanctions administratives pécuniaires maintenant inscrites dans la loi ne sont pas sans rappeler celles qui figuraient dans le projet de loi C-19, comme on l'a d'ailleurs fait remarquer plus tôt, et nous sommes d'avis qu'elles ne résisteraient probablement pas à une éventuelle contestation judiciaire.

Reste maintenant la question du prix imposé. Le marché de vente au détail n'est pas toujours de tout repos. La compétition y est féroce, ce qui est tout à l'avantage du consommateur canadien, qui accorde beaucoup d'importance à la valeur. Il est en effet entouré de détaillants qui rivalisent d'ingéniosité et de créativité pour lui faire connaître leurs meilleures offres. De par les modifications apportées, les fournisseurs peuvent maintenant fixer un prix minimum plus facilement. Selon nous, c'est la concurrence qui pourrait en souffrir, tandis que le prix de vente final risque d'augmenter. Et je ne suis pas en train de vous énoncer une théorie : c'est exactement ce qui se passe, en ce moment, sur le marché.

Certains de nos membres se sont déjà plaints au Conseil canadien de commerce de détail du fait qu'ils doivent se débattre avec leurs fournisseurs, qui veulent les forcer à augmenter leurs prix. Prenons l'exemple d'un détaillant qui vend un produit de marque nationale. Il subit la pression de son fournisseur, qui veut que son produit se vende à un prix minimum. Le prix du produit monte donc par le fait même. D'accord, la concurrence n'en souffrira pas directement, car le consommateur a encore l'embarras du choix, mais il n'en demeure pas moins que le prix de certains produits va augmenter.

Nous croyons comprendre que cette modification tire en partie sa source de certaines décisions des tribunaux américains. Pourtant, plusieurs États des États-Unis sont sur le point d'adopter des lois qui protègent les consommateurs contre ce type de pression de la part des fournisseurs, maintenant que les détaillants ne peuvent plus rien faire contre ce type d'augmentation.

C'est ce qui conclut mon exposé préliminaire. Je répondrai maintenant à vos questions avec plaisir.

Le président : Merci beaucoup, monsieur Woolford. Avant de passer à notre première série de questions, j'aimerais demander à M. Addy ce qu'il pense du montant des amendes. Pour le bénéfice des gens dans l'auditoire, êtes-vous aussi d'avis que le montant

all cases or some cases, or that there is no *de minimis*? You might explain what that means.

Mr. Addy: It is not the fine level. I am comfortable with the fine level. If you go to the record of what the bureau has accepted by way of plea, it is important to understand that there have been very few contested prosecutions by the bureau in over a decade. All the numbers you see in the reports are usually as a result of people pleading guilty. Recently, we had some in Quebec for a domestic cartel, but the bulk of the hundreds of millions of dollars that have been yielded in fines have come from pleas in Canada for the Canadian wedge of a global conspiracy. The parties are basically saying, ''We want to settle this thing around the world. We will settle it with Canada.'' That is one thing to understand.

The issue I have is that there is no effect test to the legislation, and there is no *de minimis*. There is nothing that says, ''If the commerce that was affected was under $1 million, it is irrelevant for prosecution purposes.'' There is nothing like that. I can give you an extreme example of two corner store people agreeing on the price of bread. All they have to do is agree; they do not even have to sell one loaf of bread at that fixed price.

The Chair: In which case, they agree. They are convicted or they plead guilty, and the fine is what?

Mr. Addy: Who knows? These are hard-core cartels that we keep hearing about.

The Chair: It is a maximum, is it not?

Mr. Addy: Yes; $25 million. Those individuals will now have a criminal record and will not be able to travel to the U.S. They will be on the border watch. Criminal offences are serious. If you look at the pleas recently in Quebec, where people have accepted one year of house arrest, when you read those orders, this is not chicken soup we are talking about. You are walking around with an ankle bracelet; you cannot leave home, except in certain hours; you cannot use cellphones. It is drastic. My concern is we have this hammer and there is no control over the use of the hammer.

Senator Moore: I want to hear a bit more. Mr. Addy, you mentioned and repeated a number of times that there are no time limitations on the time that the board takes or may take to investigate, to prosecute. It could take years. Is the statute of limitations not binding on the bureau?

des amendes prévu dans la loi est trop élevé, en général ou dans certains cas en particulier, ou qu'il n'y a au contraire aucune disposition *de minimis*? Expliquez-nous, s'il vous plaît.

M. Addy : Ce n'est pas le niveau des amendes qui pose problème. Le montant des amendes me convient tout à fait. Si l'on regarde le nombre de causes que le bureau a plaidées, force nous est de constater que, de toutes les poursuites intentées par le bureau depuis plus de 10 ans, très peu ont été contestées. Les chiffres que vous voyez dans les rapports, c'est habituellement parce que les gens plaident coupables. Ce n'est pas toujours le cas, c'est vrai, et je songe par exemple à l'entente intérieure que nous avons mise au jour au Québec encore tout récemment, mais sur les centaines de millions de dollars qui ont alors été imposés en amendes, une bonne partie portait en fait sur le volet canadien d'une affaire dont les ramifications s'étendaient à l'échelle planétaire. En fait, le message des parties était le suivant : « Nous voulons clore le dossier partout dans le monde, alors nous avons décidé de régler avec le Canada. » C'est une première chose.

Ce qui me chicote, c'est qu'il n'y a pas de critères tenant compte des effets de la loi, et qu'il n'y a pas non plus de disposition *de minimis*. Il n'y a rien qui nous dise : « Si la somme en jeu est inférieure à un million de dollars, rien ne sert d'intenter des poursuites. » Il n'y a rien du genre. Je peux vous donner un exemple extrême, celui de deux épiciers qui s'entendent entre eux sur le prix du pain. Il suffit qu'ils se soient entendus, et rien d'autre; il n'est pas nécessaire qu'un seul pain n'ait été vendu au prix fixé.

Le président : Mais ils sont de connivence. Qu'ils soient condamnés ou qu'ils plaident coupables, à quel montant s'élèvera l'amende?

M. Addy : Qui sait? C'est le type d'entente injustifiable dont nous entendons toujours parler.

Le président : Il y a tout de même un maximum, non?

M. Addy : Oui : 25 millions de dollars. Les deux épiciers en question auront un casier judiciaire et ne pourront plus se rendre aux États-Unis. Leur nom sera inscrit dans le registre de surveillance frontalière. On ne blague pas avec les infractions criminelles. Prenons les plaidoyers qui ont été enregistrés dernièrement au Québec. Certaines personnes ont accepté un an de détention à domicile. Je vous invite à lire ces décisions, et vous verrez que ce n'est pas de la petite bière. Les personnes condamnées se promènent avec un bracelet électronique à la cheville, et elles ne peuvent pas quitter leur domicile, sauf à certaines heures fixes. Elles ne peuvent pas utiliser de téléphone cellulaire. C'est du sérieux. Ce qui m'inquiète, pour reprendre la métaphore des canons, c'est que nous avons en main un très gros canon, mais rien pour le contrôler.

Le sénateur Moore : J'aimerais savoir autre chose : monsieur Addy, vous avez dit à plusieurs reprises qu'il n'y avait aucune prescription quant au temps que pouvait prendre le comité pour faire enquête sur un dossier ou pour intenter des poursuites. Il faut parfois des années. La loi générale de prescription ne s'applique-t-elle pas au bureau?

Mr. Addy: For a conspiracy in Canada, there is no statute of limitations. You are exposed forever. In the U.S, it is five years; in some countries, it is seven. Most of the countries that have cartel laws have limitations periods; we do not.

Senator Moore: I have not looked at the statute of limitations, but does it say in there that prosecuting for cartels is accepted?

Mr. Addy: No, but the statute of limitations usually applies to civil matters, not indictable criminal matters.

Senator Moore: No end in this instance?

Mr. Addy: Correct; but the U.S., which we are trying to mirror here, does.

Senator Moore: Five years.

Mr. Addy: Correct.

Senator Hervieux-Payette: Does it mean in civil law that there would be a prescription?

[*Translation*]

Mr. Addy: No, Senator, there is no prescription.

Senator Hervieux-Payette: Is that what the statute of limitations means?

Mr. Addy: In the United States, if the illegal activity had occurred more than six years ago, no criminal charges would have been possible. That is not the case in Canada. I see it every day in my practice; Americans are scratching their heads wondering how come there is no prescription on that in Canada.

[*English*]

Senator Moore: You mentioned, by way of example, something about affiliates or joint partnerships to companies who get together to do a certain project. Will that now be subject to prosecution?

Mr. Addy: It would be, yes. My point is that we have recognized in the law that if you are affiliated, you cannot conspire with yourself. However, how that is articulated is in a corporate environment only, so it is 50 plus 1 per cent of voting shares.

If you decide to affiliate via partnership, you are still exposed to criminal prosecution. If you decide to affiliate by joint venture, you are still exposed to the risk of criminal prosecution.

I am saying in today's market, where people are doing these other types of tools for very legitimate reasons — whether tax planning or whatever the reason is — they run a risk that corporate affiliates do not. I do not understand the rationale for that.

Senator Moore: Neither do I.

M. Addy : Pour les complots en sol canadien, il n'y a aucune prescription qui tienne. Les coupables peuvent toujours être poursuivis. Aux États-Unis, la prescription est fixée à cinq ans; dans d'autres pays, elle est de sept ans. La plupart des pays qui ont des lois contre les pratiques cartellaires sont assujettis à des périodes de prescription. Pas nous.

Le sénateur Moore : Je n'ai pas étudié en détail la législation sur la prescription, mais est-ce qu'on y dit quelque part que les poursuites pour collusion sont acceptées?

M. Addy : Non, mais la prescription s'applique généralement au civil, et non au criminel.

Le sénateur Moore : Il n'y a donc pas de délai dans le cas qui nous intéresse?

M. Addy : C'est exact. Mais c'est le cas aux États-Unis, et je vous rappellerai que nous tentons justement de nous inspirer de ce qui se fait là-bas.

Le sénateur Moore : Cinq ans.

M. Addy : C'est exact.

Le sénateur Hervieux-Payette : Est-ce à dire que s'il s'agissait d'une affaire civile, il y aurait prescription?

[*Français*]

M. Addy : Non, il n'y a pas de prescription, madame le sénateur.

Le sénateur Hervieux-Payette : Est-ce que c'est cela que veut dire « the statute of limitation »?

M. Addy : Aux États-Unis, si l'activité illégale a eu lieu il y a plus de six ans, il n'y a pas d'accusation criminelle possible du tout. Ce n'est pas le cas au Canada. Je le vois dans ma pratique tous les jours; les Américains se grattent la tête et se demandent comment il se fait qu'il n'y a pas de prescription au Canada là-dessus.

[*Traduction*]

Le sénateur Moore : Vous avez donné l'exemple de sociétés affiliées ou de coassociés d'une entreprise qui s'allient le temps d'un projet. Ce type de pratique peut-il maintenant mener à des poursuites judiciaires?

M. Addy : En principe, oui. En fait, la loi reconnaît que si vous êtes affilié, vous ne pouvez pas comploter avec vous-même. Ce raisonnement ne vaut cependant que pour les sociétés; il faut donc détenir 50 p. 100 des actions avec droit de vote plus 1.

Si vous décidez de vous affilier par voie de partenariat, vous vous exposez tout de même à des poursuites criminelles. Même chose si vous vous affiliez par voie de coentreprise.

Vous savez, dans le marché d'aujourd'hui, les gens ont recours à ces autres types d'outils pour des motifs tout à fait légitimes, par exemple pour des raisons de planification fiscale. Pourtant, ce faisant, ils s'exposent à des conséquences dont les sociétés affiliées sont à l'abri. Je ne comprends pas.

Le sénateur Moore : Moi non plus.

Senator Ringuette: In the earlier presentation from the bureau, there was a lot of emphasis regarding the time to build a case for prosecution and that this revised legislation would remove the study or the provision of justifying the economic impact. Have you looked into that?

Mr. Addy: The short answer to your question is yes. I have been in this trade for 30 years, so I have come across it often, from all sides of the fence.

On the issue of the preparation, they link that to the lack of success in contested prosecutions, and I take issue with that. The last unsuccessful prosecution involved taxis in St. John's, as I recall, and it was dismissed at preliminary. It was not because the effects test was there. The judge, in his decision, said he did not believe the Crown's witness. It was a credibility issue, not a legal test issue.

In my view, losses are okay, because the law is vague and the loss will help clarify the law. In one of the cases I lost during my tenure, they disagreed when we said the market for freight is this, and the judge said no, it includes trucking and trains, et cetera.

Fine; that is not the test. That is not the effects test, in my view. That is a question of a legitimate difference of opinion by the judiciary, who are supposed to be deciding these cases, about the evidence that was led. You have got me going on a rant now, but you can tell I feel passionate about the issue.

The lack of success in contested cases, in my view, has not been attributable to the effects test.

Senator Ringuette: What about the time? They were specifically talking about the time period that they needed to build the case. She gave an example of three years to build a case because of this request about the economic impact.

Mr. Addy: Colour me skeptical on that one. One issue that relates to that is how the bureau allocates resources. I am told from people within the bureau that for a period of time the public policy and legislative affairs branch had a bigger budget than the criminal branch. That is what gets me wound up, if I can use that term, about the lack of an oversight issue.

They are very good people in all the branches and there may be some good policy work and market studies to do. That is all well and good; but who is looking at how those resources are used that Canadians are giving to the agency to enforce competition law, which we all want? Who is looking at that issue?

Le sénateur Ringuette : L'exposé préliminaire du bureau mettait beaucoup l'accent sur le temps qu'il fallait pour monter un dossier menant à des poursuites et sur le fait que la loi révisée supprimait la disposition obligeant à en justifier les répercussions économiques. Vous êtes-vous penché sur la question?

M. Addy : Je vous répondrai simplement : oui. Je suis dans le métier depuis une trentaine d'années, alors c'est un argument que j'ai souvent entendu, de tous les côtés.

En ce qui concerne la préparation, beaucoup disent que, s'il y aussi peu de poursuites qui sont contestées avec succès, c'est parce que la préparation est déficiente. Je ne suis pas d'accord. La dernière poursuite qui n'a pas abouti mettait en cause des entreprises de taxi à St. John's et, si mon souvenir est exact, l'affaire est tombée pendant l'enquête préliminaire. Ce n'est pas l'effet de la loi qui était en cause. Dans sa décision, le juge a dit ne pas croire le témoin de la Couronne. C'était donc une question de crédibilité, et non de droit.

À mon avis, c'est une bonne chose que l'on perde un certain nombre de causes, parce que la loi est vague et que les causes perdues nous aident à la rendre plus précise. Dans l'une des causes que j'ai perdues pendant mon mandat, nous avons donné une certaine définition du marché du fret, mais le juge n'était pas d'accord et a affirmé que, contrairement à ce que nous prétendions, le fret englobait aussi le transport par camion, par train, et cetera.

À mon avis, ce n'est pas le critère relatif aux effets de la loi qui a été appliqué. Il s'agit d'une divergence légitime d'opinion avec les juges, qui doivent après tout rendre leur décision d'après la preuve qu'on leur présente. Mais bon, je m'arrête ici car, comme vous pouvez le constater, c'est un sujet qui me passionne, et je pourrais en parler des heures sans m'arrêter.

Tout cela pour dire que, à mon avis, s'il y a eu si peu de causes contestées avec succès, ce n'est pas à cause du critère des effets de la loi.

Le sénateur Ringuette : Est-ce que c'est une question de temps, alors? Tout à l'heure, un témoin nous a parlé du temps requis pour monter un dossier. Dans un cas, il lui a même fallu trois ans, parce qu'elle a dû en évaluer les répercussions économiques.

M. Addy : Je dois dire que je suis un peu sceptique. Le problème réside aussi dans la manière dont le bureau affecte ses ressources. Selon ce qu'ont dit certaines personnes qui travaillent au bureau, le budget de la Direction générale des politiques publiques et des affaires législatives a longtemps été plus élevé que celui de la Direction générale des affaires criminelles. C'est le genre de choses qui me fait sortir de mes gonds, et qui illustrent bien le manque de surveillance.

Il y a des gens très compétents qui travaillent dans les directions générales, peu importe lesquelles, et je ne doute pas que le travail stratégique et les études de marché aient leur place. Je ne remets rien de tout cela en question, mais qui s'interroge sur la manière dont le bureau utilise ses ressources? Ressources, je le rappelle, que les Canadiens confient à l'organisation pour qu'elle fasse appliquer les lois sur la concurrence, ce à quoi personne n'oserait s'opposer, j'imagine. Qui remplit ce rôle?

Senator Day: I will start with Mr. Woolford. You talked about having an opinion from Peter Hogg with respect to administrative monetary penalties.

Mr. Woolford: That is correct.

Senator Day: The administrative monetary penalties, which are increased in this legislation, were in Bill C-19 four years ago. Is that what you said?

Mr. Woolford: Yes, it was.

Senator Day: That died on the Order Paper, as we have heard recently. Did you express a concern about that?

Mr. Woolford: Yes, we did at that time.

Senator Day: Notwithstanding that consultation, it is still there; is that correct?

Mr. Woolford: Yes. At the time the hearings were held, we introduced that in front of the House of Commons and put that on the public record. I would be glad to provide a copy to the committee in the two official languages.

Senator Day: If you could do that, give it to our clerk and she can circulate it to all of us.

Mr. Woolford: Perhaps it would be useful for you to have the commissioner's response to our concerns. Ms. Scott appeared shortly after we did and gave her response, so you may want to ask the bureau for her response. I will make sure you get our comments.

Senator Day: Thank you very much for that. Do you share the view of the Canadian Chamber of Commerce that it would have been preferable to have consultation before the legislation was introduced or passed?

Mr. Woolford: Yes, we do.

Senator Day: I want to switch to Ms. George and Mr. Addy.

First, Mr. Addy, your comments with respect to the Investment Canada portions of Bill C-10 were welcome. There is an awful lot in Bill C-10. This committee is being asked to deal with one part, Part 12 of 15 parts, but there are others of us here, and all of this will be discussed in the Senate as a whole. Your comments were helpful and I have made notes on those.

The other point I wanted to clarify was the one on oversight that you talked about. You said there is a lot of discretion with no oversight. You also talked about no ongoing review.

Could you tell us, in other jurisdictions, would this be divided between something — you mentioned CSIS and the Security Intelligence Review Committee, SIRC, which is an independent

Le sénateur Day : Ma première question s'adresse à M. Woolford. Vous dites avoir sollicité l'avis juridique de Peter Hogg sur les sanctions administratives pécuniaires.

M. Woolford : C'est exact.

Le sénateur Day : Ces sanctions, que la loi à l'étude fait augmenter, se trouvaient déjà dans le projet de loi C-19 il y a quatre ans. C'est bien ce que vous avez affirmé?

M. Woolford : C'est exact.

Le sénateur Day : Ce projet de loi est mort au *Feuilleton*, comme nous le disions tout à l'heure. Aviez-vous alors exprimé vos réserves?

M. Woolford : Absolument.

Le sénateur Day : Malgré tout, les sanctions administratives pécuniaires se trouvent toujours dans la loi; c'est exact?

M. Woolford : Oui. À l'époque où les audiences ont eu lieu, nous avons présenté nos réserves à la Chambre des communes et les avons rendues publiques. J'en remettrai volontiers une copie aux membres du comité, dans les deux langues officielles.

Le sénateur Day : Oui, s'il vous plaît. Remettez-les à notre greffière, qui nous les distribuera.

M. Woolford : Je crois qu'il serait utile que vous preniez aussi connaissance de la réponse de la commissaire. Mme Scott a comparu peu de temps après nous pour donner la réponse du bureau, alors je vous suggère de vous adresser à ses collaborateurs pour obtenir une copie de sa déclaration. De mon côté, je m'engage à vous faire parvenir nos commentaires.

Le sénateur Day : Je vous remercie. Êtes-vous du même avis que la Chambre de commerce du Canada, et croyez-vous aussi qu'il aurait mieux valu tenir des consultations avant que la loi soit présentée ou adoptée?

M. Woolford : C'est aussi notre avis.

Le sénateur Day : Mes prochaines questions s'adressent à Mme George et à M. Addy.

Vous, monsieur Addy : je dois dire que vos commentaires concernant les portions du projet de loi C-10 qui portaient sur Investissement Canada étaient les bienvenus, et Dieu sait qu'il y en avait beaucoup. Le comité doit se pencher sur l'une des parties du projet de loi C-10, c'est-à-dire sur la partie 12 sur un total de 15, mais sachez que nous ne sommes pas le seul comité à l'œuvre, et que toutes les parties du projet de loi seront étudiées par le Sénat à un moment ou un autre. Vos commentaires nous ont été des plus utiles, et j'en prends bonne note.

J'aimerais également avoir des précisions sur ce que vous avez dit à propos de la surveillance. Vous avez dit qu'il y avait beaucoup de pouvoirs discrétionnaires, mais peu de surveillance. Vous avez également dit qu'il n'y avait pas de suivi en continu.

J'aimerais savoir, par rapport à ce qui se fait ailleurs, est-ce que cette responsabilité serait ici partagée entre plusieurs instances — vous avez parlé du SCRS et du Comité de surveillance des

review body, an oversight body — or would this be a parliamentary oversight group? Can you share examples from other jurisdictions for types of oversight?

Mr. Addy: For instance, the U.S. officials have to appear before Senate committees annually. I am not familiar enough with it to know how much detail they go into in reviewing, how the resources were allocated and how the priorities were established by the agency.

I do not know what the right model is. With the amount of discretion expanded by these amendments, I am increasingly concerned. I do not know whether that concern is a function of age, mellowing or getting crustier. I have been a lawyer, been at the agency, been in business and then I came back to law, so I am concerned about the economic costs associated with the exercise of discretion in a law enforcement agency like the Competition Bureau, where no one is looking over their shoulder. I do not know what the model is today but when I was there, I would dialogue annually only with the deputy minister of the department on the budget. After that, it was all up to me and I could do what I wanted. Yes, I liked it when I was there; I am the first to admit that. Having grown older, and hopefully wiser, I see an accountability gap.

Senator Day: Do you share the concern that bringing in this legislation at a time of serious economic downturn and a possible chill in business as part of a stimulus package to get the economy going is poorly timed? Do you believe that such stimulus will be achieved with this legislation?

Ms. George: As you mentioned, the budget bill had many components to it. While the broad purpose of the budget was stimulus, some components slipped in might be considered housekeeping elements that the government would have had difficulty putting in through the normal process. This would be one of them.

Senator Day: Absolutely.

[*Translation*]

Senator Hervieux-Payette: I do not think that a few questions in French would be ill-advised.

In English, we often talk about "guidelines" and refer to consultation on the guidelines. In French, we say "directives." It seemed that having a role that can change depending on who the administrator is is not at all useful.

activités de renseignements de sécurité, qui est un organisme indépendant de surveillance — ou est-ce qu'elle serait confiée à un groupe de surveillance parlementaire? Pouvez-vous nous donner des exemples de ce qui se fait ailleurs?

M. Addy : Par exemple, les fonctionnaires du gouvernement américain doivent comparaître chaque année devant divers comités du Sénat. Je ne connais pas assez bien le processus pour savoir jusqu'où va cet examen, ni la manière dont les ressources sont affectées ou dont l'organisme établit les priorités.

Je n'ai pas la prétention de pouvoir vous dire quel modèle il faudrait suivre. Sauf qu'à voir l'étendue des pouvoirs discrétionnaires découlant des modifications, je suis de plus en plus inquiet. Peut-être est-ce parce que je me fais vieux, que je ramollis ou au contraire que je m'endurcis. J'ai été avocat, j'ai travaillé au bureau, j'ai été en affaires puis je suis revenu au droit, alors je m'inquiète des coûts économiques associés à l'exercice de pouvoirs discrétionnaires dans un organisme d'application de la loi comme le Bureau de la concurrence, où les personnes qui les exercent ne sont surveillées par personne d'autre. Je n'ai aucune idée de la manière dont les choses fonctionnent aujourd'hui, mais lorsque j'étais au bureau, je rendais compte de mon budget une fois par année au sous-ministre, et seulement à lui. Après cela, j'avais carte blanche et je pouvais faire ce que je voulais. Bien sûr que c'est une façon de faire qui me plaisait, je suis le premier à l'admettre. Mais maintenant que j'ai grandi en âge, et aussi en sagesse, du moins je l'espère, elle me semble poser problème du point de vue de la responsabilisation.

Le sénateur Day : Estimez-vous aussi que le moment était mal choisi pour adopter cette loi, alors que nous traversons une grave crise économique et que nous connaîtrons possiblement un ralentissement des activités commerciales, et alors même qu'elle devait faire partie d'un train de mesures visant à stimuler l'économie? Selon vous, est-ce que la loi réussira oui ou non à stimuler l'économie?

Mme George : Comme vous l'avez dit vous-même, le projet de loi sur le budget comptait de nombreuses parties. Même si, dans l'ensemble, le budget visait à stimuler l'économie, certains éléments d'ordre administratif, que le gouvernement aurait eu du mal à faire passer en temps normal, ont peut-être pu s'y glisser. Je crois que nous en avons ici un bon exemple.

Le sénateur Day : Tout à fait d'accord.

[*Français*]

Le sénateur Hervieux-Payette : Je pense que quelques questions en français ne sont pas malavisées.

On a utilisé souvent le mot « guidelines «, la « consultation sur les guidelines ». En français on dit « les directives «. On semblait penser que c'était nécessairement pour avoir un rôle qui faisait que cela pouvait changer selon la personne qui administrait et que cela ne clarifiait rien.

I am speaking as a lawmaker, on behalf of those who pass laws. The regulations committee is examining the regulations to ensure they are consistent with the act. Guidelines come after regulations and are often regulations in disguise.

I would like to hear your opinion on that because guidelines, whether they come from the Office of the Superintendent of Financial Institutions or not, are usually pretty important building blocks. And when acts are enforced, guidelines are applied to the letter; they are very specific.

I would argue that they are more binding than not. I would like to know what advice you would give the government on this matter, which I believe can go even farther than the act.

Mr. Addy: That is why I suggested creating an administrative council that could provide a kind of oversight. That oversight could be carried out annually by your committee, by other parliamentary committees or by other institutions.

You asked whether consultations were held on all aspects of the act, and the answer is no. In terms of the changes to merger measures and to new powers for the issuing of information requests, the suggestion was raised and included in the report prepared by Mr. Wilson and his colleagues. The idea was not put to debate, however, and I would even say that it was not submitted to the panel during the hearings.

The first time the public heard about the idea was when it appeared in the final report. I recognize that consultations were held on the changes to the conspiracy provision, and, as Mr. Woolford mentioned, it was the subject of much debate, but no consensus was reached.

The guidelines are in no way binding upon the bureau. And that is why I think we need to develop a review mechanism to determine whether the guidelines were respected or not.

As for the merger measure, I would like to know how many second requests were made and how much the measure cost? That is the kind of issue we should consider at some point. I leave it to you to find an appropriate forum for that.

[*English*]

Senator Hervieux-Payette: Mr. Woolford, you have a legal opinion. Could you share it with us? It might help us to understand the full scope of this bill.

[*Translation*]

Mr. Woolford: As I told Senator Day, I am very happy to do that for you.

Senator Hervieux-Payette: The clerk will be pleased to receive it. I have no other questions.

Je parle en tant que législateur, au nom de ceux qui adoptent la loi. Au sein du Comité de la réglementation, on révise la réglementation afin qu'elle soit en accord avec la loi. Et les directives arrivent après la réglementation et souvent ce sont des règlements déguisés.

J'aimerais connaître vos opinions à ce sujet parce que les manuels de directives, qu'ils proviennent du Bureau de l'inspecteur des institutions financières ou autres, sont généralement des briques assez importantes. Et lors de l'administration de lois, la directive est appliquée à la lettre, elle est très spécifique.

Je serais plutôt d'avis que c'est plus contraignant que ce soit moins contraignant. J'aimerais savoir comment vous conseilleriez le gouvernement sur cette question qui, à mon avis, peut aller encore plus loin que la loi ?

M. Addy : C'est pourquoi j'ai suggéré la création d'un conseil administratif qui puisse faire un genre de surveillance. Cette surveillance pourrait se faire annuellement par votre comité, par d'autres comités parlementaires ou par d'autres institutions.

Vous avez demandé s'il y a eu des consultations sur tous les éléments de la loi et la réponse à votre question c'est non. Quand on parle des changements apportés aux mesures de fusionnement et aux nouveaux pouvoirs d'émission d'une demande d'information, cette suggestion a été soulevée et incluse dans le rapport de M. Wilson et ses collègues. Mais l'idée n'a pas fait l'objet de débats. Je dirais même que l'idée n'a pas été déposée devant le panel pendant les audiences.

La première fois que le public a pris connaissance de cette idée, c'est quand elle est sortie dans le rapport final. J'admets qu'il y a eu des consultations sur les changements à la Loi sur le complot, et comme M. Woolford l'a mentionné, il y a eu beaucoup de débats là-dessus et il n'y a pas de consensus.

En ce qui concerne les lignes directrices, elles ne lient pas le bureau d'aucune façon. Et, à mon avis, c'est pour cela qu'on doit développer un mécanisme de vérification à savoir si les lignes directrices ont été suivies.

En ce qui concerne la mesure des fusionnements, j'aimerais savoir combien de «second requests « ont été soumises et combien a coûté cette mesure? C'est le genre de question qu'on devrait trancher à un moment donné. Je vous laisse le soin de trouver le bon forum pour le faire.

[*Traduction*]

Le sénateur Hervieux-Payette : Monsieur Woolford, vous avez émis un avis juridique. Pouvez-vous nous en communiquer la teneur? Vous pourriez ainsi nous aider à bien comprendre la portée véritable du projet de loi.

[*Français*]

M. Woolford : Comme je l'ai dit au sénateur Day, il me fait grand plaisir de le faire pour vous.

Le sénateur Hervieux-Payette : Madame le greffier le recevra avec plaisir. Je n'ai pas d'autres questions.

[*English*]

The Chair: We are dealing with a law, and we all have to obey the law. I understand that you have concerns. Mr. Addy, you suggested that we consider recommending the establishment of an oversight mechanism or institution. I am concerned about that for a couple of reasons. First, it takes time; and second, it is another layer of bureaucracy and expense.

Can you think of an existing institution that could play that role? Is there another mechanism that you or we could recommend? For example, perhaps in one or two years the Competition Bureau and representatives such as yourselves could come together to assess how the law has affected you in that period.

Mr. Addy: I do not know what the perfect tool would be. My concern is that we do not have a tool, whether it would be this committee advising people that you will invite the commissioner back next year and ask her to explain what happened with respect to the various issues. That might be useful and would be a start. Whether it is a perfect mechanism, I do not know, but we do not do that now.

The Chair: We will not let perfection destroy good. If it could be useful, we might consider it.

Senator Harb: I have a comment based on the presentations by the Canadian Chamber of Commerce, the Canadian Bar Association, and the Canadian Real Estate Association.

I am beginning to feel that because this subject matter was referred to the Senate Banking Committee for study, perhaps we should not rush it back. We should ensure that tangible and legitimate amendments to it are proposed. To that extent, the challenge of the Canadian Chamber of Commerce and other agencies and organizations is to bring forward suggested amendments so that we can take them to the full Senate and respond to the will of the people. Both the Canadian Real Estate Association and the Canadian Chamber of Commerce raised the same point. For example, two real estate agents who make referrals are perceived to be criminals under the act. I recommend that we consider amendments suggested by these organizations.

The Chair: I remind senators that we have a deadline of June 11. We will hear from witnesses at the meeting tomorrow, which Senator Hervieux-Payette will have the pleasure of chairing.

I thank the witnesses for their appearance this afternoon.

(The committee adjourned.)

[*Traduction*]

Le président : Il ne faut pas oublier que nous parlons ici d'une loi, et que tout le monde doit se conformer à la loi. Vous avez des réserves, et je le comprends. Monsieur Addy, vous avez suggéré que l'on recommande la création d'un mécanisme ou d'une institution de surveillance. Je ne suis pas convaincu, et je m'explique. D'abord, ce type de processus prend beaucoup de temps; ensuite, on ne ferait qu'ajouter une autre couche à la bureaucratie et une autre série de dépenses.

N'y a-t-il pas déjà une institution qui pourrait jouer ce rôle? Y a-t-il un autre mécanisme que vous pourriez ou que nous pourrions recommander? Par exemple, est-ce que, dans un an ou deux, le Bureau de la concurrence et divers représentants du milieu, comme vous, ne pourriez pas vous rassembler et évaluer les répercussions qu'a eues la loi pendant cette période?

M. Addy : Je ne sais pas à quoi pourrait ressembler l'outil parfait. Je m'inquiète seulement du fait que nous n'avons pas d'outil du tout. Est-ce que votre comité ne pourrait pas annoncer qu'il va se réunir de nouveau dans un an pour demander à la commissaire de faire le point sur les différents enjeux abordés? Ce serait déjà un bon départ. Je ne sais pas s'il s'agirait du mécanisme parfait, mais pour le moment, on ne fait rien d'autre.

Le président : Soyez sans crainte, nous ne laisserons pas le mieux être l'ennemi du bien. Si nous pouvons être utiles à quelque chose, nous verrons ce que nous pouvons faire.

Le sénateur Harb : Mon commentaire fait suite aux exposés de la Chambre de commerce du Canada, de l'Association du Barreau canadien et de l'Association canadienne de l'immeuble.

Je commence à croire que, comme la question a été renvoyée au Comité sénatorial des banques, peut-être devrions-nous prendre le temps qu'il faut pour l'étudier à fond. Nous devrions prendre le temps de nous assurer que les amendements qui sont proposés sont concrets et légitimes. Dans cette optique, le défi de la Chambre de commerce du Canada et des autres organismes consistera à proposer des amendements que nous pourrons présenter à notre tour au Sénat et pour donner suite à la volonté de la population. L'Association canadienne de l'immeuble et la Chambre de commerce du Canada ont soulevé le même point et donné le même exemple. Ainsi, aux termes de la loi, deux agents immobiliers qui se donneraient l'un l'autre en référence seraient considérés comme des criminels. Je recommande que nous étudiions les amendements proposés par ces organismes.

Le président : Je rappelle au comité que nous avons seulement jusqu'au 11 juin. Nous entendrons d'autres témoins lors de la séance de demain, que le sénateur Hervieux-Payette aura le plaisir de présider.

Je remercie les témoins d'avoir comparu cet après-midi.

(La séance est levée.)

OTTAWA, Thursday, May 14, 2009

The Standing Senate Committee on Banking, Trade and Commerce met this day at 10:30 a.m. to examine those elements dealing with the Competition Act (Part 12) contained in Bill C-10, the Budget Implementation Act, 2009.

Senator Céline Hervieux-Payette (Deputy Chair) in the chair.

[*Translation*]

The Vice-Chair: The Standing Senate Committee on Banking, Trade and Commerce is examining those elements dealing with the Competition Act contained in Bill C-10, the Budget Implementation Act, 2009. The committee has a mandate to examine the changes to the Competition Act arising from Bill C-10 as of March 12, 2009, the very same day on which the Governor General gave the bill Royal Assent.

[*English*]

Among other things, Bill C-10 changed the Competition Act to include new information disclosure requirements for large mergers, an expanded definition of bid-rigging and amended penalty provisions that are expected to increase consumer protection from misleading advertising and deceptive marketing practices.

[*Translation*]

I am pleased to welcome today representatives of the Canadian Bar Association to discuss the changes to the Competition Act.

[*English*]

John D. Bodrug, Chair, National Competition Law Section; Paul Collins, Vice-Chair, Enforcement, National Competition Law Section; Janet Bolton, Chair, Legislation and Competition Policy Committee, National Competition Law Section; and Omar Wakil, Chair, Mergers Committee, National Competition Law Section.

[*Translation*]

Kindly proceed with your presentations.

[*English*]

John D. Bodrug, Chair, National Competition Law Section, Canadian Bar Association: Thank you. We appreciate the opportunity to appear before the committee today in relation to the study of the Competition Act. I do not think I need to give this committee too much background on the Canadian Bar Association, CBA; however, the National Competition Law Section is one of the most active sections in the CBA. We have about 1,500 members.

OTTAWA, le jeudi 14 mai 2009

Le Comité sénatorial permanent des banques et du Commerce se réunit aujourd'hui à 10 h 30 pour étudier les éléments concernant la Loi sur la concurrence (Partie 12) contenu dans le projet de loi C-10, Loi d'exécution du budget de 2009.

Le sénateur Céline Hervieux-Payette (*vice-présidente*) occupe le fauteuil.

[*Français*]

La vice-présidente : Le Comité sénatorial permanent des banques et du commerce se penche sur les éléments concernant la Loi sur la concurrence contenu dans le projet de loi C-10, Loi d'exécution du Budget de 2009. Le comité a été autorisé à étudier les changements à la Loi sur la concurrence instauré par le projet de loi C-10, le 12 mars 2009, la journée même où la gouverneure générale lui a accordé la sanction royale.

[*Traduction*]

Entre autres choses, le projet de loi C-10 a modifié la Loi sur la concurrence en y ajoutant de nouvelles exigences en matière de divulgation de renseignements pour les grandes fusions, en élargissant la définition du trucage d'offres et en modifiant des dispositions relatives aux pénalités dans le but d'accroître la protection des consommateurs contre la publicité mensongère et les pratiques de commercialisation trompeuses.

[*Français*]

Pour discuter des changements à la Loi sur la concurrence, il me fait plaisir d'accueillir aujourd'hui de l'Association du Barreau canadien.

[*Traduction*]

John D. Bodrug, président, Section nationale du droit de la concurrence; Paul Collins, vice-président, Section nationale du droit de la concurrence; Janet Bolton, présidente, comité de la législation et des politiques, Section nationale du droit de la concurrence; et Omar Wakil, président, comité de fusion, Section nationale du droit de la concurrence.

[*Français*]

Je vous invite à procéder à vos présentations.

[*Traduction*]

John D. Bodrug, président, Section nationale du droit de la concurrence, Association du Barreau canadien : Je vous remercie. Nous apprécions l'occasion qui nous est donnée de comparaître devant le comité aujourd'hui dans le cadre de l'étude de la Loi sur la concurrence. Je ne pense pas avoir besoin d'exposer longuement au comité les antécédents de l'Association du Barreau canadien, l'ABC, cependant, la Section nationale du droit de la concurrence est l'une des sections de l'ABC les plus actives. Nous avons 1 500 membres.

I wanted to thank the Senate and commend the committee on its further study of the Competition Act amendments contained in Bill C-10. The amendments are far-reaching and will affect many Canadian businesses, both large and small.

We have submitted some fairly extensive written comments, so we will try to keep our initial comments brief.

The National Competition Law Section supported some of the amendments to the Competition Act in Bill C-10; we expressed reservations about others and opposed some. In our limited time today, we do not intend to cry over spilled milk or try to revisit the basic principles underlying the amendments that were passed with Bill C-10. We would like to focus on two areas where we believe that additional amendments would assist in both achieving the intended goals of Bill C-10 with respect to the Competition Act and provide some needed certainty for Canadian businesses.

Mr. Collins and Mr. Wakil will talk about some aspects of merger review. Ms. Bolton and I will discuss the new section 45 offence for agreements among competitors and some proposed amendments that we think would help to relieve some of the significant uncertainty created by the new law.

Turning first to the criminal offence for agreements among competitors, one of the key elements of the amendments package was to repeal the existing offence for agreements that unduly lessen competition and replace it with a new per se offence — per se as a legal term — an offence making it illegal for competitors to agree to fix price, fix or limit production or allocate markets, regardless of whether there is any adverse effect on competition. The prohibition applies equally to large and small firms, even small businesses that could not possibly have any impact on market prices.

There is a defence in the new section 45, and that section comes into effect next March. There will be a defence for agreements that are ancillary to and reasonably necessary for a larger or separate agreement that in itself does not violate the section. However, it remains to be seen how the courts will interpret this defence.

Last Friday, Competition Bureau Canada released draft guidelines on how the bureau will apply the new section 45 offence, as well as how they will apply new provisions relating to non-criminal routes to challenging agreements among competitors. We commend the bureau for these efforts. While the guidelines are not binding on the bureau, we believe that the bureau's guidelines will provide Canadian businesses with a significant degree of certainty about when the bureau will pursue criminal charges and seek to put people in jail.

Je tenais à remercier le Sénat et le féliciter d'avoir entrepris cette étude approfondie des modifications de la Loi sur la concurrence que renferme le projet de loi C-10. Ces modifications ont une profonde portée et toucheront bien des entreprises canadiennes, petites et grandes.

Nous avons soumis d'assez longs commentaires par écrit, alors nous nous efforcerons d'abréger nos observations préliminaires.

La Section nationale du droit de la concurrence a appuyé certaines des modifications à la Loi sur la concurrence que renferme le projet de loi C-10; nous avons exprimé des réserves relativement à d'autres et nous sommes opposés à d'autres encore. Dans le peu de temps que nous avons aujourd'hui, nous n'avons aucune intention de pleurer sur les pots cassés ni d'essayer de revenir sur les principes fondamentaux sur lesquels s'appuient les modifications qui ont été adoptées avec le projet de loi C-10. Nous voudrions nous concentrer sur deux aspects où nous pensons que des modifications additionnelles non seulement contribueraient à l'atteinte des objectifs que vise le projet de loi C-10 relativement à la Loi de la concurrence, mais aussi comporteraient un certain degré de certitude dont ont besoin les entreprises canadiennes.

MM. Collins et Wakil parleront de certains éléments de l'examen des fusions. Mme Bolton et moi-même discuterons de la nouvelle infraction, à l'article 45, relativement aux ententes entre concurrents et de certaines modifications proposées qui, selon nous, contribueraient à atténuer en partie l'énorme malaise que suscite la nouvelle loi.

Parlons d'abord de l'infraction criminelle constituée par les ententes entre compétiteurs. L'un des principaux éléments de la série de modifications visait à abroger l'infraction actuelle pour les ententes qui limitent la concurrence et la remplacer par une nouvelle infraction *per se* — en termes juridiques — selon laquelle il est illégal pour les compétiteurs de convenir de fixer un prix, de fixer ou limiter la production ou d'octroyer des marchés, que cela ait ou non un effet défavorable sur la concurrence. L'interdiction s'applique également aux petites et aux grandes entreprises, même aux petites entreprises qui ne pourraient avoir la moindre incidence sur les prix du marché.

Un motif de défense est prévu dans le nouvel article 45, lequel doit entrer en vigueur en mars prochain. Il y aura un motif de défense pour les ententes qui sont accessoires à une entente plus importante ou distincte, et qui sont raisonnablement nécessaires, lesquelles ententes ne sont pas en infraction avec l'article. Cependant, il reste à voir comment les tribunaux interpréteront ce motif de défense.

Vendredi dernier, le Bureau de la concurrence au Canada a diffusé une ébauche de lignes directrices sur la manière dont le bureau appliquera le nouvel article 45, ainsi que les nouvelles dispositions relatives aux moyens non criminels de remettre en cause des ententes entre concurrents. Nous félicitons le bureau pour ses efforts. Bien que les lignes directrices n'aient pas force exécutoire pour le bureau, nous estimons qu'elles apporteront aux entreprises canadiennes une importante mesure de certitude quant aux situations dans lesquelles le bureau intentera des poursuites criminelles dans le but d'obtenir des peines d'emprisonnement.

In particular, the draft guidelines clearly indicate that the bureau will pursue criminally only agreements that are so likely to harm competition and to have no pro-competitive benefits that they are deserving of prosecution without a detailed inquiry into their actual competitive effects.

The problem, in our view, is that the actual words of the new section 45 are capable of a much broader interpretation, and the draft guidelines do not attempt to define the outer limits of that prohibition. Even if they did, they are not binding on a court. The draft guidelines do not fully address the uncertainty of the business community about how the courts may interpret the new section 45, for example in civil actions, including class actions. We are seeing an increasing trend toward more litigation in Canada in class actions in the competition law context.

The violations of this new provision expose parties to actions for damages, potentially injunctions and parties seeking to avoid contracts on the basis of illegality, in addition to any risk of criminal exposure.

I will now turn it over to Ms. Bolton to talk about a few specific examples of the types of agreements that we think have uncertain legal status under the new law and some of the exemptions that we think might be helpful in addressing this.

[*Translation*]

Janet Bolton, Chair, Legislation and Competition Policy Committee, National Competition Law Section, Canadian Bar Association: I am pleased to be here today.

[*English*]

Let me first say that the CBA is entirely supportive of a legal regime that ensures that parties to hard-core cartels, price fixing and other agreements will be brought to justice. The amendments in Bill C-10 will make it easier for the government to prosecute cartels, and we believe that is a very positive development. However, we are concerned that the law will bring into it certain non-harmful agreements between competitors, including small businesses, at a time when our economy can least afford it.

As Mr. Bodrug has indicated, the CBA's concern arises from the language of the statute itself. The language is extremely broad, and it is not clear that the ancillary defence would be available in all instances to protect legitimate business arrangements.

For example, the new criminal prohibition captures any agreement between competitors to control or fix the price of a product. As you probably know, it is very common for small businesses to band together into buying groups in order to

Le projet de lignes directrices indique clairement en particulier que le bureau n'intentera de poursuites criminelles que lorsque les ententes seront si susceptibles de défavoriser la concurrence et de ne présenter aucun avantage pour elle qu'elles justifieraient une poursuite sans enquête approfondie sur leur incidence réelle sur la concurrence.

Le problème, à notre avis, c'est que le libellé actuel du nouvel article 45 pourrait donner lieu à une interprétation beaucoup plus élargie et le projet de lignes directrices ne cherche pas à définir les limites extérieures de cette interdiction. Même si elles le faisaient, ces lignes directrices n'ont aucune force exécutoire devant un tribunal. Elles n'éliminent pas tout à fait l'incertitude qui pèse dans le milieu des affaires relativement à l'interprétation que pourraient faire les tribunaux du nouvel article 45, par exemple dans des poursuites civiles, y compris les poursuites collectives. Nous constatons une tendance à la hausse du nombre de poursuites collectives au Canada dans le contexte du droit de la concurrence.

Les infractions à cette nouvelle disposition exposent les parties à des actions en dommages-intérêts, potentiellement à des injonctions et à ce que des parties cherchent à éviter les contrats pour motif d'illégalité, outre le risque d'exposition à des poursuites au criminel.

Je vais maintenant laisser la parole à Mme Bolton, qui donnera quelques exemples des types d'ententes dont, selon nous, le statut légal pourrait être rendu incertain par la nouvelle loi et certaines des exemptions qui, à notre avis, pourraient contribuer à corriger cela.

[*Français*]

Janet Bolton, présidente, Comité de la législation et des politiques, Section nationale du droit de la concurrence, Association du Barreau canadien : Il me fait plaisir d'être ici aujourd'hui.

[*Traduction*]

Permettez-moi de dire tout d'abord que l'ABC appuie pleinement le régime juridique qui permet de porter devant la justice les complices d'activités purement collusoires, de fixation des prix et d'autres ententes du genre. Les modifications au projet de loi C-10 faciliteront pour le gouvernement l'adoption de sanctions contre les ententes injustifiables, et pour nous, c'est très positif. Cependant, nous nous inquiétons que la loi favorise certains accords inoffensifs entre compétiteurs, y compris des petites entreprises, à une époque où notre économie peut le moins se le permettre.

Comme le disait M. Bodrug, les craintes de l'ABC découlent du libellé de la loi elle-même. Ce libellé est extrêmement vaste, et il n'est pas clair que la défense accessoire pourrait être invoquée dans tous les cas pour protéger les ententes commerciales parfaitement légitimes.

Par exemple, la nouvelle interdiction criminelle vise tout accord entre concurrents pour contrôler ou fixer le prix d'un produit. Comme vous le savez probablement, il est très courant que les petites entreprises fassent front commun et forment des

negotiate favourable terms and volume discounts with suppliers. This is really the only way that mom-and-pop type businesses are able to remain cost competitive with larger players.

However, a buying-group agreement is an agreement between competitors, and the agreement is directed at controlling the price of a product. While the bureau has indicated in its guidelines that it does not believe that section 45 extends to buying agreements, this is not clear from the language of the statute, and, ultimately, it will fall to the courts to determine this matter.

It is also not clear that the ancillary defence would apply in these circumstances because the very purpose of setting up a buying group is to control prices, and it may thus be alleged that the pricing arrangements are non-ancillary to a broader agreement.

A further category of agreements that may raise issues are agreements between a principal and an agent. I understand that the Canadian Real Estate Association has written to the committee to talk about principal-agent circumstances in the real estate industry that may raise issues. I will not get into that here, but I urge you to read their letter. We have given you examples of problematic agreements in our written materials. I will not go through them because I would like to focus on how we can remedy the situation.

The CBA is proposing that the uncertainty created by the new section 45 offence be resolved through further amendments to the Competition Act that would exempt certain types of agreements from the new criminal provision. I stress that these exemptions would only be for agreements clearly not intended to be caught by section 45.

Let me now highlight a few of the exemptions from our materials. First, we propose a principal-agent exemption to address the situation highlighted by the Canadian Real Estate Association.

Second, we propose two revisions to the law to address drafting deficiencies. Bill C-10 exempts agreements between corporate affiliates, for example a parent company and its wholly owned subsidiary. That exemption applies both to the criminal provision and to the civil regime for review of competitor agreements. It is settled law that there can be no conspiracy when all actors are commonly controlled because it takes two parties to agree, and you have only a single actor when there is common control. The problem with the exemption in Bill C-10 is that it relies on the definition of ''affiliate'' in the Competition Act, and that definition is narrow and technical. It would not apply to many types of business organizations, for example, trusts. The result could be that agreements among related parties could be criminally sanctioned in Canada. This is something that needs to be fixed.

consortiums d'achat dans le but de négocier des modalités favorables et des ristournes avec les fournisseurs. C'est vraiment le seul moyen pour les entreprises familiales de continuer d'avoir des prix concurrentiels avec ceux des plus grosses entreprises.

Cependant, une entente de consortium d'achat est une entente entre concurrents, et vise à contrôler le prix d'un produit. Bien que le bureau ait indiqué dans ses lignes directrices ne pas estimer que l'article 45 englobe les ententes d'achat, ce n'est pas clair dans le libellé de la loi et, au bout du compte, c'est aux tribunaux qu'il incombera d'en décider.

Il n'est pas clair, non plus, que la défense accessoire puisse être invoquée dans ces circonstances parce que le but même de la création d'un consortium d'achat est de contrôler les prix, et on pourrait donc alléguer que les ententes sur les prix ne sont pas accessoires à une entente plus vaste.

Une autre catégorie d'ententes qui pourraient poser problème est celle des ententes entre un mandat et un agent. Je sais que l'Association canadienne de l'immeuble a écrit au comité pour lui exposer la situation mandat-agent dans l'industrie immobilière, qui pourrait soulever des problèmes. Je n'entrerai pas dans les détails, mais je vous incite à lire cette lettre. Nous vous avons donné des exemples d'ententes problématiques dans les documents que nous vous avons remis. Je n'en parlerai pas parce que je préfère me concentrer sur les moyens de remédier à la situation.

L'ABC propose de résoudre l'incertitude créée par le nouvel article 45 au moyen d'autres modifications à la Loi sur la concurrence qui pourraient exempter certains types d'ententes des nouvelles dispositions criminelles. J'insiste sur le fait que ces exemptions ne viseraient que les ententes dont il est clair qu'il n'avait pas été prévu qu'elles soient visées par l'article 45.

Permettez-moi maintenant d'expliquer certaines des exemptions que nous proposons dans nos documents. Tout d'abord, nous proposons une exemption mandat-agent pour régler la situation que décrit l'Association canadienne de l'immeuble.

Deuxièmement, nous proposons deux modifications à la loi pour corriger des lacunes du libellé. Le projet de loi C-10 exempte les ententes conclues entre les sociétés affiliées, par exemple une compagnie parente et sa filiale en toute propriété. Cette exemption s'applique à la fois à la disposition criminelle et au régime civil relativement à l'examen des ententes entre concurrents. Selon un principe juridique déjà établi, il ne peut y avoir complot quand tous les acteurs sont sous contrôle commun parce qu'il faut deux parties pour conclure une entente, et il n'y en a qu'une dans un cas de contrôle commun. Le problème, avec l'exemption qu'énonce le projet de loi C-10, c'est que celle-ci est fondée sur la définition de « filiale » dans la Loi sur la concurrence, et cette définition est étroite et technique. Elle ne s'appliquerait pas à bien des types d'organisations, dont les fiducies. Il pourrait en découler des sanctions criminelles contre les ententes entre parties apparentées. C'est quelque chose qu'il faut corriger.

It is also settled law that where a regulator requires or authorizes competitors to enter into an agreement, that agreement is exempt from the Competition Act. In the relatively distant past, there were a number of challenges to the courts from provincial agricultural marketing boards. It was alleged they were illegal conspiracies. The boards were, and in many cases still are, controlled by groups of producers — competitors who jointly set prices for agricultural products as part of our supply-management scheme. The courts, however, found that because the boards were acting pursuant to valid regulation, the Competition Act did not apply. The case law established what is called the regulated conduct defence, or RCD. In Bill C-10, Parliament has attempted to codify the RCD. However, there is a problem with the drafting. Section 45(7) adopts the rule as established in the case law. Unfortunately, in a recent case, the Supreme Court of Canada suggested that the defence only applies where the Competition Act language provides ''leeway'' — that is the word they used — for provincial regulation. The courts said that the words ''undue lessening of competition'' provide such leeway.

However, as Mr. Bodrug stated, Bill C-10 removes the "undue lessening of competition" language in section 45. As a result, it is possible that a court would conclude that provincially regulated conduct, including aspects of our agricultural supply-management system, is no longer protected from the application of the Competition Act. This is a drafting problem. I do not think this is what was intended, and it needs to be fixed.

We have also submitted in our written materials and in other contexts that the RCD should be a defence more broadly. In Bill C-10, it should have been added to new section 90.1, the civil competitor agreement review provision.

In our submission, we have also proposed a number of other general and specific exemptions, including the power to prevent block exemptions. Exemptions would provide a safety valve in what could otherwise be an inflexible regime. The power to grant exemptions would be faster and more efficient than having to go back to Parliament to deal with unintended consequences of the criminal regime for competitor agreements.

I want to stress that the list we have given you is preliminary. We, as the National Competition Law Section, are just beginning to debate the details of an exemption regime but think it is something that merits further thought and discussion. Thank you for your interest and your time. I will now ask Mr. Wakil and Mr. Collins to continue the presentation.

Selon un autre principe juridique établi, lorsqu'une instance de réglementation exige ou autorise des concurrents à conclure une entente, celle-ci est exemptée des dispositions de la Loi sur la concurrence. Dans un passé relativement lointain, des commissions de commercialisation agricole ont contesté devant les tribunaux à diverses reprises. On alléguait de complots illégaux. Les commissions étaient, et dans bien des cas sont encore, sous le contrôle de groupes de producteurs — des concurrents qui, d'un commun accord, fixent les prix de produits agricoles dans le cadre d'un scénario de gestion de l'approvisionnement. Les tribunaux ont toutefois conclu que comme les commissions agissaient en vertu d'un règlement valide, la Loi sur la concurrence ne s'appliquait pas à ces ententes. La jurisprudence a établi ce qu'on appelle la défense fondée sur des actes réglementés. Dans le projet de loi C-10, le Parlement a tenté de codifier ce motif de défense. Le libellé pose pourtant problème. Le paragraphe 45(7) adopte la règle comme étant établie dans la jurisprudence. Malheureusement, dans un cas récent, la Cour suprême du Canada a laissé entendre que ce motif de défense ne s'applique que lorsque le libellé de la Loi sur la concurrence laisse une certaine marge de manœuvre pour la réglementation provinciale. Les tribunaux ont soutenu que les termes « réduction indue de la concurrence » donnaient cette marge de manœuvre.

Cependant, comme l'a dit M. Bodrug, le projet de loi C-10 supprime l'expression « réduction indue de la concurrence » à l'article 45. En conséquence, un tribunal pourrait conclure qu'une conduite réglementée par la province, y compris les éléments de notre système de gestion de l'approvisionnement agricole, n'est plus protégée par l'application de la Loi sur la concurrence. C'est un problème de formulation. Je ne pense pas que c'était le but visé, et il faudrait corriger cela.

Nous avons expliqué dans la documentation que nous avons remise et dans d'autres contextes que la défense fondée sur des actes réglementés devrait pouvoir être un motif de défense de façon plus générale. Dans le projet de loi C-10, ce motif aurait dû être ajouté au nouvel article 90.1, la disposition d'examen civil des ententes entre compétiteurs.

Dans notre documentation, nous proposons aussi plusieurs autres exemptions générales et spécifiques, notamment le pouvoir de prévenir les exemptions en bloc. Les exemptions constitueraient une espèce de valve de sûreté dans ce qui pourrait autrement être un régime inflexible. Le pouvoir d'octroyer des exemptions serait plus rapide et plus efficace que s'il fallait retourner devant le Parlement pour composer avec les conséquences imprévues du régime pénal pour les ententes entre concurrents.

Je tiens à souligner que la liste que nous vous avons remise est préliminaire. À la Section nationale du droit de la concurrence, nous ne faisons qu'amorcer notre débat sur les détails d'un régime d'exemptions, mais nous estimons que c'est quelque chose qui mérite une réflexion et une discussion plus approfondies. Nous vous remercions de votre intérêt et du temps que vous nous accordez. Je vais maintenant laisser MM. Wakil et Collins poursuivre la présentation.

[*Translation*]

The Deputy Chair: I am sorry to interrupt. I simply want to point out that we have until 11:15 a.m. Therefore, I suggest you limit the length of your presentations to ensure that senators have an opportunity to ask questions, if they so desire.

[*English*]

Paul Collins, Vice-Chair, (Enforcement) National Competition Law Section, Canadian Bar Association: I will be brief. For a few minutes, I will address the implications of Bill C-10 in terms of the Investment Canada Act, particularly one component of that act, namely, the introduction of a national security test and process for reviewing acquisitions by non-Canadians of Canadian businesses that involve potentially a national security test.

The Deputy Chair: If we enter into that aspect, we will not be dealing entirely with this question, which merits a lot of examination. You may proceed. I will not cut you off, but I think our committee would prefer to have a specific consultation on this bill after this one so that we can review the bill by all the stakeholders and Canadians in general.

There is also a time frame — that is, the question of the competition law that will take effect next year. We may be able to make corrections and reintroduce amendments in Parliament. I want to caution you about this.

Mr. Collins: I will take two minutes to register one principle point, namely, the CBA is not objecting to the concept of a national security test. The issue that we think is important is to remove the uncertainty that will exist going forward in terms of the current language of the statute. We are missing two things that are important to bring a greater sense of certainty. One is that there is an absence of a definition of national security. It is important to have that, although we appreciate that it is a fluid concept and one that may be difficult to articulate in the context of a statute.

In the alternative, the CBA would like to see a combination of two things: First, some guidelines so that the business community has a sense of what the government is considering would fall within the realm of national security and the weight of the various factors that would come into play; and, second, a process by which parties could, on a voluntary basis, approach Industry Canada and get some sort of clearance or sense of whether a transaction will be treated in any way, shape or form under a national security test, either in whole or in part.

The national security test is very broad. It would capture even small transactions and has incredible scope. In absence of those sorts of procedural protocols, the parties to a transaction are left with a great deal of uncertainty. My focus is on the process of implementing what this test is trying to achieve in a way that the

[*Français*]

La vice-présidente : Je suis désolée de vous interrompre. Je vous signale que nous avons jusqu'à 11 h 15. Par conséquent, je suggère que vous fassiez de brèves présentations afin de permettre aux sénateurs qui le désirent de vous poser des questions.

[*Traduction*]

Paul Collins, vice-président, (application), Section nationale du droit de la concurrence : Je serai bref. Dans les prochaines minutes, je vais parler des conséquences du projet de loi C-10 relativement à la Loi sur Investissement Canada, particulièrement un élément de cette loi, soit la création d'un critère relatif à la sécurité nationale et d'un processus pour passer en revue les achats, par des acheteurs qui ne sont pas Canadiens, d'entreprises canadiennes auxquels pourrait s'appliquer un critère relatif à la sécurité nationale.

La vice-présidente : Si nous devons parler de cet aspect, nous n'en traiterons pas en profondeur, comme il le mériterait. Vous pouvez poursuivre. Je ne vous interromprai pas, mais je pense que notre comité préférerait avoir une consultation axée uniquement sur ce projet de loi après ceci, pour que nous puissions faire examiner le projet de loi par tous les intervenants et les Canadiens en général.

Nous sommes aussi limités dans le temps — c'est-à-dire pour ce qui est de la Loi sur la concurrence qui doit entrer en vigueur l'année prochaine. Nous pourrions être en mesure d'apporter des corrections et de présenter de nouvelles modifications au Parlement. Je tiens à vous en prévenir.

M. Collins : Je prendrai deux minutes pour parler d'un élément de principe, c'est-à-dire que l'ABC ne s'oppose pas au concept d'un critère relatif à la sécurité nationale. Ce qui, pour nous, est important de supprimer, c'est l'incertitude qui naîtra dès lors du libellé actuel de la loi. Il y manque deux choses qui sont importantes pour favoriser plus de certitude. L'une est l'absence d'une définition de la sécurité nationale. Il serait important d'en avoir une, bien que nous comprenions que ce soit un concept fluide et qu'il puisse être difficile de l'exprimer dans le contexte d'une loi.

Autrement, l'ABC souhaiterait une combinaison de deux choses. Tout d'abord, certaines lignes directrices afin que la communauté des affaires comprenne ce qui, selon le gouvernement, relèverait du domaine de la sécurité nationale et le poids des divers facteurs qui pourraient entrer en jeu; et deuxièmement, un processus par lequel les parties pourraient, à titre volontaire, s'adresser à Industrie Canada pour obtenir une espèce d'autorisation ou savoir si une transaction sera traitée de quelque manière que ce soit sous l'angle du critère de la sécurité nationale, que ce soit en tout ou en partie.

Le critère relatif à la sécurité nationale est très vaste. Il capterait même les plus petites transactions et sa portée est immense. En l'absence de ce type de protocole de procédure, les parties à une transaction nagent dans l'incertitude. Ce sur quoi je me concentre, c'est le processus de mise en œuvre de ce que ce

business community can have certainty as they plan and try to consummate transactions.

I will leave it at that, in light of your remarks.

Omar Wakil, Chair, Mergers Committee, National Competition Law Section, Canadian Bar Association: I will also keep my remarks brief so that we can move to questions as soon as possible.

I propose to speak briefly about the changes to the mergers provisions of the Competition Act. As this committee knows, an important principle underlying the amendments was to implement the recommendations of the Wilson panel. Our section believes that a significant Wilson panel recommendation was not included in the budget amendments. The Wilson panel recommended, ''In addition to or in lieu of increasing financial thresholds,'' the increasing of financial thresholds for premerger notification, ''consideration should be given to creating more exemptions from merger notification for classes of merger transactions that do not raise competition concerns.'' The Wilson panel also said that such changes — and, it is certainly accurate — can be effected relatively expeditiously by prescribing regulations under section 124 of the Competition Act.

The National Competition Law Section believes that adding additional classes of exemption would enhance the efficiency and effectiveness of the merger review process in Canada. Parties to the exempted merger transactions would face lower transaction costs in the form of reduced legal and filing fees. The Competition Bureau, for its part, would not be required to divert time and resources in processing the clearance of a large number of non-problematic merger transactions.

The Competition Bureau would certainly continue to exercise and maintain jurisdiction over such transactions. It would simply mean that merger parties would not be required to go through a mandatory merger notification review process in all of these cases.

The competition law section believes that consideration ought to be given to adding to or expanding exemptions relating to real estate acquisitions, acquisitions in the upstream oil and gas sector, income trust conversions, sale and leaseback transactions, and corporate reorganizations where ultimate control remains unchanged.

In the past 20 years, the Competition Bureau has not challenged a merger involving any of these sorts of acquisitions. This clearly suggests, in our view, that these categories of merger transactions are largely non-problematic. The competition law section is not aware of any public statement by any member of the bureau that work is being done to consider or actually draft any additional exemptions as advised by the Wilson panel, and we believe it would be helpful if the committee would endorse the Wilson panel recommendation and recommend that additional exemptions for merger notification be added to the act.

critère vise à réaliser de manière à ce que la communauté des affaires puisse avoir une certaine assurance quand elle planifie et essaie de réaliser des transactions.

Je n'en dirai pas plus, compte tenu de vos commentaires.

Omar Wakil, président, Comité des fusions, Section nationale du droit de la concurrence, Association du Barreau canadien : Moi aussi, je serai bref, pour que nous puissions rapidement passer aux questions.

Je me propose de parler brièvement des modifications aux dispositions visant les fusions de la Loi sur la concurrence. Comme le comité le sait, l'un des grands objectifs des modifications était de mettre en œuvre les recommandations du comité Wilson. Une importante recommandation de ce comité, d'après notre section, a été laissée pour compte dans les modifications budgétaires. Ce comité a recommandé que « en plus de l'accroissement des seuils financiers, ou comme mesure de substitution », l'augmentation du seuil financier déclenchant l'émission d'un avis de fusion, « on pourrait examiner le bien-fondé de créer d'autres exceptions à l'avis de fusion pour les catégories de transactions qui ne soulèvent pas de préoccupations au titre de la concurrence ». Le comité Wilson a aussi ajouté que de tels changements — et c'est certainement juste —- peuvent être effectués assez facilement en prescrivant des règlements afférents à l'article 124 de la Loi sur la concurrence.

La Section nationale de la Loi sur la concurrence estime que l'ajout de catégories d'exemptions augmenterait l'efficacité et l'efficience du processus d'examen des fusions au Canada. Les frais juridiques et taxes de dépôt seraient réduits pour les parties aux transactions de fusion exemptées. Le Bureau de la concurrence, pour sa part, n'aurait pas à consacrer du temps et des ressources au traitement des autorisations d'un grand nombre de transactions de fusion qui ne posent aucun problème.

Le Bureau de la concurrence continuerait certainement d'exercer et de maintenir son autorité sur ces transactions. Cela signifierait seulement que les parties aux fusions n'auraient pas à passer par le processus obligatoire d'examen d'avis de fusion dans tous ces cas.

La section de la Loi sur la concurrence estime qu'il faudrait envisager d'ajouter ou d'élargir les exemptions relatives aux acquisitions immobilières, aux acquisitions dans le secteur en amont du pétrole et du gaz, aux conversions de fiducie du revenu, aux transactions de vente et de cession-bail, et aux réorganisations d'entreprises quand le contrôle ultime reste inchangé.

Depuis une vingtaine d'années, le Bureau de la concurrence n'a contesté aucune fusion portant sur aucun de ces types d'acquisition. Nous pouvons clairement en conclure, à notre avis, que ces catégories de transactions de fusion posent généralement peu de problèmes. La Section de la Loi sur la concurrence ne connaît aucune déclaration publique, d'aucun membre du bureau, voulant qu'on envisage des exemptions, ou même qu'on soit en train d'en rédiger, comme celles que propose le comité Wilson, et il nous semble qu'il serait utile que le comité appuie les recommandations de ce comité et recommande l'ajout d'autres exemptions dans la loi pour les avis de fusion.

Those are all of my remarks and all of the remarks of my colleagues. We would be pleased to take your questions now.

Senator Ringuette: I am pleased you are here today. You have raised a major flag in regard to the agriculture community. We all know that in the last three years the current government has gone through extensive measures to try to disband or dismantle the Canadian Wheat Board.

You have highlighted the amendments in Bill C-10 to the Competition Bureau and the issue that the exemption regime is not there. It is not in the guidelines either. This is a hypothetical question. In regard to the issue of abuse of competition, which is one of the issues, and price fixing, I want to know with your legal expertise if the Canadian Wheat Board could be subject to an offence, whether criminal or civil, under the amendments of Bill C-10. For instance, can the New Brunswick potato board be subject to a criminal investigation by the Competition Bureau, or the milk marketing board?

From my perspective so far, you have highlighted what I see as a major issue, especially when we look at the current World Trade Organization, WTO, negotiations. If we have that sort of legislation, it gives carte blanche to the government to say, based on the Competition Act, that they are not competitive. They are price fixing; by the quota part of production, they are inflating prices. That could be said. This is major.

Ms. Bolton: I agree this is potentially major. I do see this as more of a drafting error than an intent in regard to the criminal provision. The intent was to retain the defence. It is just the way it was drafted in light of the Supreme Court of Canada case. It creates the possibility that you can have two completely opposing interpretations of the same provision, one where the defence applies and one where the defence cannot exist in light of the jurisprudence. That is something that can be fixed.

I want to point out that the bureau has stated — and again, these guidelines are not binding — that it does not intend to go after regulated conduct. The other problem is that this statutory RCD is only in the criminal provision. Therefore, you could have an agriculture marketing board, under the amended law, hauled in front of the competition tribunal and asked to explain itself. It may be difficult in light of the regime for it to pass the scrutiny under the new section 90.1.

This is something that can be fixed with some relatively narrow amendments to the law. Those amendments would be in the spirit of what Parliament intended in the first place.

C'est là-dessus que je termine mes observations et celles de mes collègues. Nous répondrons maintenant volontiers à vos questions.

Le sénateur Ringuette : Je suis heureuse de vous voir ici aujourd'hui. Vous avez soulevé une grande problématique relativement à la communauté agricole. Nous savons tous que depuis trois ans, le gouvernement actuel s'évertue à défaire ou démanteler la Commission canadienne du blé.

Vous avez parlé des modifications au projet de loi C-10 relativement au Bureau de la concurrence et du problème de l'absence d'un régime d'exemption. Ce n'est pas non plus dans les lignes directrices. C'est une question théorique. En ce qui concerne la question de l'abus et la concurrence, qui est l'un des problèmes, et de la fixation de prix, j'aimerais savoir si, d'après votre expertise juridique, la Commission canadienne du blé pourrait faire l'objet de poursuites, que ce soit pénales ou au civil, en vertu des modifications au projet de loi C-10? Par exemple, est-ce que l'office des pommes de terre du Nouveau-Brunswick pourrait faire l'objet d'une enquête criminelle du Bureau de la concurrence, ou encore l'office de mise en marché du lait?

De mon point de vue jusqu'à maintenant, vous avez fait ressortir ce qui, selon moi, est un gros problème, surtout en regard des négociations actuelles de l'Organisation mondiale du commerce, l'OMC. Ce genre de loi donnerait carte blanche au gouvernement pour affirmer, en se fondant sur la Loi de la concurrence, qu'ils ne sont pas compétitifs. Ils fixent les prix; au moyen des quotas de production, ils gonflent les prix. On pourrait l'affirmer. C'est d'importance.

Mme Bolton : Je suis d'accord que ce pourrait être énorme. Je pense que c'est plus une erreur de formulation qu'un but en ce qui concerne l'infraction criminelle. L'objectif visé était de maintenir le motif de défense. C'est seulement la manière dont cela a été formulé à la lumière du cas dont a été saisie la Cour suprême du Canada. Cela crée la possibilité qu'il puisse y avoir deux interprétations diamétralement opposées de la même disposition, l'une voulant que le motif de défense est valable et l'autre voulant qu'il ne peut s'appliquer si on se fonde sur la jurisprudence. C'est quelque chose qui peut être corrigé.

J'aimerais souligner que le bureau a déclaré — et je le répète, ces lignes directrices n'ont pas force exécutoire — qu'il n'a aucune intention de s'en prendre à une conduite réglementée. L'autre problème, c'est que la défense fondée sur des actes réglementés n'est citée que dans la disposition criminelle. Il serait donc possible, en vertu de la loi modifiée, qu'une commission de commercialisation agricole se fasse traîner devant le Tribunal de la concurrence pour s'expliquer. Il peut être difficile, d'après le régime, de se sortir positivement de cet examen avec le nouvel article 90.1.

C'est quelque chose qui peut être corrigé avec des modifications relativement mineures à la loi. Ces modifications seraient dans l'esprit de ce que le Parlement recherchait pour commencer.

Senator Ringuette: Could you provide members of this committee with a proposed amendment to this specific issue?

Ms. Bolton: We could. We would take that as a take-away.

Senator Ringuette: I reiterate my concerns because of past actions of the current government. We cannot afford to have a window that could jeopardize our farming community.

Ms. Bolton: We would be happy to propose an exemption.

Mr. Bodrug: In addition to what Ms. Bolton said, the risk of the Competition Bureau actually prosecuting that conduct is low, but the ambiguity invites civil actions by private parties as well.

Senator Ringuette: That increases the risk in regard to discussion with world trade and especially with the free trade agreement we have with the U.S. and Mexico. The milk issue is a major one, as well as the derivatives of milk products. We are opening the door to many conflicts with our trading partners, in addition to putting a major uncertain situation in our farming communities. This is not the time to be doing this.

Senator Gerstein: Ms. Bolton, in your opening remarks, you referred to — and you seemed to be pleased — the principle of certainty that was exemplified by some of the areas of the act. If I then move to another comment you made about the non-harmful agreements, I am unclear as to the position you have as to the degree of certainty you are looking for as to who and how the lines are determined between what might be considered a non-harmful agreement and a harmful agreement. Could you clarify that for me, please?

Ms. Bolton: I will invite my colleagues to jump in as well. It is universally appreciated in the Competition Bureau that harmful agreements are what we call naked cartels: agreements entered into only for the purpose of fixing price, allocating markets or restricting outputs. Those are competition by universals. Unfortunately, it has become a "you know it when you see it" test.

We are saying that everything else should be viewed civilly. There is this civil position. The tribunal has the ability to look at other agreements, and we think anything else can be shifted into the civil track. If a problem exists, the tribunal can remedy that, but it is no longer a criminal matter. I think we would shift the line as far as we could toward confining the criminal provision to those hard-core, naked agreements.

Senator Gerstein: Thank you for that clarification.

Le sénateur Ringuette : Pourriez-vous remettre aux membres de ce comité un projet de modification pour régler ce problème particulier?

Mme Bolton : Certainement. Nous vous la ferons parvenir.

Le sénateur Ringuette : Je réitère les préoccupations que suscitent chez moi les actions passées de l'actuel gouvernement. Nous ne pouvons pas nous permettre d'ouvrir une fenêtre qui pourrait mettre en péril notre communauté agricole.

Mme Bolton : Nous proposerons volontiers une exemption.

M. Bodrug : Outre ce qu'a dit Mme Bolton, le risque que le Bureau de la concurrence intente des poursuites pour ce type de conduite est faible, mais l'ambigüité invite les poursuites au civil du côté privé aussi.

Le sénateur Ringuette : Ceci augmente le risque en regard des discussions concernant le commerce international, et particulièrement l'accord de libre-échange que nous avons conclu avec les États-Unis et le Mexique. Le problème du lait est énorme, ainsi que celui des produits dérivés du lait. Nous ouvrons la porte à de nombreux conflits avec nos partenaires commerciaux, en plus de créer une situation des plus incertaines dans nos communautés agricoles. Le moment est mal choisi pour agir ainsi.

Le sénateur Gerstein : Madame Bolton, dans vos observations, vous avez parlé — et vous sembliez heureuse — du principe de certitude illustré par certains éléments de la loi. Si je passe maintenant à un autre commentaire que vous avez fait sur les accords inoffensifs, je ne saisis pas très bien votre position sur le degré de certitude que vous recherchez quant à qui fixe les limites entre ce qui pourrait être considéré inoffensif et préjudiciable, et comment. Pourriez-vous m'éclairer?

Mme Bolton : J'inviterai mes collègues à répondre aussi. Il est universellement reconnu, au Bureau de la concurrence, que les accords préjudiciables sont ce que nous appelons des ententes caractérisées : les ententes sont conclues uniquement aux fins de fixation des prix, de répartition des marchés ou de limitation de la production. Ce sont des modes de concurrence universels. Malheureusement, c'est devenu le genre de chose qu'on ne sait que quand on les voit.

Selon nous, tout le reste devrait être vu sous l'angle civil. Il existe cette position civile. Le tribunal a la capacité d'examiner d'autres ententes, et nous pensons que tout le reste peut être intégré au processus civil. S'il y a problème, le tribunal peut y remédier, mais ce n'est plus un enjeu criminel. Je pense que nous devrions repousser autant que possible les limites de manière à confiner les dispositions criminelles aux ententes collusoires injustifiables.

Le sénateur Gerstein : Je vous remercie pour ces éclaircissements.

Senator Fox: I have two questions. The first one is to Mr. Collins, if I may. You raised your real concern about the fact that the words ''national security'' are not defined. In the absence of a definition, is it the minister who decides what national security is in a given case?

Mr. Collins: Yes, the minister would raise the question, and then it would go ultimately to the Governor-in-Council.

Senator Fox: Is there any way to challenge it? Is there is a difference between national security and national interest?

Mr. Collins: Yes. The standard test for matters not raising national security is whether a transaction is of net benefit to Canada. That is assessed against a number of statutory criteria. While there is some subjectivity to it, that process has worked reasonably well over the years, and there is a fairly well-accepted practice. National security opens up a lot of uncertainty as to how that will be assessed.

Senator Fox: How could you challenge it? Is it a minister's certificate, as in other areas where the minister determines there is a national security element because someone is trying to get into the country? Does this amount to another national-security certificate where the minister determines with his advisers that there is a question of national security here? Is there any possible appeal?

Mr. Collins: The way the process starts, as I understand it — and we are all in uncharted waters as to how it will play out — is that the question is raised. It is not as though the determination is made up front. The question is raised, and the parties have an ability to argue and make submissions as to why it should not be a concern, or, to the extent it is a concern, it is addressable through undertaking.

The fact that a transaction is labelled as one that raises national security issues does not mean it is fatal to the transaction, but it requires the parties to address that issue in some way. If the minister is not ultimately satisfied that it can be addressed, then he or she has the ability to prevent the transactions from occurring.

Senator Fox: Is your main concern that no guidelines exist as to what constitutes national security?

Mr. Collins: We all have a sense of what that might entail. Again, we appreciate that it is a difficult thing to codify in a statute.

The next thing we would look to is some sort of guidance, and while we appreciate that would not be binding, the business community would welcome that greatly. There is precedent for that in other jurisdictions, namely, in the United States under the Committee on Foreign Investment in the United States, CFIUS, rules where they have published a set of non-exhaustive points that could raise national security issues and also, importantly, establish a voluntary process whereby parties can get comfort

Le sénateur Fox : J'ai deux questions à vous poser. La première s'adresse à M. Collins, si vous voulez bien. Vous avez parlé des vives préoccupations que suscite chez vous le fait que l'expression « sécurité nationale » n'ait pas de définition. En l'absence d'une définition, est-ce le ministre qui décide de ce qu'est la sécurité nationale dans un cas particulier?

M. Collins : Oui, le ministre soulèverait la question, et elle serait acheminée en bout de ligne au gouverneur en conseil.

Le sénateur Fox : Y a-t-il moyen de contester le résultat? Y a-t-il une différence entre la sécurité nationale et l'intérêt national?

M. Collins : Oui. Le critère standard pour les questions qui ne touchent pas à la sécurité nationale est à savoir si la transaction présente un avantage net pour le Canada. C'est évalué en regard de plusieurs critères réglementaires. Bien qu'il soit empreint d'une certaine subjectivité, le processus a été raisonnablement efficace au fil des années, et c'est une pratique généralement assez bien acceptée. La manière dont sera évaluée la sécurité nationale suscite beaucoup d'incertitude.

Le sénateur Fox : Par quels moyens pourriez-vous en contester l'évaluation? Est-ce un certificat du ministre, comme dans d'autres domaines où le ministre décèle un élément de sécurité nationale parce que quelqu'un essaie d'entrer dans le pays? Est-ce que c'est la même chose qu'un autre certificat relatif à la sécurité nationale, où le ministre détermine avec ses conseillers que la sécurité nationale est en jeu? Est-ce qu'il y a possibilité d'appel?

M. Collins : À la façon dont fonctionne le processus, si je le comprends bien — et nous sommes tous ici en territoire peu connu en ce qui concerne le mode d'application — c'est que la question est soulevée. Ce n'est pas comme si c'est déterminé à l'avance. La question est soulevée, et les parties ont la possibilité d'argumenter et d'expliquer pourquoi ce ne devrait pas être un facteur de préoccupation ou, si c'en est un, il est possible de le régler au moyen de certaines mesures.

Le simple fait, pour une transaction, de soulever des questions de sécurité nationale ne lui sera pas nécessairement fatal. Il faudra simplement que les parties en cause prennent certaines dispositions. Si le ministre n'est pas convaincu que les difficultés peuvent être surmontées, il pourra alors bloquer la transaction.

Le sénateur Fox : Qu'est-ce qui vous inquiète alors? Le fait qu'il n'y ait pas de lignes directrices qui définissent ce qui constitue une question de sécurité nationale?

M. Collins : Nous en avons tous une bonne idée. Et nous sommes bien conscients qu'il peut s'agir d'un concept difficile à codifier dans une loi.

Nous aurions en fait besoin de directives, d'une sorte de manuel d'instruction. Même si nous savons que ces directives n'auraient pas force de loi, elles seraient tout de même vues d'un bon œil par le milieu des affaires. Ce genre de chose se fait déjà ailleurs. Je pense notamment au Comité sur les investissements étrangers, aux États-Unis, qui a publié une liste non exhaustive de points susceptibles de soulever des questions de sécurité nationale et qui, surtout, a créé un processus volontaire permettant aux

before a transaction is made public in that process to get some certainty that what they are about to embark on will not raise national security issues.

Finally, leaving it as open-ended as it is right now subjects parties to a frivolous or strategic behaviour by other parties who are not part of the transaction to try to frustrate a transaction or delay it for strategic reasons.

Senator Fox: Obviously, you have looked at the U.S. situation and the guidance they have on circumstances in which foreign investment can give rise to security concerns. Are you satisfied with the guidelines the U.S. developed? Are you saying those guidelines should be incorporated into Canadian practice?

Mr. Collins: This is a personal view. I do not think we should just adopt them. However, they are a good start. They are something we should look at carefully, but we should bring to the table views that are important to Canada as well, which may or may not correspond to what they have.

Senator Fox: I assume we are talking about situations where a foreign group would want to buy, as a random example, all of the potash-producing facilities in Canada. What other examples can you give me?

Mr. Collins: The ones that come to mind immediately are related to the military and defence, things of that nature.

We have heard discussed, in some consultations historically, that it also depends on the origin of the investment and who that investor is. For example, if an investor is U.S.-based, they may not raise national security issues, but in another jurisdiction, the same acquisition could. We appreciate that it is a fluid concept, and that is why guidance is important.

Senator Fox: Will the bar association be articulating the type of guidance rules they would like to see? Will your committee be producing that?

Mr. Collins: We would be pleased to do that. We have given it some thought. We have a subcommittee of the competition law section that focuses on the foreign investment review committee, so we would be pleased to come up with something.

Senator Fox: I am tempted to ask an opinion because I have a distinguished panel of competition lawyers in front of me, but I will refrain from that. Some of the members of the committee will understand where I am going with this.

On section 45, you say the following in your brief:

> Canadian businesses, both large and small, will continue to face significant uncertainty that could most effectively be relieved by statutory amendments. In particular, if an agreement between competitors — even small businesses

parties d'obtenir certaines assurances quant au risque que la transaction qu'elles se proposent de conclure pose problème à cet égard.

Enfin, si on ne définit pas mieux des balises à suivre, nous ouvrons tout grand la porte aux tiers qui, par des manœuvres stratégiques ou tout simplement frivoles, tenteraient de bloquer la transaction ou du moins de la retarder.

Le sénateur Fox : De toute évidence, vous avez étudié la situation aux États-Unis et pris connaissance des directives expliquant les circonstances dans lesquelles les investissements étrangers peuvent soulever des questions de sécurité. Que dites-vous des lignes directrices que vous avez consultées? Devraient-elles être intégrées aux pratiques canadiennes?

M. Collins : Je vous répondrai à titre personnel. Selon moi, on ne peut pas les reprendre telles quelles. Il s'agirait cependant d'un bon départ. Nous devrions certes les étudier soigneusement, mais il faudrait aussi faire en sorte qu'elles tiennent compte de la réalité canadienne, qui ne correspond pas toujours à ce qui se fait au sud de notre frontière.

Le sénateur Fox : J'imagine que vous voulez parler de situations où un groupe étranger voudrait acheter, pour citer un exemple au hasard, la totalité des installations de production de potasse du Canada. Auriez-vous d'autres exemples en tête?

M. Collins : À brûle-pourpoint, je pense immédiatement au matériel militaire et à la défense, à ce genre de choses.

Nous avons déjà entendu dire, lors de consultations antérieures, que l'origine des sommes investies et l'identité de l'investisseur entraient aussi en ligne de compte. Par exemple, si un investisseur avait son siège social aux États-Unis, la transaction ne soulèverait aucune question de sécurité nationale. Au contraire, si son siège social était situé ailleurs, la même transaction pourrait poser problème. Nous sommes conscients qu'il s'agit d'un concept flou, et c'est précisément là que les directives prennent toute leur importance.

Le sénateur Fox : Est-ce que l'Association du Barreau canadien compte produire des directives en ce sens? Est-ce que votre comité pourrait s'en charger?

M. Collins : Pourquoi pas. Nous y avons déjà pensé. Nous avons déjà un sous-comité, issu de la Section du droit de la concurrence, qui s'occupe des activités du Comité d'examen sur l'investissement étranger. Alors oui, nous pourrions certainement nous pencher sur la question.

Le sénateur Fox : Je suis bien tenté, ayant à ma disposition autant d'éminents spécialistes du droit de la concurrence, de leur demander un avis juridique, mais je vais me retenir. Certains de mes collègues comprendront probablement où je veux en venir.

Voici ce que dit votre mémoire à propos de l'article 45 :

> Tant les petites que les grandes entreprises canadiennes continueront à faire face à une incertitude de taille, laquelle pourrait facilement être efficacement éliminée par des modifications législatives. Par exemple, si un accord entre

> with no market power — contravenes the new section 45, the parties would be exposed to private actions . . . .

That seems to be a serious state of affairs. Is there a way, under this new Competition Act, for people who are in a commercial relationship with a large entity that exercises strong market power to get together to negotiate with that entity, let us say a duopoly in this case, without incurring the wrath of section 45? I am not sure I am clear.

Ms. Bolton: This is one of the areas where issues are possible. The competition bureau will probably not go after legitimate negotiations where parties are trying to negotiate against a larger player with considerable market power.

However, there certainly would be incentive, if that larger player did not want to deal with parties on a joint basis, for it to turn around and allege that you cannot negotiate jointly because that would be a breach of these provisions, and to try to challenge it that way.

Senator Oliver: You are all lawyers. The Canadian bar is made up of lawyers, and there are lawyers in the competition area. You would like to have a law that would make it easier for you to advise your clients on what would happen if they entered into a certain arrangement with other people with whom they are doing business.

Many statutes in Canada have regulations; many have directives; and others have guidelines. It is not surprising to find there are guidelines made pursuant to a statute or amendment to a bill.

The guidelines will, in fact, help lawyers to give advice to their clients as to when actions will likely be brought by the bureau. There is a lot of certainty, but if we hear the representations you have made today, one might get the impression that this law has been passed and received Royal Assent, and there is a huge amount of uncertainty. I do not think that is the case.

Some of the guidelines came out last Friday, and you have not had a chance to thoroughly study them, but I did not want to leave the impression that just because the bureau has come out with guidelines that that has muddied the waters and made things more difficult because I do not think that is the case.

My second question deals with exemptions. You, I think, would like to see many more exemptions to exempt all types of activity that might be caught in the web of competition, and you are basing it on what they are doing in other jurisdictions in Europe and in the United States. In your paper, under "Schedule B," for instance, you list a number of things, and I am wondering how far you want to go. You say:

> For example in the United States, there is a long list of statutory exemptions (e.g. for standards-setting organizations, agricultural marketing boards, air transport alliance agreements), a number of judicially developed

> concurrents — même entre des entreprises n'ayant aucune emprise sur le marché — contrevenait au nouvel article 45, les parties s'exposeraient à actions privées [...]

C'est grave, il me semble. La nouvelle Loi sur la concurrence permet-elle à une personne qui entretient des relations commerciales avec une grande entreprise qui a, de son côté, une grande emprise sur le marché, de négocier avec elle, disons pour le besoin de la cause qu'il s'agirait du duopole, sans encourir les foudres de l'article 45? Est-ce que je me fais bien comprendre?

Mme Bolton : C'est en effet l'un des aspects où il pourrait y avoir des problèmes. Selon toute vraisemblance, le Bureau de la concurrence ne s'en prendra pas aux négociations légitimes dont les parties tentent de s'allier contre un gros joueur ayant beaucoup d'emprise sur le marché.

J'imagine cependant une situation où le gros joueur en question, ne voulant pas négocier avec les autres parties réunies, serait tenté d'alléguer qu'il est illégal de négocier conjointement parce qu'il y a infraction aux dispositions à l'étude, et tenterait de contester leurs démarches.

Le sénateur Oliver : Vous êtes tous des avocats. L'Association du Barreau canadien est composée d'avocats, et il y a tout plein d'avocats qui travaillent dans le domaine de la concurrence. Vous souhaiteriez avoir une loi qui vous permettrait d'informer plus facilement vos clients de ce qui risque d'arriver s'ils concluent une entente avec des gens avec qui ils font déjà affaire.

Au Canada, beaucoup de lois sont assorties de règlements, de directives ou de lignes directrices. Il n'y a donc rien de surprenant à ce que des lignes directrices se rattachent à une loi ou à un amendement à un projet de loi.

Dans les faits, ces lignes directrices aideront les avocats à conseiller leurs clients quant aux démarches susceptibles d'attirer l'attention du bureau. Il y a beaucoup de certitudes, mais à vous entendre aujourd'hui, on pourrait croire que la loi à l'étude est déjà adoptée, qu'elle a déjà reçu la sanction royale, et qu'on nage en pleine incertitude. Je crois que c'est loin d'être le cas.

Une partie des lignes directrices n'a été rendue publique que vendredi dernier, et vous n'avez certes pas eu la chance de les étudier en profondeur, mais je m'en voudrais de vous laisser l'impression que, simplement parce que le bureau a publié des lignes directrices, nous nageons maintenant en eau trouble et que les choses sont maintenant rendues très compliquées, parce que je ne pense pas que ce soit le cas.

Ma deuxième question porte sur les exemptions. Vous aimeriez bien, du moins c'est ce que je pense, que l'on ajoute toutes sortes d'exemptions, pour que soient ainsi exclues différentes activités susceptibles de se prendre au filet de la législation sur la concurrence, et vous fondez vos demandes sur ce qui se fait ailleurs en Europe et aux États-Unis. L'annexe B de votre mémoire propose une série d'exemples, et je me demande jusqu'où vous voulez aller. On y lit :

> Par exemple, aux États-Unis, il y a une longue liste d'exceptions prévues par la loi (p. ex., pour les organisations de normalisation, les agences de commercialisation des produits agricoles et les accords

exemptions (e.g. baseball), and more than 100 years of jurisprudence interpreting the ''ancillary restraints'' doctrine.

Is that how far you want to go?

Mr. Bodrug: I certainly did not want to give the impression that we thought the bureau's guidelines muddied the water. We think those guidelines are very helpful and as far as the bureau could reasonably go. The problem is in civil actions.

Senator Oliver: The courts do not accept them as binding.

Mr. Bodrug: In some instances the bureau has changed its mind — and they are entitled to do that — and in other instances the courts have not necessarily followed the guidelines set out by the bureau. We are not saying that the world is about to end here, but we are trying to identify what we think is a real issue in terms of advising clients on a day-to-day basis.

Senator Oliver: You would like more certainty.

Mr. Bodrug: We have tried to identify some categories of agreements that we think are unambiguously not intended to be caught by the new legislation and would be helpful to provide certainty to Canadian businesses.

Senator Oliver: However, you know that Bill C-10 is now law; it has received Royal Assent and is now law.

Mr. Bodrug: Yes, except the provision we are talking about, section 45, does not come into effect until next March. Therefore, I believe we have is an opportunity to perhaps make some minor revisions. We think these are relatively minor revisions and in most cases consistent with the intent to deal with these actually. Maybe I am optimistic, but the budget bill went through pretty quickly too, so maybe there is an opportunity to address some of these points before March.

Ms. Bolton: In terms of how far we would want to go, because, as you can appreciate, things happen very quickly and this bill was passed, exemption is really something we have only just started to look at. The list we put together for our submission was based on input from our members over a two-week or three-week period. This is something we would have to look into it further.

I want to stress that the advantage of the exemption regime over just having the bureau guideline or even going to the bureau for advice on whether they would go after a particular agreement is that it would protect parties against civil actions. Competition civil actions, in particular class actions, have started to become quite commonplace in Canada, so it is definitely something that costs businesses.

d'alliance entre transporteurs aériens), un certain nombre d'exemptions élaborées par les tribunaux (p. ex., pour le baseball), et plus de 100 ans de jurisprudence portant sur l'interprétation de la doctrine des « restrictions accessoires ».

Souhaitez-vous aller jusque-là?

M. Bodrug : Chose certaine, nous ne voulons pas donner au comité l'impression que, selon nous, les lignes directrices du bureau nous amenaient en eau trouble. Ces lignes directrices nous seront très utiles et vont probablement aussi loin que le bureau peut raisonnablement aller. Nous nous inquiétons davantage des poursuites civiles.

Le sénateur Oliver : Vous savez que les tribunaux ne les reconnaissent pas comme exécutoires.

M. Bodrug : Il est arrivé que le bureau change d'avis — et c'est son droit — et il est arrivé aussi que les tribunaux ne suivent pas nécessairement les lignes directrices du bureau. Ce n'est pas la fin du monde, nous le savons bien, mais nous tentons de signaler ce qui constitue un véritable problème pour nous qui conseillons nos clients au quotidien.

Le sénateur Oliver : Vous aimeriez pouvoir vous appuyer sur davantage de certitudes.

M. Bodrug : Nous avons tenté de recenser les catégories d'ententes qui ne devraient jamais être visées par la nouvelle loi, ce qui nous aiderait à répondre aux entreprises canadiennes avec plus de certitude.

Le sénateur Oliver : Vous savez pourtant que le projet de loi C-10 a été adopté, qu'il a reçu la sanction royale et qu'il a maintenant force de loi.

M. Bodrug : Oui, sauf que la disposition dont nous parlons, l'article 45, n'entre pas en vigueur avant le mois de mars prochain. Je crois donc que nous pouvons encore y apporter quelques révisions mineures. Selon nous, il s'agit bel et bien de révisions relativement mineures, qui vont certainement dans le même sens que l'intention initiale des dispositions. Peut-être suis-je trop optimiste, mais le projet de loi sur le budget a été adopté plutôt rapidement lui aussi, alors je me dis que nous pourrions peut-être régler certains points avant le mois de mars.

Mme Bolton : Pour ce qui est de vous dire jusqu'où sommes-nous prêts à aller, nous avons à peine commencé à étudier la question des exceptions. En effet, comme vous le savez, les choses vont très vite, et le projet de loi a été adopté. La liste que nous avons dressée aux fins de notre mémoire se fondait sur deux ou trois semaines de consultation auprès de nos membres. Nous devrons creuser la question.

Je veux souligner l'avantage que présente le régime des exceptions par rapport à des lignes directrices du Bureau ou même par rapport à la demande d'un avis du Bureau sur une éventuelle poursuite contre un accord particulier. L'avantage serait de protéger les parties contre les actions civiles. Les poursuites civiles en matière de concurrence, les recours collectifs notamment, se sont multipliées au Canada. Elles commencent vraiment à coûter cher aux entreprises.

Senator Oliver: Are you all in agreement that you think there will now be an increase in class action suits brought as a result of the provisions of Bill C-10?

Ms. Bolton: We have looked at some statistics and cannot determine this exhaustively. However, within the past decade, about 30 competition class actions were brought before the courts. There is no way really to count them because we would have to go to each and every court in Canada and figure out what has been filed. We have at least a list of 30. The removal of the burden on parties to prove an undue lessening of competition does facilitate pleading for the plaintiffs. The plaintiffs' bar is becoming very expert in the competition-law field, so it is likely that we will see more class actions in the future.

Mr. Bodrug: It is not necessarily limited to class actions. Part of the issue is that the risk changes negotiating dynamics generally, so it is difficult to measure this. It is difficult to say whether this will translate into more class actions by numbers or more civil actions generally. However, there is definitely a change in the negotiating positions of parties as a result of this.

[*Translation*]

The Deputy Chair: Some persons I spoke to told me that the European system discarded the option of criminal prosecution. Offences are dealt with as civil matters and much higher fines are imposed.

I am talking about principles. As I see it, financial sanctions have totally different implications. The threat of criminal prosecution is not the ideal way of stopping business men and women from committing offences.

I am interested in hearing your philosophical opinion on the substance of this issue, from a legal standpoint. Should our legal system continue to deal with these offences as criminal matters, when a fine of up to $100 million or even higher could be imposed? Do you have a preference between the European system and the North American one? The evidentiary burden in the case of a criminal offence is much greater. Would treating these offences as civil matters be a more effective way of preventing offences and maintaining an acceptable level of competition?

[*English*]

Mr. Bodrug: As a general proposition, there is not as much controversy around the addition of the new civil provision of the Competition Act dealing with agreements among competitors. We agree that there is not much opposition to the proposition of a quicker, non-criminal route to address agreements between competitors that fall outside of the hard-core category. It is probably generally accepted that criminal sanctions should be preserved for really bad agreements between competitors that are directed at fixing prices or, as Ms. Bolton described them and they are commonly described, naked cartels. It is generally thought that the category of this type of conduct should continue to be subject to criminal sanctions, even acknowledging that it is

Le sénateur Oliver : Prévoyez-vous tous une augmentation du nombre de poursuites en recours collectif du fait des dispositions du projet de loi C-10?

Mme Bolton : Les statistiques que nous avons consultées ne sont pas exhaustives. Cependant, au cours de la dernière décennie, on compte une trentaine de recours collectifs en matière de concurrence. C'est un chiffre approximatif, parce qu'il faudrait recenser toutes les poursuites intentées devant tous les tribunaux du Canada. Notre liste en compte au moins 30. Les parties n'ayant plus à prouver une diminution excessive de la concurrence, cela avantage les plaignants. Comme leurs avocats deviennent des spécialistes du droit de la concurrence, les recours collectifs seront probablement plus nombreux à l'avenir.

M. Bodrug : Il n'y a pas que les recours collectifs. Une partie du problème vient du fait que, en général, le risque modifie la dynamique de la négociation, ce qui rend difficile la mesure du phénomène. Il est difficile de prévoir si cela se traduira par plus de recours collectifs ou, de façon générale, par plus d'actions civiles. Cependant, ce facteur modifie sans contredit les positions de négociation des parties.

[*Français*]

La vice-présidente : Certaines personnes avec qui j'ai discuté ont indiqué que le système européen n'a pas retenu l'option de poursuite au criminel. On traite seulement ces infractions au civil en imposant des amendes beaucoup plus élevées.

Je parle de principes. À mon avis, les pénalités financières sont d'une autre époque. Lorsqu'on veut empêcher des hommes et femmes d'affaires de commettre des infractions, les poursuites au criminel ne sont pas idéales.

J'aimerais entendre votre point de vue philosophique sur le fond de cette question sur le plan juridique. A-t-on encore de la place dans notre système juridique pour traiter ces infractions comme étant d'ordre criminel, alors qu'une amende maximale pourrait aller jusqu'à 100 millions de dollars et même plus? Si on compare le système européen au système nord-américain, avez-vous une préférence? Le niveau de preuves au criminel est beaucoup plus élevé. Le civil serait-il plus efficace pour empêcher les infractions et maintenir un niveau de concurrence acceptable?

[*Traduction*]

M. Bodrug : En principe, la nouvelle disposition de la Loi sur la concurrence concernant les accords entre concurrents n'est pas aussi controversée. La proposition d'appliquer plus rapidement des sanctions non criminelles dans le cas d'accords entre concurrents qui ne se rangent pas dans la catégorie des ententes injustifiables ne soulève pas beaucoup d'opposition. Cela, nous le reconnaissons. De façon générale, on semble accepter de réserver les sanctions criminelles aux accords vraiment crapuleux entre concurrents visant à fixer les prix ou, comme Mme Bolton et beaucoup d'autres les appellent, aux cartels flagrants, caractérisés ou ouvertement collusoires. On estime généralement que ce type d'entente devrait être passible de sanctions criminelles, même s'il

more difficult to prosecute, that it takes longer and a higher standard exists. However, there is definitely also room for a non-criminal route as well.

[*Translation*]

The Deputy Chair: In Quebec, a number of small gas station operators were recently charged with Criminal Code offences. I find it ludicrous that Criminal Code sanctions were applied. Perhaps this kind of collusion could have been avoided had these individuals been told that they could lose their home and their business and that they could be liable to hefty financial penalties.

No doubt, there is a moral aspect to this issue. A government has a responsibility to manage the country's economy efficiently. However, I am tempted to think that civil prosecution would be a more effective approach. We would intervene more often, the evidentiary burden would not be as great and investigations would not last as long. The system would therefore be far more efficient. Europe has long opted for this intervention approach. I am simply throwing this out there for your consideration.

The $25 million fine does not seem high enough to me. Businesses can often come to an agreement amongst themselves. Their sales can be in the billions of dollars. I am still talking about the principle behind sanctions. As I see it, it is better to provide for minimum rather than maximum sanctions so that judges, when dealing with two large multinationals, can always opt to impose a much harsher penalty than the one provided for.

[*English*]

Ms. Bolton: I would like to point out that the prior level of fine or the existing level of fine until March 2010, which is $10 million, has actually not been a barrier to higher fines. In cases where there have been convictions, which have generally been the result of guilty pleas, parties have pleaded to multiple charges. I believe the highest fine has actually been $50 million in Canada. As well, I would say that the vast majority of the large cartels do not originate in Canada. Therefore, the same cartel may be punished in the U.S. and Europe and in other jurisdictions, so there are principles of international comity that come into play in terms of how much Canada wants to get into double counting of fines.

Senator Moore: Mr. Bodrug, I am looking at your letter of February 3 to Mr. Ron Parker at Industry Canada. The provisions of the Competition Act that we are discussing here today were buried in that omnibus budget bill, which was tabled on January 27 in the House of Commons and received Royal Assent, as you know, on March 12. Your letter is dated February 3, 2009, and you say, "I am writing . . . to provide preliminary views on potential amendments to the merger review process in the Competition Act as recommended by the Competition Policy Review Panel." That is the Wilson panel,

est reconnu qu'il est plus difficile et plus long de poursuivre les coupables et qu'il faut respecter des critères plus rigoureux. Toutefois, on ne peut pas nier qu'il y ait place aussi pour des sanctions non criminelles.

[*Français*]

La vice-présidente : Au Québec, on a récemment condamné des détaillants qui opéraient chacun une petite station d'essence d'infractions en vertu du Code criminel. Je trouve ridicule que la sanction soit appliquée en vertu du Code pénal. Si on avait dit à ces gens qu'ils pourraient perdre leur maison, leur commerce et qu'ils seraient passibles de sanctions financières importantes, on aurait peut-être pu empêcher ce genre de collusion.

On a gardé sans doute un côté de moral. Sur le plan de la gouvernance des activités économiques d'un pays, on se doit d'être efficace. Je serais tentée de croire que la poursuite au civil serait plus efficace. On interviendra plus souvent, on n'aura pas le même niveau de preuve à obtenir et les enquêtes dureront moins longtemps. On aura donc un système beaucoup plus efficace. Cette pratique est en usage depuis longtemps en Europe, là où effectivement on est intervenu. Je vous soumets cet argument aux fins de réflexion.

L'amende de 25 millions de dollars ne me semble pas suffisante. Les entreprises souvent peuvent s'entendre. Ces entreprises ont un chiffre d'affaires pouvant s'élever à des milliards de dollars. Je parle toujours du principe des sentences. À mon avis, il s'agirait plutôt de fixer une sentence minimale plutôt que maximale afin de permettre aux juges, qui se trouvent devant deux grandes multinationales, d'imposer une sanction beaucoup plus sévère que celle qui est prévue.

[*Traduction*]

Mme Bolton : J'aimerais signaler que le montant actuel de l'amende, celui qui est en vigueur jusqu'en mars 2010, soit 10 millions de dollars, n'a pas empêché l'imposition d'amendes plus salées. Les condamnations, généralement consécutives à des plaidoyers de culpabilité, faisaient suite à des accusations multiples. L'amende maximale imposée au Canada a été, je crois, de 50 millions de dollars. Autre précision, la vaste majorité des grands cartels ne sont pas montés au Canada. En conséquence, le même cartel peut être puni aux États-Unis et en Europe ainsi que dans d'autres juridictions, ce qui fait intervenir des principes de courtoisie internationale pour le comptage en double des amendes au Canada.

Le sénateur Moore : Monsieur Bodrug, j'ai sous les yeux votre lettre du 3 février à M. Ron Parker, d'Industrie Canada. Les dispositions de la Loi sur la concurrence dont nous discutons aujourd'hui sont enfouies dans ce projet de loi budgétaire fourre-tout qui a été déposé à la Chambre des communes le 27 janvier et qui a reçu la sanction royale, comme vous le savez, le 12 mars. Dans cette lettre, je lis : « J'écris [...] pour vous présenter nos points de vues préliminaires sur les modifications possibles au processus d'examen des fusions en vertu de la Loi sur la concurrence recommandées par le Groupe d'étude sur les

correct? In February you were writing a note to the department in response to the panel's recommendations.

Did the Canadian Bar Association have any input to possible amendments to the Competition Act before it was tabled in House of Commons? Is this your first attempt to have input?

Mr. Bodrug: The origin of this letter was, first, that we saw this recommendation in the Wilson report. I may have my facts a little wrong here, but I think the Conservative Party platform, before the election — I cannot remember the exact date — included some references to adopting that provision, the recommendations of that panel. We struck a task force, actually some time before this, to respond to this particular recommendation because we felt this was not a recommendation or a topic that had been canvassed. We did not feel that the comments were really solicited in the original paper that the Wilson panel put out to solicit comments. We were surprised by that. It took us time. We had a group with which, I think, Mr. Wakil and Mr. Collins were involved that spent some time on it. You will see that it is a detailed letter.

Senator Moore: Eleven pages.

Mr. Bodrug: We recognized that the bureau had a legitimate concern about getting enough information fast enough. We were concerned that this proposal was not the right path to take. We took some time to put an alternate suggestion together. We did not know the budget bill was coming out the next week, so it was an accident, or fortuitous timing.

Senator Moore: Did you get a response to this letter from Mr. Parker?

Mr. Bodrug: I do not believe so, not a formal response, anyway. I know he received it. I did speak to him, and he acknowledged receipt of it.

Senator Moore: You sent him an 11-page letter and he did not come back to you.

Mr. Bodrug: We may have received a short acknowledgement — I cannot recall specifically — but not a detailed response.

Senator Moore: Did it not deal with the issues you raised?

Mr. Bodrug: Not in any depth.

Senator Moore: At the start of your letter, you mention the panel recommendations, and there are two bullets. The second bullet, in which you quote the panel, says:

> "the initial review period be set at 30 days, and the Commissioner of Competition should be empowered, in its discretion, to initiate a 'second stage' review that

politiques en matière de concurrence ». C'est le panel Wilson, n'est-ce pas? En février, vous écriviez une note au ministère en réponse aux recommandations du groupe d'étude.

L'Association du Barreau canadien a-t-elle eu un mot à dire sur d'éventuelles modifications au projet de Loi sur la concurrence avant son dépôt à la Chambre des communes? Est-ce votre première tentative pour faire connaître votre point de vue?

M. Bodrug : Cette lettre a d'abord été inspirée par cette recommandation du rapport Wilson. Il se peut que je me trompe un peu, mais je crois que la plateforme du Parti conservateur, avant l'élection — la date précise m'échappe — faisait à quelques reprises allusion à l'adoption de cette disposition, des recommandations de ce groupe d'étude. Nous avons créé un groupe de travail, quelque temps avant cette lettre, en fait, pour répondre à cette recommandation particulière, car nous estimions que la recommandation ou la question n'avait pas été examinée à fond. Nous avions l'impression que, dans le document original qu'il a publié pour solliciter les commentaires, le groupe d'étude Wilson avait manifesté de la tiédeur dans sa démarche. Cela nous a pris au dépourvu. Il nous a fallu un certain temps. Nous avions un groupe avec qui MM. Wakil et Collins ont travaillé, je pense, et qui a consacré du temps à la lettre. Vous constaterez que c'est une lettre détaillée.

Le sénateur Moore : Onze pages.

M. Bodrug : Nous avons reconnu que le Bureau éprouvait des craintes légitimes quant à l'obtention, de façon assez rapide, d'une quantité suffisante d'informations. Nous craignions que cette proposition ne fasse fausse route. Il nous a fallu du temps pour formuler une solution de rechange. Nous ne savions pas que le projet de loi budgétaire était sur le point d'être déposé — il l'a été la semaine suivante —, de sorte que l'on peut parler d'accident ou de coïncidence fortuite.

Le sénateur Moore : M. Parker a-t-il répondu?

M. Bodrug : Je ne crois pas, pas officiellement, de toute façon. Je sais qu'il a reçu la lettre. J'ai lui ai parlé, et il a reconnu avoir reçu la lettre.

Le sénateur Moore : Vous lui avez envoyé une lettre de 11 pages, et il ne vous a pas répondu.

M. Bodrug : Nous avons peut-être reçu un bref accusé de réception — je ne me le rappelle pas précisément —, mais pas une réponse détaillée.

Le sénateur Moore : N'y était-il pas question des problèmes que vous avez soulevés?

M. Bodrug : Pas en profondeur.

Le sénateur Moore : Au début de votre lettre, vous faites allusion aux recommandations du groupe d'étude, dans deux alinéas pointés. Le deuxième alinéa, dans lequel vous citez le groupe d'étude, se lit comme suit :

> « (l)a période initiale d'examen devrait être fixée à 30 jours, et le commissaire à la concurrence devrait avoir le pouvoir, à sa discrétion, de lancer une deuxième

would extend the review period for an additional period ending 30 days following full compliance with a 'second request' for information."

With respect to initiating a second-stage review that would extend the review period for an additional period ending 30 days following full compliance, could you walk me through an example of how that would work?

Mr. Wakil: The parties would submit a premerger notification filing, and they would not be able to complete their transaction, a merger transaction, until 30 days had elapsed. Within that 30-day period, the commissioner could request that additional information be provided to it by the merger parties, and the statute provides that they would not be able to complete the transaction pending the receipt of that information. They would have to gather that information, provide it to the Competition Bureau and, once they provide a response that is complete and correct in all material respects, another 30-day period would start effectively giving the Competition Bureau 30 days to review that information. Following the completion of that second 30-day period, the parties would be able to close their merger transaction. If the information request was a very long and significant one, it could take months or a year for the parties to respond to the information request. If the information request was short, it could be done in a matter of days or weeks perhaps.

Mr. Collins: Within the second 30 days, after substantial compliance, unless there is some other action by the Competition Bureau, the parties would be in a legal position to close. However, the Competition Bureau still has the right to go to the Competition Tribunal and seek an injunction to stop the transaction if they feel the information they received has given them enough evidence to do so. Then they need to meet a statutory test before the tribunal to receive the injunction. Therefore, you are not assured that you will be able to close the deal even with the passage of 30 additional days.

Senator Moore: Do the parties get a letter from the bureau saying that they have received the additional information that was requested, and when they get that letter, is that when the second 30-day period starts to run?

Mr. Wakil: No. I think the expectation is that the parties would certify that their request is complete and correct in all material respects.

Senator Moore: Do you think it is something from the bureau saying, "Okay, you have met that"?

Mr. Wakil: I am not sure if the bureau has developed a process or determined how it will respond to that. They probably will not respond to that because it could be a considerable volume of information, and they may not want to be on the record as confirming that they believe that your request is correct in all material respects.

étape d'examen qui prolongerait le processus et qui se terminerait 30 jours après la pleine conformité avec une deuxième demande d'information. »

Pour ce qui concerne la deuxième étape d'examen qui prolongerait la période d'examen d'une période supplémentaire qui se terminerait 30 jours après la pleine conformité, pourriez-vous me donner un exemple détaillé de son mécanisme de fonctionnement?

M. Wakil : Les parties présenteraient un préavis de fusion et elles ne seraient pas en mesure de parachever l'opération, la fusion, avant 30 jours. Pendant ces 30 jours, le commissaire pourrait demander des renseignements supplémentaires aux parties, et la loi prévoit que les parties ne peuvent pas parachever l'opération de fusion tant que le commissaire n'a pas reçu les renseignements demandés. Elles doivent réunir ces renseignements, les communiquer au Bureau de la concurrence et, une fois qu'elles ont fourni une réponse, complète et exacte sous tous ses rapports pertinents, on entre dans une autre période de 30 jours, pendant laquelle le Bureau examine ces renseignements. À la fin de cette deuxième période, les parties peuvent conclure leur fusion. Si la demande vise de nombreux renseignements, longs à réunir, les parties pourraient prendre des mois ou une année pour y répondre. Dans le cas contraire, elles prendront peut-être quelques jours ou quelques semaines.

M. Collins : Au cours de la deuxième période de 30 jours, après une conformité substantielle, à moins que le Bureau de la concurrence entreprenne une autre mesure d'action quelconque, les parties seraient légalement dans une situation qui leur permettrait de compléter la transaction. Toutefois, le Bureau de la concurrence a toujours le droit de s'adresser au Tribunal de la concurrence pour obtenir une injonction afin d'arrêter la transaction s'il estime que l'information qu'il a reçue justifie de le faire. Alors, il doit satisfaire à un critère juridique devant le tribunal pour obtenir l'injonction. Par conséquent, vous n'êtes pas assuré d'être en mesure de compléter la transaction même après que les 30 jours additionnels se sont écoulés.

Le sénateur Moore : Est-ce que les parties reçoivent une lettre du bureau pour accuser réception de l'information additionnelle qui a été demandée, et lorsqu'elles reçoivent cette lettre, est-ce à ce moment-là que la deuxième période de 30 jours débute?

M. Wakil : Non. Je pense qu'on s'attend à ce que les parties attestent que leur demande est complète et exacte à tous les égards importants.

Le sénateur Moore : Pensez-vous que c'est quelque chose provenant du bureau qui dirait : « Très bien, vous avez respecté cela? »

M. Wakil : Je ne suis pas certain si le bureau a élaboré un processus ou s'il a déterminé comment il répondra à cela. Il est probable qu'il ne répondra pas parce qu'il pourrait s'agir d'un volume d'information considérable et qu'il pourrait hésiter à avoir un document officiel confirmant qu'il croit que votre demande est correcte à tous les égards importants.

It would most likely work that you would certify your request as complete and correct, and they would have 30 days to review it and potentially challenge it because they may say that it is not complete and correct in all material respects, that there are gaps here, and there is non-compliance.

Mr. Collins: You are certifying that submission of your material under oath.

Senator Moore: Yes, sure.

Mr. Collins: Obviously, the parties will look at that seriously and do everything they can to ensure that they are complying.

Senator Moore: They want the deal to go ahead.

Mr. Collins: They do not want that to be challenged.

Senator Moore: This is why I find it interesting that the bureau still has the opportunity to seek an injunction. Somewhere along the way, do they not have to tell the parties that they met their requirements and that they can go ahead with certainty and close the deal? I find it extraordinary that you would be going through the process and they could still challenge you after you have given everything they have asked for. Where is the ending?

Mr. Wakil: That may be a preferable outcome, but you are right; there will be subjectivity and uncertainty. The act also contemplates the possibility of fines of $10,000 a day for every day that you, as a merger party, are in breach of the no-close waiting periods under the act.

For example, if you certify compliance with respect to the second request, you wait for the elapse of the 30-day period, you close your transaction and the bureau subsequently challenges you and says, ''No, you are actually in breach. You did not comply with the request,'' not only could the bureau seek an injunction, but the parties could also face significant financial penalties for being in violation of the no-close waiting periods under the act.

Senator Moore: You went to great length here to point out the shortcomings of the U.S. second-request process, and you did not get any response to that. You say that that process is notorious in international competition law circles, so why do we go down that road? The bar knows what it is talking about, we know what the international experience is, and you have no response. I find it extraordinary because we are talking about potentially millions of dollars of fines.

Mr. Wakil: We were also concerned that, as Mr. Bodrug had indicated, there was not greater public consultation on this throughout the entire process. In about 150 submissions to the Wilson panel, I am not aware of one — maybe there was one or two — that commented on potential changes to the merger

Cela fonctionnerait vraisemblablement de la manière suivante : vous attesteriez que votre demande est complète et exacte, et le bureau aurait 30 jours pour l'examiner et, potentiellement, la contester parce qu'il pourrait dire qu'elle n'est pas complète et exacte à tous les égards importants, qu'il y a des lacunes ici, qu'il y a non-conformité.

M. Collins : Vous faites l'attestation de la présentation de vos renseignements sous serment.

Le sénateur Moore : Oui, certainement.

M. Collins : De toute évidence, les parties examineront la question sérieusement et feront tout pour s'assurer d'être conformes.

Le sénateur Moore : Elles veulent que la transaction se réalise.

M. Collins : Elles ne veulent pas qu'elle soit contestée.

Le sénateur Moore : C'est pourquoi je trouve intéressant que le bureau ait encore l'occasion d'obtenir une injonction. Quelque part au cours du processus, n'a-t-il pas à dire aux parties qu'elles ont rempli les exigences et qu'elles peuvent aller de l'avant avec certitude et compléter la transaction? Je trouve extraordinaire le fait que vous pouvez avoir suivi le processus et que le bureau peut tout de même contester après que vous lui avez donné tout ce qu'il vous a demandé. Où cela s'arrête-t-il?

M. Wakil : Cela pourrait être un résultat préférable, mais vous avez raison; il y aura de la subjectivité et de l'incertitude. La loi prévoit également la possibilité d'imposer une amende de 10 000 $ par jour où, en tant que partie à une fusion, vous êtes en non-respect des périodes d'attente pendant lesquelles une transaction ne peut être complétée en vertu de la loi.

Par exemple, si vous attestez la conformité en ce qui a trait à la deuxième demande, vous attendez l'épuisement de la période de 30 jours, vous complétez la transaction et, par la suite, le bureau conteste le tout et dit : « Non, vous êtes en fait en état de non-conformité. Vous n'avez pas respecté la demande. « Non seulement le bureau pourrait chercher à obtenir une injonction, mais les parties pourraient également devoir payer des amendes substantielles pour avoir violé les périodes d'attente pendant lesquelles une transaction ne peut être complétée en vertu de la loi.

Le sénateur Moore : Vous n'avez pas ménagé vos efforts pour mettre en évidence les lacunes du processus américain de demandes de renseignements supplémentaires, et vous n'avez pas obtenu de réponse à cela. Vous dites que ce processus est réputé dans les cercles internationaux de droit sur la concurrence, alors pourquoi s'engager dans cette voie? Le barreau sait de quoi il parle. Nous connaissons l'expérience internationale et vous n'avez pas de réponse. Je trouve cela extraordinaire parce que nous parlons d'amendes pouvant s'élever à des millions de dollars.

M. Wakil : Nous étions également préoccupés par le fait, comme l'a dit M. Bodrug, qu'il n'y a pas eu de consultation du public sur cette question pendant tout le processus. Sur environ 150 mémoires adressés au groupe d'étude Wilson, je n'en connais aucun — il y a peut-être un ou deux — qui traitait des

provisions of the act. This blindsided many people. We did not see it coming, and they are massive changes.

At one point in the Wilson panel, they describe some of these changes as relatively modest upgrades to the act, and they are certainly, in our view, quite massive, particularly in the merger and cartel areas.

[*Translation*]

The Deputy Chair: I would like to welcome Tim Kennish, counsel for the firm of Osler, Hoskin and Harcourt. You may begin your presentation, Mr. Kennish. We already have a copy of your submission.

[*English*]

Please give us an overview of your document rather than reading it.

Tim Kennish, Counsel, Osler, Hoskin & Harcourt LLP: I am pleased to be here. I am counsel to the legal firm of Osler, Hoskin & Harcourt LLP, located at its Toronto office, although I am appearing here in my personal capacity and not on behalf of the firm. The views expressed by me are my own.

I wish to thank you for the opportunity to speak to you about the amendments. These are the most significant and far-reaching amendments to be made to the act in over 20 years. I believe that they effect valuable and needed improvements to our competition law. However, I also recognize that the amendments remain controversial for a number of people, even now when the parliamentary process has put an end to further debate over their general merits.

While I agree that it is possible that the provisions may be improved upon in terms of clarifying their scope of application, I recognize that we are dealing with general law that applies to a multitude of transactions. It will necessarily be cast in general language, and there will be some areas of uncertainty. The guidelines we have been talking about this morning go a considerable distance to helping remove some of that uncertainty.

While I am in favour of these changes to the act, I do have some personal reservations about a number of them, and I have included those qualifications in the appendices to the brief, which document you have seen.

Due to time limitations, I will speak about three areas. The first is section 45 reform, the second is merger review and the third is dominance. Other areas are touched on by the bill, but these are the most important areas, and they have the greatest priority in our approach to the law in this area.

I will talk a bit about the legislative process. Contributing a bit to the controversy that continues to surround the amendments was the process by which they were enacted as part of a tightly packaged budget implementation bill. There was effectively no

modifications potentielles aux dispositions de la loi concernant les fusions. Cela a dérouté beaucoup de gens. Nous ne l'avions pas vu venir, et ce sont des changements énormes.

À un certain moment, au sein du groupe d'étude Wilson, certains de ces changements ont été qualifiés de mises à jour relativement modestes de la loi, alors qu'il s'agit certainement, à notre avis, de modifications énormes, particulièrement dans le domaine des fusions et des cartels.

[*Français*]

La vice-présidente : Je voudrais souhaiter la bienvenue à Tim Kennish, avocat à la l'étude Osler, Hoskin et Harcourt. Me Kennish vous pouvez procéder à votre présentation. Nous avons déjà votre document.

[*Traduction*]

S'il vous plaît, veuillez nous donner un résumé de votre document plutôt que de le lire.

Tim Kennish, avocat, Osler, Hoskin & Harcourt LLP : Je suis heureux d'être ici. Je suis avocat-conseil auprès du cabinet d'avocats Osler, Hoskin & Harcourt LLP, situé à Toronto. Je m'exprimerai aujourd'hui en mon nom personnel et non en tant que représentant de ce cabinet. Par conséquent, les propos que je tiendrai représentent uniquement mon opinion personnelle.

Je tiens à vous remercier de l'occasion qui m'est accordée de vous parler de ces modifications. Ce sont les modifications les plus importantes et les plus ambitieuses qui ont été apportées à la loi depuis 20 ans. À mon avis, il s'agit de modifications nécessaires qui amélioreront notre droit de la concurrence. Toutefois, je suis conscient qu'il s'agit de modifications controversées, encore aujourd'hui même si le processus parlementaire a mis fin au débat sur cette question.

Bien que je sois d'accord pour dire qu'il est possible d'améliorer ces dispositions pour ce qui est de clarifier leur portée, je reconnais que nous avons affaire à la loi générale qui s'applique à une multitude de transactions. Elle sera nécessairement rédigée en termes généraux et il y aura certaines zones d'incertitude. Les lignes directrices dont nous avons parlé ce matin aident beaucoup à éliminer une partie de cette incertitude.

Bien que je sois en faveur de ces modifications apportées à la loi, j'éprouve des réserves à l'égard du libellé de certaines dispositions, et j'ai mis ces réserves dans les annexes du document qui vous a été remis.

En raison des contraintes de temps, je vais parler de trois domaines particuliers. Le premier est la réforme de l'article 45, le second est l'examen des fusions et le troisième est la position dominante. Le projet de loi touche à d'autres domaines, mais il s'agit là des domaines les plus importants et ce sont ces domaines qui reçoivent la plus grande priorité dans notre approche à la loi dans ce domaine.

Je vais parler un peu du processus législatif. Un facteur qui a contribué un peu à la controverse qui se poursuit toujours autour de ces modifications a été le processus d'adoption dans le cadre d'un projet de loi d'exécution du budget très étoffé. Il n'y a pas eu

public consultation specifically in relation to the bill. It is regrettable that the legislative process did not accommodate an opportunity to talk about these specific provisions. That is particularly the case with regard to merger pre-notification, which was not previously the subject of any consultation.

However, with the exception of the merger pre-notification, which is definitely an important area of the bill, virtually every other change to the act that was recommended by the panel or appears in the bill has been the subject of extensive public debate and discussion ranging over a lengthy period of time. Some of these matters have been under discussion or have been parts of bills or proposals for over 15 years. We have had white papers, bureau reports, studies done at the behest of the bureau and bills that were tabled and went through several stages of review before they died on the Order Paper. More recently, we had a fairly extensive review of the field by the House of Commons Standing Committee on Industry, Science and Technology and the panel, which was a comprehensive canvassing of views on their topic.

With regard to the reforms in the area of merger pre-notification, the panel did receive from several experienced legal practitioners submissions contending that the system we have had became problematic and was in need of changes, both to speed up the time taken to complete merger reviews for the more run-of-the-mill cases and also to increase time certainty, but also to provide the bureau with increased time in cases that were difficult to analyze.

I think the panel saw in this situation an opportunity to recommend the adoption of a system — I am talking about the U.S. merger clearance system — that could address both of those issues while, at the same time, aligning our merger review system more closely with that of the United States. There are several statements in the Wilson panel report indicating their preference for conformity between the laws in the different jurisdictions where they may deal with the same business transactions.

Foremost among the important changes brought about by the amendments was the correction of a pressing need for reform of section 45. That provision is the cornerstone of our act, and it is celebrating its 120th year as part of the legislation. Notwithstanding that it is the cornerstone of the act, I believe it has been significantly deficient and has lacked enforcement integrity. That is unfortunate, because cartel arrangements are, by common agreement throughout the developed world, the kind of business practices that have the greatest potential for competitive harm. Prosecution of cartels is, therefore, usually the highest enforcement priority for competition authorities around the world.

Although it has been the subject of some controversy, the need for this reform has been fairly obvious to me for some time. Canada has a law that is a critical tool in the control of international anti-trust enforcement cartels, but that is seriously

de consultations publiques réelles portant sur le projet de loi. Il est regrettable que le processus législatif n'ait pas fourni l'occasion de discuter de ces dispositions particulières. C'est particulièrement vrai en ce qui concerne les préavis de fusion qui n'ont jamais fait l'objet de consultations publiques.

Toutefois, à l'exception des préavis de fusion, qui est certainement un domaine important du projet de loi, presque toutes les autres modifications à la loi qui ont été recommandées par le groupe d'étude ou incluses dans le projet de loi avaient fait l'objet d'un débat public très étendu qui s'est échelonné sur une longue période de temps. Certaines de ces questions ont fait l'objet de discussions ou ont fait partie de projets de loi ou de propositions au cours des 15 dernières années. Nous avons eu des livres blancs, des rapports du bureau, des études commandées par le bureau et des projets de lois qui ont été déposés et qui ont franchi plusieurs étapes du processus d'adoption avant de mourir au *Feuilleton*. Plus récemment, nous avons eu un examen relativement poussé du domaine qui a été réalisé par le Comité permanent de l'industrie, des sciences et de la technologie de la Chambre des communes ainsi que le rapport du groupe d'étude, qui représentaient des sondages complets sur les points de vue liés à leur sujet.

En ce qui a trait aux réformes proposées à l'égard des préavis de fusion, le groupe d'étude a reçu des mémoires de plusieurs juristes chevronnés qui soutenaient que le système était devenu problématique et avait besoin d'être réformé tant pour accélérer le processus d'examen des fusions les plus simples, mais également pour donner plus de temps au bureau pour analyser les cas les plus difficiles.

Je pense que le groupe d'étude a vu dans cette situation l'occasion de recommander l'adoption d'un système — je parle du système américain d'approbation des fusions — qui pourrait régler ces deux problèmes tout en harmonisant en même temps notre processus d'examen des fusions avec celui des États-Unis. Il y a plusieurs énoncés dans le rapport du groupe d'étude Wilson témoignant d'une préférence pour une harmonisation des lois entre différentes entités administratives qui pourraient avoir à se pencher sur les mêmes transactions d'affaires.

Les changements les plus importants apportés par ces modifications étaient liés à la nécessité urgente de réformer l'article 45. Cette disposition de la loi, qui célèbre cette année son 120e anniversaire, est la pierre angulaire de notre loi. Malgré son importance, elle comportait, à mon avis, des lacunes importantes et avait un pouvoir d'application limité. C'est malheureux, parce que les cartels sont considérés à travers le monde comme étant les ententes commerciales les plus nuisibles pour la concurrence. Par conséquent, les poursuites qui concernent les cartels figurent habituellement en haut de la liste des priorités des autorités de réglementation de la concurrence du monde entier.

Bien qu'elle ait suscité une certaine controverse, la nécessité de cette réforme était assez évidente à mes yeux depuis un certain temps. Le Canada a une loi qui constitue un outil important pour l'application à l'échelle internationale des règles antitrust, mais

out of step with similar laws in virtually every other developed country in the world. That is due to the fact that the section creates a criminal offence but, at the same time, incorporates a rule-of-reason standard in the legislation.

That requires the prosecution to show not only that the agreement contravened the prescribed action by having an agreement with the competitor, but also that it affected a market to an undue degree. That, in turn, requires measuring and identifying which product and geographic markets are affected by the agreement and then determining whether the adverse effects in those markets reach a level of undueness. That must all be done according to the criminal law standard of proof beyond a reasonable doubt.

By contrast, the comparable laws of virtually every other developed country use a per se evidentiary standard that dispenses with the need for either of those requirements. Also, in most jurisdictions where the relevant provisions are cast in per se form, their application is strictly limited to a narrow list of unambiguously harmful competition arrangements, such as price-fixing, market allocation or supply-limiting agreements, so-called hard-core agreements.

That is not true of section 45 currently, prior to its amendment. It was potentially applicable to all inter-competitor agreements. That is the difficulty on another side for dealing with inter-competitor agreements not of the hard-core cartel variety. Clearly there was a need to have a separate civil provision dealing specifically with these kinds of arrangements that would permit a more nuanced approach involving the assessment of the competitive effects of those kinds of agreements, joint ventures and so on, to determine whether there was a harmful outcome. In the other ones, it was presumed because of the nature of the agreements.

The makeover of former section 45 brought about by Bill C-10 splits the former provision into two separate sections, one of which, the criminal side, continues to be criminal but replaces the rule of reason with a per se standard now only applying to traditional hard-core cartels. That is one segment. The other is a new civil provision, section 90.1, which has potential application to all other horizontal agreements and applies a rule of reason standard and judges the legality of the agreement under civil evidentiary standards, which is more accommodating, more lenient and less strict. The increased enforcement capacity has been significantly elevated by the higher fines that are contemplated, the $25-million limit, and the possibility of increased jail terms for people who contravene the criminal provision.

One of the principle complaints, and this is what is animating people like the Canadian Bar Association coming forward, is that because section 45 in the criminal version will now no longer require a demonstration of harm but presumes it to flow from the type of agreement, there could be many agreements that contravene section 45 but where the parties are not in a position to create harm. An example frequently kicked around

qui est dépassée par rapport aux lois similaires de presque tous les autres pays développés. Cela serait attribuable au fait que bien que cet article crée une infraction criminelle, il incorpore dans la loi une règle de raison.

Ainsi, la cour doit non seulement démontrer qu'une entente ou un arrangement avec un concurrent est anticoncurrentiel dans les faits, mais également qu'il restreint indûment la concurrence sur un marché donné. Par conséquent, cela nous oblige à mesurer et à déterminer quels produits et quels marchés géographiques sont touchés par l'entente et ensuite, à déterminer à quel degré les effets nuisibles sur ces marchés sont indus. De plus, tous ces éléments doivent être prouvés hors de tout doute raisonnable conformément à la règle du droit criminel.

De leur côté, les lois comparables de presque tous les autres pays développés appliquent la règle de la preuve « per se » qui dispense de ces exigences. De plus, dans la plupart des pays qui ont adopté cette règle de la preuve « per se », son application se limite strictement à une courte liste d'ententes qui nuisent clairement à la concurrence, telles que les ententes de fixation des prix, les ententes de répartition de clients ou de marchés et les ententes visant à réduire ou à plafonner la production, ce qu'on appelle les ententes injustifiables.

Cela n'est pas vrai de l'article 45 actuel, avant sa modification. Il pouvait s'appliquer à toutes les ententes intervenues entre des concurrents. C'est la difficulté, d'un autre côté, pour faire face à des ententes entre concurrents qui ne sont pas des ententes injustifiables. Il était clairement nécessaire d'avoir une disposition distincte en droit civil portant précisément sur ce genre d'ententes qui permettrait une analyse plus nuancée des effets sur la concurrence de ce genre d'ententes, d'entreprises en coparticipation, « et cetera », pour déterminer s'il y a un résultat nuisible. Dans les autres cas, il était présumé à cause de la nature des ententes.

La refonte de l'article 45 apportée par l'intermédiaire du projet de loi C-10 a pour effet de diviser cet article en deux articles distincts, dont l'un demeure une disposition de nature pénale, mais remplace la règle de raison par une règle « per se » et s'applique uniquement aux infractions commises par les grands cartels traditionnels. C'est une partie. L'autre partie est une nouvelle disposition civile, l'article 90.1, qui vise toutes les autres ententes ou tous les autres arrangements horizontaux entre concurrents et applique la règle de raison et évalue la légalité des arrangements à la lumière de la règle de preuve du droit civil, qui est habituellement plus douce et moins stricte. La capacité de mise en application a été considérablement augmentée par les amendes plus élevées qui sont envisagées, la limite de 25 millions de dollars, et la possibilité de peines d'emprisonnement accrues pour les gens qui violent la disposition criminelle.

L'une des principales critiques fomentées par des organismes tels que l'Association du Barreau canadien, est qu'en raison du fait que l'article 45 du Code criminel n'exigera plus une preuve de l'effet défavorable mais présumera qu'il découlera du type d'entente, de nombreuses ententes dans lesquelles les parties ne sont pas en position de créer des effets défavorables pourraient donc contrevenir à l'article 45. L'exemple souvent cité est celui de

is two newspaper vendors on a street corner in the city of Toronto agreeing to charge the same price for their newspapers. That could be, theoretically, a technical violation. However, the fact is that the department, at least the bureau, is under-resourced in its enforcement capacity, and it would be foolish in the extreme for it to spend its time prosecuting such arrangements. I appreciate it is not a legal defence, but in practical situations it probably mitigates a lot of concern people have about taking these to the extreme.

Examples are frequently cited of business arrangements where one part of the arrangement is that there is an agreement that might trip over section 45. An example might be that a vendor agrees to sell to a purchaser a business and, in that connection, enters into a separate agreement not to compete with the purchaser following the acquisition for some period of time. Theoretically, this could be a contravention of section 45 on the ground that it is a market allocation arrangement. At the same time, it is directly connected to the sale of the business because it would not be entered into but for the fact that its purpose is to facilitate the agreement being executed. The practical reality is that the purchaser will not buy the business and pay for the goodwill that he is purchasing if he will be faced immediately following the closing with the old vendor, who may know his customer base much better than the purchaser, competing those customers away. That kind of situation would be a good example of what was referred to in the previous session as an ancillary defence brought into play because it would meet the requirements of that section and many other multiple aspect relationships where this could happen.

Another question has been alluded to: What about private plaintiffs? They are not bound by what the bureau says. Maybe the bureau does not care, but we could bring a private action. I think private plaintiffs are even more constrained in their ability or inclination to go after what you might call competitively neutral transactions that might technically violate section 45. Their rights are limited to collecting damages or trying to recover damages for a violation of the provision. Where there is no competitive harm, they will not have any damages and there will not be a payday. In addition, in this field, litigation is burdensome, and typically what happens in most jurisdictions where they have private litigation as well as public enforcement is that the private litigants often wait until there is a conviction and then come in and assert that they have been harmed by the violation of the law and obtain damages. If the bureau does not take a case, it becomes more difficult for the private plaintiffs to pursue such a thing, even assuming they have a damage claim they can make out.

I submitted about merger pre-notification. Although it was not notoriously deficient, I think the merger process was acknowledged to have some shortcomings. I mentioned before that one was that some of the cases that everyone would recognize would never be challenged before the tribunal nevertheless were

deux vendeurs de journaux au coin d'une rue à Toronto qui décident de vendre leurs journaux au même prix, ce qui théoriquement pourrait constituer une infraction technique. Cependant, le fait est que le ministère, du moins le bureau, a des ressources d'application limitées et il serait tout à fait insensé qu'il consacre son temps à intenter des poursuites pour ce type d'arrangements. Je conviens qu'il ne s'agit pas d'une défense en droit, mais dans la pratique beaucoup de gens concernés y réfléchiront à deux fois avant de lancer de telles poursuites.

On cite souvent des exemples d'accords commerciaux comportant un élément qui prévoit qu'il y a une entente pouvant aller à l'encontre de l'article 45. On peut penser, par exemple, à la vente d'une entreprise dans le cadre de laquelle le vendeur et l'acheteur concluraient une convention de non-concurrence pendant une certaine période après la conclusion de la vente. En théorie, cela pourrait être une violation de l'article 45 sous prétexte qu'il s'agit d'une entente de répartition de marché. En même temps, elle est directement liée à la vente de l'entreprise car elle n'en ferait pas partie si ce n'était pour faciliter la conclusion de cet accord. En réalité, l'acheteur refusera d'acheter si immédiatement après la vente, le vendeur qui connaît mieux les clients risque de les lui soutirer. Cet exemple illustre bien la défense relative au caractère accessoire dont il a été question lors de la précédente séance et qui est utilisée car elle répondrait aux exigences de l'article et de nombreux autres types de situation où ce genre d'entente peut être conclue.

Une autre question a été soulevée : Qu'en est-il des particuliers qui intentent des poursuites? Ils ne sont pas obligés de respecter ce que dit le bureau. Le bureau ne s'en soucie peut-être pas, mais nous pouvons intenter une action privée. Je pense que la capacité ou la volonté des demandeurs particuliers d'intenter des poursuites à l'égard de ce qu'on pourrait appeler des transactions neutres sur le plan de concurrence pouvant techniquement transgresser l'article 45 sont encore plus limitées. Le demandeur a peu de chance de recouvrer ou d'essayer de recouvrer des dommages et intérêts qu'il a subis par suite d'une violation de l'article. S'il n'y a aucun effet défavorable sur la concurrence, il n'y aura ni recouvrement de dommages et intérêts ni dédommagement. En outre, les poursuites à cet égard sont fastidieuses, et généralement dans la plupart des juridictions où sont intentées des actions privées et où il y a des mesures d'application publiques, les plaideurs particuliers attendent qu'il y ait une condamnation avant de prouver qu'ils ont subi des torts par suite de la violation de la loi et d'obtenir des dommages et intérêts. Si le bureau n'accepte pas un dossier, les demandeurs particuliers auront plus de difficulté à poursuivre l'affaire, même en supposant qu'ils puissent déposer une demande de dédommagement.

Le mémoire que je vous ai présenté fait mention du préavis de fusion. Même s'il n'était pas notoirement déficient, le processus de fusion comportait un certain nombre de lacunes. J'ai indiqué auparavant que l'on compte parmi ces lacunes certains dossiers dont tout le monde s'accorderait à dire qu'ils ne seront jamais

taking longer than expected. The other piece was that the maximum waiting period the bureau can rely upon is 42 days under the law. Some cases that raise difficult issues — and there might be 10 a year at most — are not concluded within 42 days. From the bureau's side, for those kinds of cases, there just was not enough time.

The importation of the U.S. system provided the opportunity of doing something about that situation.

A third consideration was that because so many of our mergers reviewed here are also the subject of parallel reviews in the U.S., it is thought to be undesirable to have the two systems not synchronized to create the maximum efficiency and review, but desirable to have greater degree of congruity between the two areas.

Under the U.S. system, which is different from the Canadian process as it has been until now, there are one or two stages. If you go through the first stage and you are not asked for more information in so-called second request, then you are out the door at the end of 30 days and you have a green light to close. If they ask for additional information, a second request is issued; then you are into a longer time period. It was discussed how that works. I will not make light of it. It can be a burdensome process both from a time and a money point of view. However, the U.S. experience indicates, in recent times at least, that over 97 per cent of all filed cases go through in the 30-day initial time period, and fewer than 3 per cent are flagged for a second request.

In the U.S. system, the process forces the reviewing agency to make an earlier decision on the case as to whether or not it will be required to go through this second stage. Therefore, it effectively clears more cases in the first 30 days than we have experienced.

There are definitely trade-offs in adopting the U.S. system, a number of shortcomings that have been experienced in the U.S., particularly with the more difficult cases, which are mentioned in CBA's brief.

I think it is pretty clear that if the bureau follows the examples set by its U.S. counterparts, there would be a greater number of cases cleared in the 30 days and a fewer number that go beyond that. How it actually would work in practice would depend just on what they do, because they are not required to parallel the U.S. practice. Nevertheless, given that Parliament appeared to intend to adopt the U.S. practice to get the advantages out of it, it may be expected the bureau would try to follow some similar sort of record. We will have to see.

Another thing about the U.S. process is that it avoids reliance on the formality and the awkwardness of going through court orders for getting information, whereas the Canadian process has relied upon section 11 orders.

contestés devant le tribunal pourtant ils prenaient plus de temps que prévu. Deuxièmement, selon la loi, la période d'attente maximale imposée au bureau est de 42 jours. Certains cas ont fait apparaître des problèmes épineux — il y en a tout au plus 10 par an — qui ne sont pas réglés en moins de 42 jours. Le bureau estime qu'il ne disposait pas de suffisamment de temps pour régler ce genre de dossiers

L'adoption du processus d'examen américain a permis de faire quelque chose pour régler cette situation.

Troisièmement, du fait qu'un grand nombre de nos fusions examinées ici sont également examinées en parallèle aux États-Unis, on pense qu'à des fins d'optimisation de l'efficacité et du processus d'examen il n'est pas souhaitable que les deux systèmes ne soient pas synchronisés, mais une plus grande cohérence entre les deux systèmes serait désirable.

Le système américain, qui est différent du processus canadien tel qu'il existe jusqu'à présent, comporte une ou deux étapes. Si l'examen ne comporte qu'une seule étape et qu'aucun renseignement supplémentaire n'est demandé pour une « deuxième requête », l'approbation est donnée à la fin de la période de 30 jours et la fusion est autorisée. En cas de demande de supplément d'information, l'examen se fait dans le cadre d'une deuxième requête et le processus est plus long. Ce mécanisme a fait l'objet d'une discussion. Je ne le tiendrai pas pour acquis. Il peut s'avérer long et coûteux. Toutefois, l'expérience des États-Unis indique que plus de 97 p. 100 des cas sont autorisés au cours de la période initiale de 30 jours et moins de 3 p. 100 des cas ont fait l'objet d'une deuxième requête.

Le processus en vigueur aux États-Unis oblige l'autorité chargée de l'examen à décider rapidement si le cas fera ou non l'objet d'une deuxième requête. Ce qui explique qu'ils traitent plus de dossiers que nous durant les 30 premiers jours.

L'adoption du système américain est assurément le fruit d'un compromis, car un certain nombre de lacunes ont été relevées aux États-Unis, surtout en ce qui concerne les cas les plus difficiles mentionnés dans le mémoire de l'Association du Barreau canadien.

Selon moi, il est clair que si le bureau suivait l'exemple de ses homologues américains, un nombre accru d'opérations serait approuvé au cours des 30 premiers jours et, de ce fait, le nombre de dossiers dont l'examen prendrait plus de 30 jours diminuerait. Toutefois, la façon dont le système sera appliqué dépendra de ce qu'ils feront, parce qu'ils ne sont pas obligés de suivre le modèle américain. Cependant, puisque le Parlement semble vouloir adopter le processus des États-Unis pour en retirer les avantages, on peut s'attendre à ce que le bureau essaie de faire de même. Nous verrons bien.

De plus, le processus des États-Unis permet d'éviter d'avoir recours de manière formelle et embarrassante à des ordonnances judiciaires pour l'obtention de renseignements alors que le processus canadien invoque les ordonnances de l'article 11.

The final thing I want to talk about is the abuse of dominance. There is one major change in this area, apart from taking out the airline abuse provisions, which also happened as part of Bill C-10, and that is providing that administrative monetary penalties be imposed for abuse of dominance.

In the civil area, unlike criminal, ever since we first started putting civil provisions into the act back in the mid 1970s for business practices that were less obviously harmful — things like exclusive dealing and tied selling, sometimes harmful, sometimes not, depending on the circumstances — the remedies for infringement were effectively, ''Do not do it again,'' once they determined that it had adverse effects. There was not any way, in effect, of penalizing a party for having infringed the section in the past. That was seen to be a deficiency in terms of deterrence. People would talk about getting one free bite, or we will stop after you tell us that we are offside.

In the area of abuse of dominance, the most important aspect of civil provision, they have one alternative remedy; they can actually mandate the divestiture of the party's business. That is a pretty severe remedy. In fact, that is the problem. Because it is so severe, the tribunal would be hesitant to impose that kind of an ultimate solution to resolve an issue in a sense that these business practices are sometimes hard to figure out as to whether they are offside or onside, and what is purely aggressive good competition and what is actually competition limiting and has harmful public effects.

Even in this area, however, there was no ability to impose a penalty consequence for past behaviour. The amendments effectively address this as well by permitting the Competition Tribunal to impose administrative monetary penalties. The maximums are $10 million for a first order and $15 million for subsequent orders.

I have commented in the paper that I think these maximums are at the high end, but you may have read in the last few days that the European Commission has fined Intel under their abuse-of-dominance provision over a billion Euros for a violation. I have explained in the paper why I think it is probably unnecessarily high. A lot of this stuff is in play right now, and it may be that it is looking more modest.

I want to conclude by saying I appreciate that you have a difficult assignment. You are looking at something on an *ex post facto* basis, and you did not have an opportunity to provide your comments before provisions became law. All I am here to say is that while I recognize there are some deficiencies — I have tried to mention some of them and certainly the CBA has focused on others — I think the legislation effects some important improvements to our law in the major areas of its application, and I certainly support it. I am happy to respond to any questions.

L'abus de position dominante est le dernier point que je soulèverais. À l'exception de l'abrogation des dispositions visant à prévenir les abus des transporteurs aériens, qui découle du projet de loi C-10, un important changement a été apporté à ce sujet, il s'agit de l'imposition de sanctions administratives pécuniaires pour abus de position dominante.

Dans le domaine civil, contrairement au pénal, depuis que nous avons commencé à incorporer des dispositions civiles dans la loi au milieu des années 1970 pour les pratiques commerciales manifestement moins dommageables — par exemple : l'exclusivité et les ventes liées qui, selon les circonstances, ont parfois des effets défavorables et parfois n'en ont pas —, les remèdes en cas de violation étaient effectivement de dire » Ne refaites pas cela » une fois qu'ils avaient déterminé que ces pratique avaient des effets défavorables. En fait, par le passé, aucune sanction n'était imposée à une partie qui aurait transgressé l'article de la loi. Il y avait donc une lacune au niveau de la dissuasion. Les gens parlaient d'une chance de s'en tirer, ou de ne s'arrêter qu'une fois qu'on leur dirait qu'ils contreviennent à la loi.

Pour ce qui est de l'abus de position dominante, il y a un recours et c'est là l'aspect le plus important de la disposition civile : le dessaisissement de l'entreprise de l'auteur de la violation peut être ordonné. Ce recours est très sévère. En fait, c'est ce qui pose problème, car du fait de cette sévérité, le tribunal hésitera à imposer ce genre de solution ultime pour régler une question compte tenu de la difficulté à déterminer parfois si ces pratiques commerciales sont illégales ou non, ce qui est un comportement concurrentiel audacieux et ce qui limite la concurrence et a des effets défavorables sur le public.

Cependant, même dans ce domaine, il n'était pas possible d'imposer une sanction pour un comportement passé. Les amendements abordent efficacement aussi cette question en autorisant le Tribunal de la concurrence à imposer des sanctions administratives pécuniaires. Le montant maximal est de 10 millions de dollars pour la première ordonnance et de 15 millions de dollars pour toute ordonnance subséquente.

J'ai mentionné dans le mémoire que ces plafonds sont trop élevés, et vous avez pu lire ces derniers jours que la Commission européenne a imposé, en s'appuyant sur sa disposition relative à l'abus de position dominante, une sanction de plus de un milliard d'euros à Intel pour violation. J'explique dans le mémoire les raisons pour lesquelles ce montant est probablement inutilement élevé. Plusieurs situations de ce genre sont apparues depuis et le montant peut sembler plus modeste.

Je veux conclure en disant que je reconnais que votre comité est chargé d'une tâche difficile, celle de présenter un rapport rétrospectif sans avoir eu l'occasion de formuler des commentaires avant l'adoption du projet de loi. Je suis ici pour vous dire que bien que je reconnaisse qu'il y a des lacunes — j'ai essayé d'en mentionner quelques-unes et l'Association du Barreau canadien en a certainement soulignées d'autres —, je pense que la mesure législative touche d'importantes améliorations à notre loi dans les domaines essentiels de son application, et je l'appuie évidemment. Je me ferai un plaisir de répondre à toute question.

The Deputy Chair: Thank you, Mr. Kennish. You made quite a comprehensive presentation.

Due to the fact that we have two other witnesses and normally we finish at 12:30, I am in the hands of the committee. Maybe we will ask just two questions and we will proceed, or we will have to extend the time for the next witnesses because we all want to hear from them as well. It is up to the committee to decide. I am in your hands.

Senator Tkachuk: We have a special caucus meeting at 12:45.

The Deputy Chair: Can we say a maximum of five minutes for one question on your side and one on our side?

Senator Tkachuk: I do not have any questions.

The Deputy Chair: You gave us a lot of material, Mr. Kennish; food for thought.

Senator Moore: I will be brief. Thank you, Mr. Kennish, for appearing.

You mentioned the Canadian Bar Association's brief, their letter and comments with regard to the American system, the second request. Do you support the position of the bar? Have you seen their letter?

Mr. Kennish: I have seen it. I have not studied it in great detail. I am supportive of the approach that the panel took. Some of the things that are being sought after as exemptions are also things that, in the current law, are not provided for. I think there is some legitimacy amongst the complaints that are set forth there and others that people have lived with in the past and do not seem to be a problem.

I have not looked at that letter since within the last couple of weeks, so I do not recall exactly what their focus was.

Senator Moore: Thank you.

Senator Fox: One short question, on the regulated conduct defence, which you have appearing in Appendix A on page 2. In view of what has gone on in the past between the CRTC and the Competition Bureau, you are basically saying here that it is not clear that the regulated conduct is a defence in section 45. What would be the situation if it is not clear? Would it not be a defence?

Mr. Kennish: Regulated conduct defence is a judicial principle. It was developed by the courts. It has been applied by the courts even though there are no defences in a number of these statutes, including the Competition Act. The Competition Act has been involved in some of these other cases.

The main concern here is that the last statement on the regulated conduct defence was made by the Supreme Court of Canada in the *Garland* case. The *Garland* case looked at the Competition Act as it was. Under the new system, the main point that the Supreme Court of Canada made at the opening for the

La vice-présidente : Merci, monsieur Kennish. Votre exposé est très exhaustif.

Étant donné que nous avons deux autres témoins et que nous terminons normalement à 12 h 30, je m'en remets à la décision des membres du comité. Nous pouvons peut-être poser deux questions seulement et nous continuerons ou nous prolongerons la séance pour les prochains témoins car nous voulons tous entendre aussi leurs témoignages. Il incombe au comité de décider. Je m'en remets à vous.

Le sénateur Tkachuk : Nous avons une réunion spéciale du groupe parlementaire à 12 h 45.

Le vice-président : Que diriez-vous de cinq minutes au maximum pour une question posée par votre côté et une par le nôtre?

Le sénateur Tkachuk : Je n'ai pas de question.

Le vice-président : Vous nous avez fourni beaucoup d'informations, monsieur Kennish, il y a là matière à réflexion.

Le sénateur Moore : Je serai bref. Merci d'être venu témoigner, monsieur Kennish.

Vous avez mentionné le mémoire, la lettre et les observations de l'Association du Barreau canadien au sujet du système américain, de la deuxième requête. Appuyez-vous la position du Barreau? Avez-vous lu la lettre de cette association?

Je l'ai lue. Je ne l'ai pas étudiée en détail. Je rejoins la position du groupe de témoins. Certaines choses dont on voudrait faire des exemptions sont aussi des choses qui ne sont pas prévues dans la loi actuelle. Je pense qu'il y a une certaine légitimité dans les critiques faites là-bas et d'autres que nous avons vues par le passé et qui ne semblent pas poser de problème.

Je n'ai pas relu la lettre depuis au moins deux semaines, aussi je ne me souviens pas exactement ce dont il s'agit précisément.

Le sénateur Moore : Merci.

Le sénateur Fox : Une question courte sur la défense fondée sur le comportement réglementé dont le paragraphe la concernant se trouve à la page 2 de l'Annexe A. Compte tenu de ce qui s'est passé entre le CRTC et le Bureau de la concurrence, vous dites essentiellement dans ce paragraphe qu'il n'est pas clair qu'en vertu de l'article 45, le comportement réglementé soit un moyen de défense. Que se passerait-il si ce n'est pas clair? Ne serait-ce pas un moyen de défense?

M. Kennish : La défense fondée sur le comportement réglementé est un principe juridique élaboré par les tribunaux. Les tribunaux l'ont appliqué même en l'absence de moyens de défense dans un certain nombre de lois, notamment dans la Loi sur la concurrence. La Loi sur la concurrence a été utilisée dans certains de ces autres.

Ce qui est surtout préoccupant, c'est que la dernière déclaration sur la défense fondée sur le comportement réglementé a été faite par la Cour suprême du Canada dans l'arrêt *Garland*. L'arrêt *Garland* a examiné la Loi sur la concurrence telle qu'elle était. Dans le nouveau système, le

application of the principle was — Ms. Bolton mentioned this — leeway, and they pointed to the term ''undue.'' That is no longer in the statute as far as section 45 is concerned.

What is in the bill, whatever the law was, is still the law. I think we are now in a situation where if you want to provide protection for governmentally mandated or legislated actions, or where it is authorized by legislation, we have to come out and say it. It is not clear at all now that that situation will be protected.

It is intolerable for a board or for people acting pursuant to a board's direction, when someone has been operating under validly authorized legislation, to hit them with a fine in a competition process for doing that very thing. Therefore, I agree with the bar on that issue. The regulated conduct doctrine statement in regard to section 45, as amended, is not affected. There is not a similar one for the civil version, which is section 90.1. A stronger case can be made for the civil version.

That is my view on that. I am hopeful there will be some openness to considering it, although this topic is controversial between the bureau and the bar.

[*Translation*]

The Deputy Chair: I would like to welcome our next witnesses: Michael Janigan, Director of and General Counsel for the Public Interest Advocacy Centre, and Anu Bose, Head of the Ottawa office of Option consommateurs.

Anu Bose, Head of the Ottawa Office, Option consommateurs: Madam Deputy Chair, Option consommateurs was founded in Montreal in 1983 as a not-for-profit association whose mission is to promote and defend the interests of consumers and to ensure that they are respected.

Over the years, Option consommateurs has developed expertise in the area of financial services, health and agrofood, energy, travel, access to justice, commercial practices, debt and privacy.

With me today is Michael Janigan, General Counsel for the Public Interest Advocacy Centre, a not-for-profit agency with head offices in Ottawa. Founded in 1956, PIAC provides legal and research services on behalf of consumers who do not have the resources to actively participate in decisions involving the delivery of important public services.

For over three decades, PIAC has played a leading role in the regulatory action taken by the energy, air transportation, telecommunications and financial services sector. Our two organizations will be making a joint presentation.

point majeur soulevé par la Cour suprême du Canada au commencement de la mise en œuvre du principe était — Mme Bolton l'a mentionné — la marge de manœuvre et le mot « abusif. « Ce mot ne se trouve plus dans l'article 45 de la loi.

Ce qui se trouve dans le projet de loi, peu importe quelle était la loi, reste la loi. Je pense que nous sommes maintenant dans une situation où si l'on veut protéger les mesures mandatées ou légiférées par le gouvernement, ou lorsque la loi l'autorise, nous devons le dire sans ambages. Il n'est maintenant pas clair du tout si une protection sera assurée dans cette situation.

Il est inadmissible pour un conseil ou pour des gens qui agissent sous les directives d'un conseil, si quelqu'un est intervenu sous l'autorité de la loi, de lui imposer une amende dans le cadre d'un processus concurrentiel pour avoir fait précisément cela. Par conséquent, je suis du même avis que le Barreau à cet égard. La doctrine de conduite réglementée relativement à l'article 45 modifié n'est pas touchée. Il n'y en a pas une semblable pour la version civile, qui se trouve à l'article 90.1. On peut présenter de meilleurs arguments pour la version civile.

C'est mon point de vue à cet égard. J'espère qu'on fera preuve d'une certaine ouverture d'esprit lorsqu'on examinera la question, bien qu'elle soit un sujet de controverse entre le bureau et le Barreau.

[*Français*]

La vice-présidente : J'aimerais souhaiter la bienvenue à nos représentants du Centre pour la défense de l'intérêt public, Michael Junigan, directeur exécutif et avocat-conseil, ainsi que Mme Anu Bose, d'Option Consommateurs, responsable du bureau d'Ottawa.

Anu Bose, responsable du bureau d'Ottawa, Option consommateurs : Madame la vice-présidente, nous sommes un organisme à but non lucratif dont le siège social est à Montréal. Fondé en 1983, Option consommateurs a pour mission de promouvoir et de défendre les intérêts des consommateurs ainsi que de veiller à ce qu'ils soient respectés.

Au cours des ans, Option consommateurs a notamment développé une expertise dans le domaine des services financiers, de la santé et de l'agroalimentaire, de l'énergie, du voyage, de l'accès à la justice, des pratiques commerciales, de l'endettement et de la protection de la vie privée.

Je suis accompagnée par Maître Janigan de PIAC, qui est un organisme à but non lucratif dont le siège social est à Ottawa. Créé en 1956, le PIAC offre des services de représentation juridique, des services de recherche et de défense des intérêts publics au nom des consommateurs qui n'ont pas les ressources pour participer activement aux décisions touchant la prestation d'importants services publics.

Pendant plus de trois décennies, le PIAC a joué un drôle premier plan dans les démarches réglementaires entreprises par des industries du secteur de l'énergie, du transport aérien, des télécommunications et des services financiers. Il s'agit d'une présentation conjointe de nos deux organismes.

PIAC and Option consommateurs took part jointly in the public debate on changes to the Competition Act arising from Bill C-10, both in the media and in hearings before the House of Commons Finance Committee.

[*English*]

While the bill before us was not perfectly tailored for the needs of consumers, it represents a genuine attempt to make the promotion of competitive markets and enforcement of prohibitions against anti-competitive conduct a priority.

We maintain that stakeholders are a broader group than shareholders. According to the Conference Board of Canada, consumers account for over 60 per cent of GDP. Therefore, it can be argued that they are the prime stakeholders, since they buy the products and services offered by suppliers. The regulation of markets and products is therefore intimately related to the role of government in maintaining a balance between consumer and producer interests.

As early as 2002, the House of Commons Industry, Science and Technology Committee issued an extensive report on competition policy that touched on many of the legal developments contained in Bill C-10. For example, it recommended the two-track system of criminal and civil enforcement with more rational standards.

In 2004, many of the committee's recommendations were reviewed by the Organisation for Economic Co-operation and Development, OECD, in their comprehensive report on Canada's competition law and policy. Among other recommendations, the report green-lighted such reforms as the two-track approach to anti-competitive conduct with accompanying toughening of monetary penalties and private party access. Since I am not a lawyer, I will pass it on to Mr. Janigan.

Michael Janigan, Executive Director/General Counsel, Public Interest Advocacy Centre: With respect to Bill C-10, we wrote to the chair of the Senate Committee on National Finance, the Honourable Joseph Day, with copies to the committee members, regarding our views about Bill C-10 prior to its passage. We informed Senator Day that, first, the proposed amendments, while quite comprehensive, have been the subject of considerable past discussion among stakeholders. Finally, they represented a fairly balanced approach on necessary refinements to the act.

As we noted in our letter of March 4, 200:

> Yet while the changes to the framework, powers, and procedures are likely to be very effective in helping the competition authorities achieve the objectives of the Act, they are, in fact, provisions that have been much discussed and lauded by significant national and international authorities. The government has apparently realized that

Le PIAC et l'OC ont participé conjointement au débat public sur les modifications apportées à la Loi sur la concurrence contenue dans le projet de loi C-10 à la fois dans les médias et devant le Comité des finances de la Chambre des communes.

[*Traduction*]

Bien que le projet de loi dont nous sommes saisis ne soit pas parfaitement adapté aux besoins des consommateurs, il représente un effort sincère pour faire en sorte que la promotion des marchés concurrentiels et l'application des interdictions visant les conduites anticoncurrentielles deviennent des priorités.

Nous soutenons que les intervenants forment un groupe plus large que les actionnaires. Selon le Conference Board of Canada, les consommateurs représentent plus de 60 p. 100 du PIB. Par conséquent, on peut faire valoir qu'ils sont les principaux intervenants, puisqu'ils achètent les produits et services offerts par les fournisseurs. La réglementation des marchés et des produits est donc étroitement liée au rôle du gouvernement en vue de maintenir un équilibre entre les intérêts des consommateurs et ceux des producteurs.

Dès 2002, le Comité permanent de l'industrie, des sciences et de la technologie de la Chambre des communes a publié un rapport exhaustif sur les politiques en matière de concurrence qui portait sur un grand nombre des nouvelles dispositions législatives figurant dans le projet de loi C-10. Par exemple, il a recommandé le système à deux volets pour l'application de la loi au pénal et au civil, ainsi que des normes plus rationnelles.

En 2004, l'Organisation de coopération et de développement économiques, l'OCDE, a examiné un grand nombre des recommandations du comité dans son rapport exhaustif sur les lois et les politiques en matière de concurrence. Parmi d'autres recommandations qui ont été formulées, le rapport a donné le feu vert à de telles réformes, comme l'approche à deux volets à la conduite anticoncurrentielle, le durcissement de sanctions pécuniaires et la réduction de l'accès des particuliers. Comme je ne suis pas avocat, je vais céder la parole à M. Janigan.

Michael Janigan, directeur exécutif et avocat conseil, Centre pour la défense de l'intérêt public : En ce qui concerne le projet de loi C-10, nous avons envoyé une lettre au président du Comité des finances nationales, l'honorable Joseph Day, de même que des copies pour les membres du comité, dans laquelle nous exposons nos opinions au sujet du projet de loi C-10 avant son adoption. Dans un premier temps, nous avons informé le sénateur Day que les modifications proposées, bien qu'elles soient très détaillées, ont fait l'objet de discussions approfondies avec les intervenants. Elles représentent une position assez équilibrée sur les précisions qu'il faut apporter à la loi.

Voici un passage tiré de notre lettre du 4 mars 2009 :

> Bien que les changements apportés au cadre, aux pouvoirs et aux procédures seront vraisemblablement très efficaces pour aider les autorités en matière de concurrence à atteindre les objectifs de la loi, ce sont en fait des dispositions dont on a abondamment discuté et qui ont été applaudies par de grandes autorités nationales et internationales. Le

their adoption by Parliament could represent a much needed boost to competitive markets and a substantial deterrence to job destroying anti-competitive conduct.

The present amendments also complete the reform of provisions on misleading advertising or deceptive marketing that has been the consensus for over two decades. These amendments will help the competition authorities address this abuse in an economic and administrative fashion. By so doing, the intent of the provisions will be more efficiently enforced and appropriate sanctions meted out that are commensurate to the conduct of the offending advertiser.

Naturally, there has been an effort to bolster the effectiveness of non-criminal enforcement procedures to encourage compliance, including more realistic maximums on administered monetary penalties and some new rights for complainants. This package of amendments places appropriate emphasis on the importance of deterring anti-competitive conduct, particularly in the current difficult financial environment.

It is essential that the committee understand that these amendments are designed to make markets work better and to protect the legitimate interests of consumers and suppliers on open markets. These amendments will act as a deterrent to practices that entail conduct that subverts the operation of a competitive market and that prevents the existence of an informed marketplace of customers; and, finally, the ability of suppliers to challenge dominant players with new products and services.

In terms of looking at this legislation as to who wins or who loses, I would note, honourable senators, you generally never get to hear from the businesses that need this kind of protection. For example, you will not be hearing from the independent business person who has used the family assets to finance a new business only to see it crushed by the actions of suppliers of the new business, at the instigation of a market incumbent.

You might read about a scam luring shoppers to purchase a wonder product that is misrepresented and misdescribed, but you will never see before you the pensioner who has had to cut back on necessities because she fell for the scam. She will not be here to tell you that what happened to her is an acceptable risk that allows more creative advertising to take place.

You will not hear from the parties complaining about increases to maximum penalties, that the existence of dollar amounts sufficiently robust to deter the largest of businesses from breaching the act will probably prevent more bureau files from being opened because of business self-policing to avoid such sanctions.

It is of highest importance that senators understand that deterring anti-competitive conduct as proposed here is not the heavy hand of government in operation. Instead, it is supportive

gouvernement a, semble-t-il, pris conscience que leur adoption par le Parlement pourrait être le coup de pouce dont les marchés concurrentiels ont tant besoin et un moyen de dissuasion important à la conduite anticoncurrentielle qui élimine les emplois. [Traduction]

Les modifications viennent aussi compléter la réforme des dispositions sur la publicité ou les pratiques commerciales trompeuses qui font l'objet d'un consensus depuis deux décennies. Ces modifications aideront les autorités en matière de concurrence à s'attaquer à cet abus de façon économique et administrative. Ce faisant, l'intention des dispositions sera appliquée plus efficacement et les sanctions infligées seront proportionnelles à la conduite du publicitaire fautif.

Naturellement, on a tenté de renforcer l'efficacité de l'application de la loi sans recourir à la procédure pénale pour encourager le respect de la loi, ce qui comprend des sanctions pécuniaires maximales plus réalistes et des droits nouveaux pour les plaignants. Cette série de modifications met l'accent sur l'importance de décourager la conduite anticoncurrentielle, plus particulièrement dans la situation financière difficile actuelle.

Il est essentiel que les membres du comité comprennent que ces modifications sont conçues pour améliorer le fonctionnement des marchés et protéger les intérêts légitimes des consommateurs et des fournisseurs sur les marchés ouverts. Elles permettront de décourager les gens à se livrer notamment à des pratiques qui nuiraient au fonctionnement d'un marché concurrentiel, qui empêcheraient l'existence d'un marché de consommateurs informés et qui compromettraient la capacité des fournisseurs de rivaliser avec les principaux acteurs en mettant sur le marché de nouveaux produits et services.

Si on examine la mesure législative du point de vue de qui gagne ou de qui perd, je signalerais, honorables sénateurs, que vous n'avez jamais l'occasion d'entendre les entreprises qui ont besoin de ce type de protection. Par exemple, vous n'entendrez pas les gens d'affaire indépendants qui ont investi leurs actifs familiaux pour financer une nouvelle entreprise, seulement pour voir celles-ci détruites par les gestes des fournisseurs de la nouvelle entreprise, à la demande d'un titulaire déjà établi sur le marché.

Vous pourriez lire un article au sujet d'une escroquerie en vue de leurrer les consommateurs pour qu'ils achètent un produit merveilleux qui est faussement représenté et décrit, mais vous ne verrez jamais devant vous le pensionné qui a dû réduire ses dépenses de première nécessité parce qu'il s'est fait berner. Il ne viendra pas vous dire que ce qui lui est arrivé est un risque acceptable qui favorise une plus grande créativité dans la publicité.

Les parties ne se plaindront pas du durcissement des sanctions maximales, ni des amendes suffisamment élevées pour décourager les plus grandes entreprises à contrevenir à la loi qui permettront probablement d'éviter qu'un plus grand nombre de dossiers soient ouverts parce que les entreprises s'autoréglementent pour éviter de telles sanctions.

Il est de la plus haute importance que les sénateurs comprennent que décourager les pratiques anticoncurrentiels comme on le propose ici n'est pas de l'autoritarisme de la part

of open markets and less regulation. The fact is that a lot of money can be made by misleading the public or unfairly stacking the deck against competitors. Unless government has the tools at hand to prevent such conduct from being rewarded, three unfortunate things will occur. First, informed choice and possible innovation will be stifled; second, possible inefficiency in the delivery of a product or service will occur; and third, incumbents will have little incentive to curb behaviour.

That is not to say that everything was perfect in these amendments. We would have preferred for the exemptions under the merger sections to be examined and reviewed. These allow some business arrangements that may hurt consumers. They are allowed to subsist under the total welfare test for efficiencies as long as such agreements or mergers provide an aggregate benefit to shareholders that is greater than the harm in the form of loss of choice and higher prices. The reason we have not made the test one of consumer welfare is a combination of muddled economics and old-fashioned protectionism that should have vanished in our current economy. Our businesses do not need to be able to merge or work in collusion to be competitive with continental and world rivals. We got over that hump in the 1990s and do not need it now for Canadian business. Mergers and business agreements or concerted action with anti-competitive effects should provide a net benefit to consumers or be disallowed.

As the members of the committee may know, consumer groups, including our own, are active in ensuring compliance with consumer protection laws by way of class actions. Most of these cases are settled or adjudicated with the provision of a percentage of funds to consumer or public interest organizations to carry out education or similar proactive work around the issues in play in the litigation. It is good public policy to have the wrongdoers pay for attempts to stop other wrongdoers.

It is likely that, in the future, civil remedies under this new legislation may be pursued in preference to class actions in provincial courts. In our view, it is important that the use of any leftover funds associated with restitution be directed to enhance the ability of consumer advocates to increase their ability to exercise vigilance to prevent abuses similar to the ones that triggered the cause of action.

We are prepared to take your questions.

Senator Oliver: I would like to go to one of the very last things you mentioned, and that is class actions. Other witnesses appearing before us have said that with Bill C-10 and the change in the test, it seems the floor will now be open for a flood of new class action lawsuits. You do not seem to think that. You said that other civil remedies will be used.

du gouvernement. C'est plutôt propice à l'ouverture des marchés et à une diminution de la réglementation. Le fait est qu'on peut faire beaucoup d'argent en trompant la population ou en ne jouant pas franc jeu avec les concurrents. Si le gouvernement n'a pas les outils sous la main pour prévenir qu'une telle conduite soit récompensée, trois événements malheureux pourraient survenir. Premièrement, cela pourrait faire obstacle aux choix éclairés et à l'innovation éventuelle. Deuxièmement, la fourniture d'un produit ou d'un service pourrait être inefficace. Troisièmement, les gens seraient peu encouragés à mettre un frein au comportement.

Cela ne veut pas dire que tout était parfait dans ces modifications. Nous aurions préféré que les exemptions dans les articles portant sur les fusions soient examinées et révisées. Elles ont donné lieu à des ententes commerciales pouvant nuire aux consommateurs. Ces ententes sont permises en vertu d'un critère sur le bien-être global relatif aux gains en efficience dans la mesure où de telles ententes ou fusions offrent un avantage global aux actionnaires supérieur au tort causé par la perte de choix et la hausse des prix. La raison pour laquelle nous n'avons pas utilisé le premier critère sur le bien-être des consommateurs, c'est à cause d'une économie nébuleuse et d'un protectionnisme rétrograde qui auraient dû disparaître dans notre économie actuelle. Nos entreprises n'ont pas besoin de pouvoir fusionner ou travailler en collusion pour être concurrentielles avec les rivaux sur le continent et sur la scène internationale. Nous avons traversé ce moment difficile dans les années 1990 et les entreprises canadiennes n'en ont pas besoin maintenant. Les fusions et les ententes commerciales ou les actions concertées accompagnées d'effets anticoncurrentiels devraient fournir un avantage net aux consommateurs ou ne devraient pas être admises.

Comme vous le savez peut-être, les groupes de consommateurs, y compris le nôtre, travaillent activement à assurer le respect des lois sur la protection des consommateurs au moyen de recours collectifs. La plupart de ces affaires sont réglées en offrant un pourcentage des fonds aux consommateurs ou aux organisations d'intérêt public pour mener des séances d'éducation ou des projets proactifs semblables entourant les problèmes en jeu dans le litige. Il est dans l'intérêt public que les fautifs paient pour essayer d'arrêter d'autres fautifs.

Dans l'avenir, il est probable que l'on privilégie les recours au civil en vertu de la nouvelle législation aux recours collectifs devant les tribunaux provinciaux. À notre avis, il est important que toute somme résiduelle liée à la restitution serve à accroître la capacité des groupes de défense des consommateurs de faire preuve de vigilance pour prévenir des abus semblables à ceux qui mènent à des poursuites.

Nous sommes prêts à entendre vos questions.

Le sénateur Oliver : J'aimerais revenir à l'un des derniers points que vous avez mentionnés, à savoir les recours collectifs. D'autres témoins qui ont comparu devant nous ont dit que le projet de loi C-10 et le changement apporté au critère laisseront le champ libre à une foule de nouveaux recours collectifs. Ce n'est pas ce que vous semblez penser. Vous avez dit que d'autres recours au civil seront intentés.

What other civil remedies did you have in mind that will be used instead of a group of people bringing a class action?

Mr. Janigan: In this case, it is the circumstance of the commissioner seeking restitution for misleading practices, in which case there is a class of individuals that will be benefited by that restitution. In that circumstance, instead of a class action that may be commenced under provincial legislation in, for example, Quebec or Ontario, you may see the entire thing get rolled into actions by the Commissioner of Competition that may have the same effect. In that circumstance, we would like to see the same kind of result that occurs in many class actions now, which is that any money left over that has not been compensated to consumers be directed to the use of organizations that deal with these issues on a day-to-day basis and that try to prevent wrongdoing.

Senator Oliver: Restitution has been available before, but now it is codified and it is there, so the tribunal will have the right when requested to have that as one of the possible remedies. It will vary based on the facts of a particular case.

Do you think there will be a lot of new class action suits as a result of these amendments?

Mr. Janigan: It is just too early to say at this point in time. Certainly, class action has been a burgeoning field over the last 10 years.

Senator Oliver: Have you brought them yourself and, if so, how many class action suits have you been involved in, in this area?

Mr. Janigan: No, we are not in a position as an organization to bring actions. From time to time we have advised clients on different issues associated with actions that they brought, the last one being on financial instruments, but we are not in a position to actually bring actions, because they involve a level of legal work that we do not have the resources to provide.

The Deputy Chair: Are there other questions?

You made a very good presentation. I agree with you on the fact that you represent probably a larger number of people, meaning consumers, and we will look at what we can review and strike a balance between those who are selling and those who are buying. We thank you for your recommendations.

(The committee adjourned.)

Quels autres recours au civil seront présentés à la place d'actions collectives?

M. Janigan : Dans ce cas-ci, c'est le commissaire qui réclame une restitution pour des pratiques trompeuses, où un groupe de personnes profiteront de cette restitution. Dans cette situation, plutôt qu'un recours collectif soit intenté en vertu de la législation provinciale au Québec ou en Ontario, par exemple, on pourrait assister à des mesures prises par le commissaire de la concurrence qui pourraient avoir le même effet. Dans cette situation, nous aimerions voir le même genre de résultat que l'on obtient dans bien des recours collectifs à l'heure actuelle, c'est-à-dire que toute somme résiduelle qui n'a pas été remise aux consommateurs en guise d'indemnité soit versée à des organisations qui s'occupent de ces questions au quotidien et qui tentent de prévenir les actes répréhensibles.

Le sénateur Oliver : Il était possible d'obtenir une restitution auparavant, mais elle est maintenant codifiée et elle existe, et donc le tribunal pourra, sur demande, exiger qu'il y ait restitution parmi les recours possibles. Cela variera selon les faits d'une affaire donnée.

Pensez-vous que ces modifications donneront lieu à bien des nouvelles actions collectives?

M. Janigan : Il est tout simplement trop tôt pour le dire. Les recours collectifs ont certainement foisonné au cours des dix dernières années.

Le sénateur Oliver : Les avez-vous intentés vous-même et, le cas échéant, à combien de recours collectifs avez-vous participé dans ce secteur?

M. Janigan : Non, nous ne sommes pas en mesure en tant qu'organisation d'intenter des actions. De temps à autre, nous avons conseillé des clients sur différentes questions liées à des actions qu'ils ont intentées, la dernière portant sur les instruments financiers, mais nous ne sommes pas en mesure d'intenter des actions, car elles comportent du travail juridique et nous ne disposons pas des ressources nécessaires pour le faire.

La vice-présidente : Y a-t-il d'autres questions?

Vous avez fait une excellente déclaration. Je suis d'accord avec vous sur le fait que vous représentez probablement un groupe plus large de personnes, c'est-à-dire les consommateurs, et nous examinerons ce que nous pouvons revoir et nous établirons un équilibre entre les vendeurs et les acheteurs. Nous vous remercions pour vos recommandations.

(La séance est levée.)

Thursday, May 14, 2009

Canadian Bar Association:

John D. Bodrug, Chair, National Competition Law Section;

Paul Collins, Vice-Chair (Enforcement), National Competition Law Section;

Janet Bolton, Chair, Legislation and Competition Policy Committee, National Competition Law Section;

Omar Wakil, Chair, Mergers Committee, National Competition Law Section.

Osler, Hoskin & Harcourt LLP:

Tim Kennish, Counsel.

Public Interest Advocacy Centre:

Michael Janigan, Executive Director/General Counsel.

Option Consommateurs:

Anu Bose, Head of the Ottawa Office.

Le jeudi 14 mai 2009

Association du Barreau canadien:

John D. Bodrug, président, Section nationale du droit de la concurrence;

Paul Collins, vice-président (application) Section nationale du droit de la concurrence;

Janet Bolton, président, Comité de la législation et des politiques, Section nationale du droit de la concurrence;

Omar Wakil, président, Comité des fusions, Section nationale du droit de la concurrence.

Osler, Hoskin & Harcourt LLP:

Tim Kennish, avocat.

Le Centre pour la défense de l'intérêt public:

Michael Janigan, directeur exécutif et avocat conseil.

Option Consommateurs:

Anu Bose, responsable du bureau d'Ottawa.

WITNESSES

Wednesday, May 13, 2009

Competition Bureau Canada:

Melanie Aitken, Interim Commissioner of Competition.

Industry Canada:

Colette Downie, Director General, Marketplace Framework Policy Branch.

Canadian Chamber of Commerce:

Shirley-Ann George, Senior Vice-President, Policy;

George Addy, Chair, Canadian Chamber Board Policy Committee.

Retail Council of Canada:

Peter Woolford, Vice-President, Policy Development and Research.

(*Continued on previous page*)

TÉMOINS

Le mercredi 13 mai 2009

Bureau de la concurrence Canada:

Melanie Aitken, commissaire intérimaire de la concurrence.

Industrie Canada:

Colette Downie, directrice générale, Direction générale des politiques-cadres du marché.

Chambre de commerce du Canada:

Shirley-Ann George, vice-présidente principale, Politiques;

George Addy, président, Comité des politiques du conseil d'administration de la Chambre du commerce du Canada.

Conseil canadien du commerce de détail:

Peter Woolford, vice-président, Élaboration des politiques et recherche.

(*Suite à la page précédente*)

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J. Fletcher P20709

This is Exhibit “B” to the affidavit of **Mallory Kelly,** affirmed
remotely and stated as being located
in the city of Gatineau, in the province of Quebec,
before me at the city of Ottawa in the province of Ontario,on
July 4, 2025, in accordance with
O. Reg 431/20, Administering Oath or Declaration Remotely.

HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

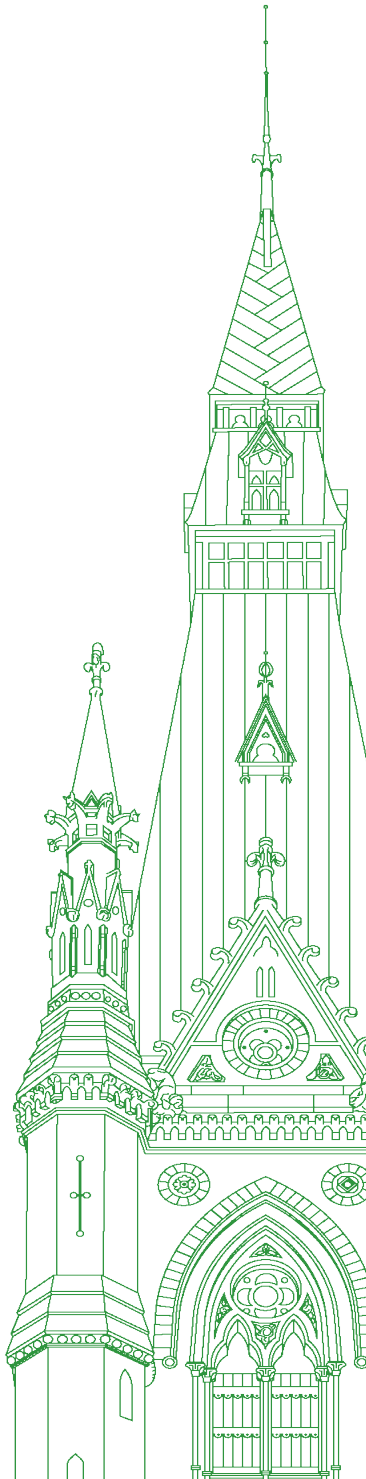
44th PARLIAMENT, 1st SESSION

Standing Committee on Finance

EVIDENCE

NUMBER 050

Tuesday, May 24, 2022



Chair: Mr. Peter Fonseca

Standing Committee on Finance

Tuesday, May 24, 2022

● (1000)

[*English*]

The Chair (Mr. Peter Fonseca (Mississauga East—Cooksville, Lib.)): I call this meeting to order. Welcome to meeting 50 of the House of Commons Standing Committee on Finance.

Pursuant to the order of reference of May 10, 2022, the committee is meeting on Bill C-19, An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures.

Today's meeting is taking place in a hybrid format pursuant to the House order of November 25, 2021. Members are attending in person in the room and remotely using the Zoom application. As per the directive of the Board of Internal Economy on March 10, 2022, all those attending the meeting in person must wear a mask, except for members who are at their place during proceedings.

I would like to make a few comments for the benefit of the witnesses and members. Please wait until I recognize you by name before speaking. For those participating by video conference, click on the microphone icon to activate your mike, and please mute yourself when you are not speaking. For interpretation for those on Zoom, you have the choice at the bottom of your screen of the floor, English or French. For those in the room, you can use the earpiece and select the desired channel.

I will remind you that all comments should be addressed through the chair.

For members in the room, if you wish to speak, please raise your hand. For members on Zoom, please use the “raise hand” function and the clerk and I will manage the speaking order as best we can. We appreciate your patience and understanding in this regard. I request that members and witnesses treat each other with mutual respect and decorum.

Now I'd like to welcome today' s witnesses.

For our first panel from 10 to 11:30, we have the Centrale des syndicats démocratiques, and Maxime Gilbert, who is a lawyer in the social law department.

From the Co-operative Housing Federation of Canada, we have Tim Ross, executive director.

From Diabetes Canada, we have Andrew Jones with us in the room, the executive director, government affairs, policy and advocacy.

From the Green Budget Coalition we have David Browne, director of conservation, Canadian Wildlife Federation; Tom L. Green, senior climate policy adviser, David Suzuki Foundation; and Andrew Van Iterson, manager.

We'll now begin with Mr. Gilbert from the Centrale des syndicats démocratiques for up to five minutes, please.

Monsieur Gilbert, you have five minutes for your opening remarks. Thank you.

[*Translation*]

Mr. Maxime Gilbert (Lawyer, Social Law Department, Centrale des syndicats démocratiques): Thank you, Mr. Chair.

I hope the sound is good. I unfortunately didn't receive the headset on time.

I want to thank you for this invitation on behalf of the Centrale des syndicats démocratiques, or CSD, which I represent this morning.

My name is Maxime Gilbert. As mentioned, I am a lawyer with the CSD's social law department.

First, I want to thank you for postponing our appearance. It was supposed to take place last Thursday, but unfortunately, that wasn't possible. We're pleased to take this opportunity today to present our remarks on the budget implementation bill.

Our comments essentially focus on division 32 of part 5 of Bill C-19. It's not that the rest of the bill isn't worth a few comments, but CSD wants to review Parliament's response to a demand frequently repeated by many labour organizations. Consequently, I'll be discussing division 32 of part 5, which is entitled Employment Insurance Board of Appeal.

In CSD's view, the fact that the government is finally proposing to reform the employment insurance appeal process is clearly excellent news, particularly since it announced that reform nearly three years ago. Of course, a pandemic occurred in the intervening time, but we are nevertheless pleased to see that action is being taken. However, this division of Bill C-19 should be amended to ensure that the reform is conducted in accordance with the parameters outlined three years ago and based on the lessons learned from the failures of the Social Security Tribunal of Canada, the SST.

We feel that division 32 of part 5 should contain provisions stating that the new Employment Insurance Board of Appeal will report to the tripartite structure of the Employment Insurance Commission, not solely to its chairperson. In our view, the employment insurance appeal process shouldn't return to a tripartite approach solely when an insured is heard. This tripartite approach, which embraces all employment insurance stakeholders, must be part of the entire appeal structure. That would also be consistent with the discussions the government had in the fall of 2018 at the initiative of Mr. Duclos, who was the minister at that time, and with the announcement that Employment and Social Development Canada made in a press release in August 2019, and I quote:

> The Canada Employment Insurance Commission will become responsible for first-level EI appeals through the creation of a new tripartite decision-making tribunal called the Employment Insurance Boards of Appeal. As a tripartite organization, the new Boards of Appeal will represent the interests of government, workers and employers, helping put first-level EI appeal decisions back into the hands of those who pay into the EI system, i.e. workers and employers.

Once again, in our view, there must be a direct line of accountability to the Employment Insurance Commission in monitoring the way that union and employer representatives are recruited, appointed and trained and the way they carry out their mandates on the boards of appeal. There must be no repeat of the error made with the SST, which is virtually unaccountable to the Employment Insurance Commission. For the record, when the SST was at its most dysfunctional, the commission was effectively powerless to elicit adjustments from the tribunal or to hold it accountable.

Provisions should also be added to division 32 of part 5 entitling employment insurance claimants to regional representation and to the strong likelihood, if not guarantee, of an in-person hearing. At the SST, the default hearing, as it were, is by telephone. That trend must be reversed so the default hearing is the one conducted in person. Genuine access to an in-person hearing has been recognized as an essential aspect of any reform of the employment insurance appeal system.

In addition, we want hearings to be held, where possible, in the region of the insured so that they are conducted by members who are familiar with the regional labour market rather than by members whose conception of that market is too general and thus detached from reality.

● (1005)

To cite only one example that I consider obvious, the actual situation in the regions is quite different from that in the major centres. As far as possible, decisions must take that fact into account and reflect it.

Furthermore, division 32 of part 5 should provide that all members of the board of appeal shall be appointed on a part-time basis. In its current form, the bill provides for some members of the board to be appointed part time and others on a full-time basis. As a result, part-time and full-time members may exhibit different levels of engagement and effectiveness. That imbalance, which seems apparent from a reading of the bill—

[*English*]

The Chair: Monsieur Gilbert, could you start to conclude, please?

[*Translation*]

Mr. Maxime Gilbert: All right.

We therefore fear that the difference in status and compensation among members of the board of appeal may result in inequality and unfairness.

As I said earlier, the new appeal process must be set forth in provisions stating that the Employment Insurance Commission of Canada shall direct the process of selecting members, workers, employers and the board of appeal and that the board shall be tripartite in nature only if the social partners are directly involved in selecting and appointing worker and employer members.

● (1010)

The Chair: Thank you, Mr. Gilbert.

Mr. Maxime Gilbert: Thank you.

[*English*]

The Chair: There will be an opportunity during question time to further your comments.

Thank you.

[*Translation*]

Mr. Maxime Gilbert: All right.

[*English*]

The Chair: We're moving now to the Co-operative Housing Federation of Canada and Tim Ross, executive director.

You have five minutes, please.

Mr. Timothy Ross (Executive Director, Co-operative Housing Federation of Canada): Good morning and thank you very much.

It's a pleasure to be here with you today. Thank you for the invitation, on behalf of Canada's housing co-operatives and related organizations that are members of the Co-operative Housing Federation of Canada.

I'd like to acknowledge that I'm grateful to be speaking with you today from the traditional and unceded territory of the Algonquin Anishinabe nation, which has lived here since time immemorial.

Today, I would like to share with you some perspectives on the housing crisis and what the 2022 federal budget can do to help address this acute crisis.

First, I'll start by providing a brief picture of co-op housing in Canada. There are more than 2,200 housing co-operatives, located in every province and territory in Canada. Housing co-ops are home to a quarter of a million Canadians. The vast majority of these housing co-operatives were developed in the 1970s and 1980s, supported by a robust and dedicated federal investment program and, in some jurisdictions, provincial investments as well. Federal investment in new co-op and non-profit housing ended in 1993, and then resumed at a much more modest scale in the early 2000s, but without a dedicated federal co-op housing program. Since 1993, we have really only seen a modest amount of new co-op homes developed, primarily sourced with some provincial funding.

Why does co-op housing matter? Most would agree that we need much more housing supply to address the housing crisis that we're in. We're no doubt in a very serious housing crisis in Canada, so we need more supply.

However, not all supply is created equal. In past decades, market rental housing became less expensive over time, becoming a relatively affordable option for many households. This is no longer the case, because of a process of financialization whereby housing is increasingly treated as an investment. In fact, we're losing more affordable housing in Canada due to financialization today than we're building. These effects are not shared equally, and they adversely affect indigenous peoples and members of racialized communities even more.

The supply response must intentionally build and acquire more housing that is safe from the forces of financialization, which means more co-op and non-profit housing in order to create a housing supply that is truly affordable, secure and inclusive. To be clear, co-op housing is more affordable than market rental housing, because the vast majority of housing co-ops operate on a not-for-profit basis, and their permanently affordable rents become more affordable over time.

Co-op housing also offers security of ownership. There's no outside landlord who might sell property or renovict tenants. Co-ops are inclusive by design, because almost all operate on a mixed-income model. Finally, co-ops are stronger communities. During the pandemic, we've witnessed countless stories of neighbours helping neighbours. The value of this in a world increasingly characterized by division cannot be overstated.

We're very excited to see in the federal budget an announcement of a co-op housing development program funded at $1.5 billion over five years, along with a commitment that the co-op housing sector will co-design the program with CMHC. The program is anticipated to commit funding for 6,000 co-op homes over the next five years. We need a lot more than 6,000 new co-op homes across the country. Most markets alone could absorb that and benefit from at least that many, but this is an incredibly important start.

We've been reflecting on what did and didn't work so well with previous federal co-op housing programs and how today's housing markets differ. With that in mind, we look forward to a co-op housing development program that focuses on scale, supports acquisition alongside development and enables the co-op housing sector to lead the way by directly delivering the program.

Our sector's excitement to start building more co-op housing is tempered by the fact that we know more is needed to solve the housing crisis. In particular, we know the crisis is hitting indigenous people in urban, rural and northern communities particularly hard. The budget committed 300 million for the development of an urban, rural and northern indigenous housing strategy, which is a start, but it is broadly agreed that this funding level is inadequate. Alongside other advocates, Canada's housing co-ops have been calling for a robustly funded urban, rural and northern indigenous housing strategy developed for and by the indigenous housing sector for years, and we'll continue to do so.

● (1015)

I'll close with appreciation and a sight line on what we can accomplish by building new co-op housing. I equally encourage all the committee members to do what they can to realize a meaningful investment in an urban, rural and northern indigenous housing strategy going forward.

Thank you again for your time and for the invitation to appear here today. I look forward to your questions.

The Chair: Thank you, Mr. Ross.

Now we'll hear from Diabetes Canada and Andrew Jones, the executive director of government affairs policy and advocacy.

Mr. Jones.

Mr. Andrew Jones (Executive Director, Government Affairs, Policy and Advocacy, Diabetes Canada): Thank you, Mr. Chair.

I'm Andrew Jones, executive director of government affairs, policy and advocacy at Diabetes Canada. It's a pleasure to be here this morning to assist in your study of Bill C-19. I'm looking forward to discussing an important issue for people affected by diabetes that aligns with your current study, which is the disability tax credit.

Before I dive into the details surrounding the disability tax credit, let me tell you a little about the burden of diabetes and a number of federal government initiatives from 2021 that are intended to address this burden.

Many of you will know that Canada gave the world the gift of insulin more than 100 years ago. It's a discovery that ranks among the leading achievements of medical research. Because of insulin, millions of people around the world with diabetes live long lives. However, insulin is not a cure and we are not at the finish line. Recently, Diabetes Canada released new diabetes figures that show a steady, continued increase in diabetes in our country, with 11.7 million people in Canada living with diabetes or prediabetes. Just a decade ago, that number was 9.2 million. That's a shocking 27% increase.

Diabetes continues to affect more Canadians than ever before, despite concerted effort and numerous diabetes-related accomplishments in Canada and throughout the world. There is no denying that diabetes is an epidemic.

The good news is that in 2021, in honour of the 100th anniversary of the discovery of insulin in Canada and in recognition of the huge and growing burden of diabetes on Canadians, the federal government and all parliamentarians made significant and laudable commitments to improve prevention, management and research in diabetes. Canada proudly co-hosted a World Health Organization symposium on diabetes in April 2021, and jointly with them, launched the global diabetes compact.

The 2021 federal budget contained important commitments to funding research and developing a national diabetes framework. On June 29, 2021, royal assent was received for Bill C-237, An Act to establish a national framework for diabetes, which was unanimously supported by all parliamentarians. These commitments laid a critical foundation that we can build upon to meaningfully reduce the burden of diabetes in Canada by implementing the recommendations of Diabetes Canada's diabetes 360° nationwide strategy.

Diabetes Canada is eager to continue to collaborate with the federal government on this important and urgent work. Diabetes Canada continues to recommend that the federal government dedicate the necessary financial and human resources required to realize the 2021 budget and Bill C-237 commitments to implement a national diabetes framework, based on the diabetes 360° framework, as quickly and comprehensively as possible. Previous stakeholder consultations suggest an investment of $150 million in funding over seven years.

I'd like to also take a moment to discuss with you our concerns surrounding the disability tax credit.

I know our friends in the diabetes community, JDRF, appeared before you last week. You may be comforted to know that our position regarding the disability tax credit is well aligned with what you heard last week from JDRF.

We at Diabetes Canada ask that the federal government consider granting eligibility for the disability tax credit to all Canadians with diabetes who are on insulin therapy. We maintain that the current eligibility criteria that requires a life-sustaining therapy for an average of at least 14 hours per week is antiquated and unfair.

Furthermore, we support recommendation 14 of the Canada Revenue Agency's disability advisory committee. They recommend replacing the current eligibility requirements, including the 14-hour rule, with the following: “Individuals who require life-sustaining therapies...are eligible for the [disability tax credit] because of the time required to administer these therapies.... Without them, the individual could not survive or would face serious life-threatening challenges.”

Insulin therapy is on the recommended list of therapies. We believe that anyone who is on insulin therapy, regardless of whether they are living with type 1 or type 2 diabetes, would qualify for the disability tax credit following the advisory committee's recommendation because unfortunately without insulin, they would not survive or they would face serious, life-threatening challenges.

Everyone with type 1 diabetes and some people with type 2 need to use insulin as a treatment. To determine a dose of insulin multiple times a day, people with diabetes must problem solve, make numerous decisions and undertake many activities. These include consulting regularly with their diabetes specialist, checking blood sugar six or more times a day and maintaining a record of the blood sugar levels. With that, they must identify trends requiring alterations to treatment, make complex calculations accounting for such things as the time of day, the amount or type of food they are eating, the activity or exercise they plan to do in the coming hours, how much stress they are under and whether they are fighting a cold or flu.

All of these factors can affect blood sugar levels. Many of these activities are not easily quantified and/or permitted to be counted towards the antiquated 14 hours a week disability tax credit eligibility criteria.

● (1020)

The disability tax credit helps offset costs and enables eligible Canadians with diabetes to manage their condition. We trust that you will amend Bill C-19 to make it easier and fairer for people living with diabetes and relying on life-sustaining therapy to qualify for the credit.

Thank you for your attention. I look forward to answering any questions you might have.

The Chair: Thank you, Mr. Jones.

Now we'll go to the Green Budget Coalition. For opening remarks, we have Andrew Van Iterson, who is in the room with us.

Mr. Andrew Van Iterson (Manager, Green Budget Coalition): Mr. Chairman and honourable committee members, thank you for inviting the Green Budget Coalition to speak to you today.

The Green Budget Coalition, active since 1999, is unique in bringing together the expertise of 21 of Canada's leading environmental organizations, collectively with over one million members, supporters and volunteers. The Green Budget Coalition's mission is to present an analysis of the most pressing issues regarding environmental sustainability in Canada and to make a consolidated annual set of recommendations to the federal government regarding strategic fiscal and budgetary opportunities. We appreciated the opportunity to meet with the Deputy Prime Minister in February.

As the clerk mentioned, I'm pleased to be joined today by two of my expert colleagues to help answer your questions: one of the coalition's co-chairs, David Browne, with the Canadian Wildlife Federation, plus the coalition's lead on climate, Tom Green, with the David Suzuki Foundation.

The Green Budget Coalition made five feature recommendations for budget 2022 addressing three feature objectives of net-zero emissions by 2050, full nature recovery by 2050 and environmental justice. Specifically regarding the renovation wave, they address fossil fuel subsidies and public finance, freshwater management, protected areas and a new office of environmental justice and equity.

The Green Budget Coalition much appreciated the major federal funding announcements advancing climate and nature progress in the April 7 federal budget and the preceding emissions reduction plan. We particularly appreciated the funding for building retrofits for fresh water and for incentives in infrastructure for electric vehicles, including medium- and heavy-duty vehicles. We also appreciated funding for clean electricity, nature-based climate solutions, oceans protection, improving the environmental impacts of agriculture and expanding tax credits to apply to more clean technologies.

At the same time, we were disappointed by the gap on fresh water between the amount announced and the funding necessary, as outlined in our recommendations and committed in the Liberal platform. We were also disappointed by the lack of progress on phasing out fossil fuel subsidies, on permanent funding for protected areas and on the office of environmental justice and equity. Green Budget Coalition members expressed particular concern about the new tax credit for carbon capture, utilization and storage, which is estimated to cost $2.6 billion over the next five years.

Given that I have a couple of minutes left, I would like to turn to Tom Green with the David Suzuki Foundation to add an extra comment or two on climate change in the budget.

Mr. Tom L. Green (Senior Climate Policy Adviser, David Suzuki Foundation, Green Budget Coalition): I'm very pleased to be here today. Thank you, committee members, for the invitation.

As you know, the climate crisis is accelerating, and I understand many of you in Ottawa are on Zoom today because it was impossible to travel around, as electricity is still out in many parts of town. I think the urgency with which we must act is clearly evident, yet as my colleague mentioned, we are continuing to double down on fossil fuel production through the CCUS tax credit, which is very substantial and will rise to $1.5 billion a year by 2026-27.

We know that we should be putting our money into, for instance, generating more electricity with renewable electricity. Actually, we have a study coming out tomorrow that will show how much can be done with that. Really, we need to rebalance our investments, take away the subsidies and invest where the opportunities are and the real emissions reductions are.

I'd be happy to talk more about that during questions and answers. Thank you.

● (1025)

The Chair: Is that it, Mr. Van Iterson and Mr. Green?

Mr. Andrew Van Iterson: Yes. Thank you again.

The Chair: Thank you very much.

Now we are moving to the rounds of questions by members. In our first round, for witnesses to know, each party will have up to six minutes to ask questions. We're beginning with the Conservatives.

I have MP Stewart up, for six minutes, please.

Mr. Jake Stewart (Miramichi—Grand Lake, CPC): Thank you, Mr. Chair.

I want to thank all of the witnesses for being here today. I want you to bear with me as I have some raging allergies today, so my nostrils are kind of out of commission.

Anyway, first up, my questions are for Diabetes Canada. Both kids and adults who have type 1 diabetes require life-sustaining therapy for the rest of their lives. Most have insulin pumps that give insulin 24 hours a day. Can you confirm that the inequality of access to the disability tax credit is really about patients and doctors trying to navigate arbitrary and inconsistent rules by the Department of Finance and Revenue Canada?

Mr. Andrew Jones: Thanks very much for the question.

Unfortunately, I think you've hit the nail on the head with respect to the disability tax credit. We find that the process for eligibility is full of administrative burdens. Patients are required to fill out lengthy, lengthy forms and communicate with their health care professional. Our major concern is around the threshold of 14 hours per week. What counts towards this 14-hour threshold is arbitrary. As I said in my opening statement, we maintain that individuals who are on insulin therapy—life-saving insulin therapy—ought to just simply qualify for the disability tax credit.

Mr. Jake Stewart: I appreciate your answer to the question.

Honestly, I share your opinion and that of JDRF, as does my party.

Would you say that it defies common sense that Canadians requiring insulin multiple times a day for the rest of their lives don't automatically qualify as requiring life-sustaining therapy for at least 14 hours per week? I mean, the government doesn't ask somebody who is blind if they cannot see at least 14 hours per week. It just seems like a very outdated rule that people with type 1 diabetes are faced with every day.

I've had a number of friends with type 1 diabetes, and good friends of mine have children with type 1 diabetes, so I don't have direct experience, but I've seen first-hand the struggles that people have had.

How do you feel about that comment?

Mr. Andrew Jones: You know, it sounds to me as though we're well aligned on this issue. We certainly thank you for all your hard work on the issue.

The bottom line is that we're asking the federal government to just simply consider granting eligibility for the disability tax credit to all Canadians with diabetes who are on insulin therapy.

Furthermore, as I mentioned, Revenue Canada has a disability advisory committee, and they've also gone down this road and have recommended great improvements to the eligibility system. We think the government ought to put those recommendations in place, and that will eliminate this 14-hour burden and make it much simpler for those who have type 1 diabetes and who are on insulin therapy to qualify for the disability tax credit.

Mr. Jake Stewart: Thank you, Mr. Jones.

You're directly speaking the language, and I'm aligned with you. I think it's long overdue and I think the beauty of this committee is that as parliamentarians we can actually make these changes in committee. We actually have the power to do that if all parties can work together and find common ground.

One of my concerns with the disability tax credit is that there's been some talk in the past by other parties about going from 14 hours to seven, which would help, no question about it. However, I think we're at the point where there are 300,000 Canadians living with type 1 diabetes, or at least having problems with the program, so would you say the gold standard really is making it so that everybody automatically qualifies over and above just going to seven?

● (1030)

Mr. Andrew Jones: Yes. The short answer there, of course, is yes.

We believe that seven would be an improvement over 14, but seven still requires administrative burdens and still requires back and forth with health care professionals. There is confusion around what qualifies for the seven hours, when as you said so eloquently, individuals who have type 1 diabetes and who are on insulin therapy require insulin therapy to maintain their life, as harsh as that is.

We believe it's time to get rid of the antiquated and outdated 14-hour rule and just open up that eligibility for individuals who are on insulin therapy.

Mr. Jake Stewart: Thank you.

I have one last comment. We appreciate your being here today

When people think of type 1 diabetes, we often think of children, but I think government and parliamentarians alike can forget that with type 1 diabetes, whether you get it when you're a child or when you're older, you have it for the rest of your life. It never goes away. You're always going to have type 1 diabetes.

As parliamentarians, moving that so that everyone can automatically qualify is the right thing to do. As revenue critic, I support it, and I have the support of my party.

I'll have some more questions for you in a little while. I'm not sure how much time I have, Mr. Chair—

The Chair: That's the time. We just reached it.

Thank you, MP Stewart.

Mr. Jake Stewart: Thank you.

The Chair: We'll hear from the Liberals and MP Chatel, for six minutes, please.

Mrs. Sophie Chatel (Pontiac, Lib.): Thank you, Mr. Chair.

It's always great to see Mr. Stewart passionately advocating for diabetes.

My questions will turn to Mr. Ross from the Co-operative Housing Federation of Canada.

Mr. Ross, as you mentioned in your opening, we have invested $1.5 billion in the budget in the new co-op program. You mentioned that you learned a lot about what worked before and what didn't work, and you think that the new housing programs will be very effective in delivering affordable housing.

Could you expand on that, please?

Mr. Timothy Ross: Thank you so much for the question.

In terms of what works and what we've learned, we know that community and co-op housing works very well in Canada, with a well-established 50-plus year track record of creating permanently affordable housing that puts community first and members first. We know that works very well, especially at this time when renting or owning in the marketplace is very, very difficult. Co-op housing is affordable—more affordable than market housing. It provides security of tenure and security of ownership, and it provides for a very strong community.

What's needed to work at a programmatic level is to deliver new co-op housing in Canada at scale. The supply programs of the seventies and eighties created a very disaggregated asset base, so a lot of very small housing co-operatives all across the country. That was very good, but in today's very difficult housing market, we need to create affordable co-operative housing at scale.

One of the features in our budget proposal is that the co-op housing sector itself delivers this program at scale, to realize efficiencies and economies of scale and ensure we are committing seed funding and working capital to projects much faster. There are projects stuck on desks all across the country, representing thousands of units, because they can't navigate the bureaucracy of current programs. Having a sector-delivered program is much closer to the ground and is going to be much more efficient and get outcomes even faster.

● (1035)

Mrs. Sophie Chatel: What exactly do you mean by a "sector-delivered" housing project?

Mr. Timothy Ross: Well, we would see part of this program being delivered by the sector. Most housing programs in Canada at the federal level are delivered by CMHC. However, there is some precedent for other partners to come in to deliver housing programs, such as the Community Housing Transformation Centre and the Federation of Canadian Municipalities. They are both directly delivering programs, and creating some greater efficiencies and proximity to the ground to commit funding faster and realize outcomes even faster too.

Mrs. Sophie Chatel: I see. Thank you so much.

We know that beyond funding, there are, as you mentioned, numerous challenges to building affordable housing. How do you think that the federal government will work with other levels of government, and in particular, Quebec—where there's a contribution for co-op housing already in existence—in order to make sure we effectively deliver affordable housing to Canadians?

Mr. Timothy Ross: I think one of the greatest and most important roles for federal funding programs is to provide a very deep level of grant contributions to projects. The supply and labour shortages and inflation and rapid appreciation in the real estate markets make it harder and harder to deliver affordable housing every day that goes by. Therefore, a very deep level of grants on a per-project basis is critical for reaching the levels of affordability needed to create deeply affordable housing in Canada. In doing so, through the unilateral programs or through the bilateral agreements, there are opportunities to do just that.

Mrs. Sophie Chatel: I represent a rural riding, and these housing co-ops are not in scale in rural areas. It's more for municipalities, but sometimes it's the only lever they have because big, large developers are not going into the region. Getting together as a co-op in the community with community leaders is really perhaps the only solution to the crisis in rural areas.

When you talk about scale, I just want to make sure you don't forget those small and essential co-op projects for rural communities so they're not left behind.

Mr. Timothy Ross: In rural areas, co-op and non-profit housing is sometimes the only form of rental housing available in some communities. I know that in Pontiac there are 34 co-op homes that were created under previous federal programs.

Another advantage to having a sector-delivered program is to make sure that funding and financing levels are reflective to different regional markets, whether they be rural or urban. The way we create scale as a sector is by delivering a program together across the country.

We very much welcome the investment of $1.5 billion, and 6,000 units is not a lot of housing when you look at the scale of the crisis, but it's certainly an important start.

Mrs. Sophie Chatel: It's a good first start.

Thank you very much.

The Chair: Thank you, MP Chatel and Mr. Ross.

I hope you know how many co-ops are here in Mississauga East—Cooksville, my riding, but that was great.

We are moving to the Bloc and Monsieur Garon for six minutes, please.

[*Translation*]

Mr. Jean-Denis Garon (Mirabel, BQ): Thank you, Mr. Chair.

Thanks to all the witnesses for being here today.

I'll begin with Mr. Gilbert, from the Centrale des syndicats démocratiques.

I was listening to you, and, unless I'm mistaken, it seems to me the employment insurance program is supported by the money of employers and employees.

For a long time now, we've been demanding a major reform of the Social Security Tribunal of Canada with respect to the EI first level of appeal. As you said, there seems to be a kind of imbalance in division 32 of part 5 of Bill C-19, as a result of which employers, employees and unions would not be adequately considered in the appeals process.

I'd like you to tell us about the impact of that imbalance and how we could amend the bill to mitigate that impact.

● (1040)

Mr. Maxime Gilbert: We, the representatives of the stakeholders that contribute to the employment insurance fund, that is to say, the employers and workers, or employees, consider it important, in the initial appeal stages, when a claimant is dissatisfied with a decision or unhappy with the result of a claim, to be able to make submissions that connect with the individuals involved in the appeal process. That, moreover, is one of the demands of CSD and the four major labour groups in Quebec, which share our opinion and advocate for it.

I'm trying to make myself clear. We don't want to go back to the previous arbitration boards before an umpire and so on. We're asking that, following consultations with sectoral representatives, people from the region be appointed and trained by the Employment Insurance Commission so they can hear these cases. This would help reflect both the regional and economic diversity of many workplaces in Quebec and elsewhere in Canada as well.

It's false to say that the situation in downtown and suburban Montreal is the same as on the Basse-Côte-Nord or in Abitibi-Témiscamingue. Representation has to be institutionalized, if I may put it that way.

To answer the second part of your question, we understand from the provisions in the present version of the bill that people will be appointed from the labour and employer sides. However, there's no indication of what mechanism will be used to appoint those persons. Our understanding is that they'll be accountable to the chairperson. Once again, we would like the appointment and training process to be outlined in greater detail and established more clearly. The labour associations would also like to be engaged in the representation process.

Mr. Jean-Denis Garon: I understand.

Looking back over your remarks, which I found very interesting, you discussed regional representation on these boards. I think that's particularly important because, when you institute appeal proceedings, it's because there's a problem. It's really a contentious case, and you know that benefit criteria can depend on the region and local labour market.

Could you cite any examples of problems that may arise in an appeal process when regional representation is inadequate?

Mr. Maxime Gilbert: Here's something that comes to mind. Employment indicators are quite good right now, but consider, for example, a situation in which a person lives in a region where the unemployment rate is—

Mr. Jean-Denis Garon: If I may, I'd like to say that we've been waiting since 2015. An announcement was made in 2019. It could be a long time before it changes again.

Mr. Maxime Gilbert: Yes, but what immediately comes to mind are the eligibility criteria. The current threshold is 420 hours, and we'd like that to continue. The threshold can be calculated in hours or weeks.

In addition, individuals are disqualified for voluntary leaving because they don't have proof that they were available for work or because they didn't take steps to look for work. It seems to me that the question whether a person is available depends on the circumstances of the workplace. I'm thinking, for example, of seasonal workers and construction workers.

Workers are often disqualified from receiving employment insurance benefits in voluntary leaving cases. However, in some workplaces, some departures seem to be voluntary, whereas they're related to employment circumstances. Once again, I'm thinking of the construction industry and seasonal jobs, which give rise to voluntary leaving. That would be a response to go after.

Mr. Jean-Denis Garon: I understand. I'm picking up the pace here because I only have a few seconds left.

You also discussed the part-time or full-time status of people who would be called upon to rule on these judgments.

Bill C-19 allows for a distinction: it would be possible in a way to have two types of judges. Do you see that as a fairness problem?

● (1045)

Mr. Maxime Gilbert: Yes, I ran out of time earlier too.

We're afraid of the distinction that's being made between part-time and full-time judges. Under the bill, full-time judges would be compensated in such a way that they would be considered members of the public service. The part-time people might have less privileged access to information and training. We feel that creates a distinction that should not exist. If we want to create a board of appeal that's operational and autonomous and in which all members are fully involved, no distinction should be drawn based on their employment status.

To answer your question, yes, I think it's clearly unfair.

The Chair: Thank you, Mr. Garon.

[*English*]

Now we move to the NDP and MP Blaikie for questions.

Mr. Daniel Blaikie (Elmwood—Transcona, NDP): Thank you very much.

I want to direct my first question to the folks at the Green Budget Coalition.

They talked a bit about the new carbon capture and storage tax credit that the government has proposed in its budget. I'm wondering if they want to speak a bit more to that issue and the problems they see with that approach. I'll send it over to them for comment.

Mr. Andrew Van Iterson: Thank you.

I'll turn to Tom Green to respond.

Mr. Tom L. Green: I think the way we look at this tax credit is that, first of all, you have this technology that continues to disappoint. Wherever it's used, we're promised a whole bunch of emissions reductions and that a certain percentage of the carbon is going to be captured, and typically that has come in much lower than expected. A lot of projects have had quite a few billions go into them and then have not made it very far or have had to be cancelled. Here, we have a very expensive way of addressing things.

Right now, the oil and gas industry is incredibly profitable, and we believe it should be cleaning up its own act. This can be done through regulatory means and shouldn't be subsidized with public funds when really where we should be putting the billions is in deep energy retrofits. We know that's going to benefit Canadians across the country and that it's going to help bring down emissions. We should be helping people get into electric vehicles, as this budget this does help to do, and we should be deploying more renewable energy.

This is a very expensive tax credit for a technology that is still more conceptual.... I know that there are some operating projects, but if you look at the projections of where the world was supposed to be with carbon capture utilization and storage to where it is now, there's such a big gap, and that's because the technology has proven to be more complicated. We don't see that taxpayers should be the ones subsidizing this so that we can keep having oil and gas production, when really what the world needs to do is, as all the science shows.... For instance, there was a recent study in Environmental Research Letters, which came out on May 17, saying that nearly 40% of the already developed fossil fuel reserves need to stay in the ground for us to have a hope of staying within 1.5°C.

That would be a quick overview of our thoughts on CCUS.

Mr. Daniel Blaikie: You mentioned in your opening statement and we heard from the Green Budget Coalition in the pre-budget consultation that you had five main recommendations for government. What kinds of things would you have hoped to see in the budget implementation act if the government had chosen to implement all five of your recommendations?

Mr. Tom L. Green: Well, just quickly, I'll speak to the building retrofits side of things. We really need to see deep energy retrofits.

While there are some good investments being made there, the thing you don't want to do is a partial retrofit, where you don't get the full benefit of a deep retrofit, which allows you to basically electrify your building, really reduce your energy consumption and completely switch the building off fossil fuels, for instance. We would have wanted to see.... I mean, every budget from now on needs to be a climate budget—just because of where we are within the remaining time—to avoid going over 1.5°C and the scale of the transition that we would like.

I'll let my colleagues add other things that they would have liked to see.

● (1050)

Mr. Andrew Van Iterson: Go ahead, David.

Mr. David Browne (Director of Conservation, Canadian Wildlife Federation, Green Budget Coalition): Hopefully, you can hear me. We were having microphone problems. Can you hear me if I speak right into it?

Mr. Daniel Blaikie: Yes.

Mr. David Browne: That's excellent.

In terms of the bill before us, we were expecting more action on phasing out fossil fuel subsidies. That would have involved items in this bill that are not there. On items like freshwater management and permanent funding for protected areas, I don't think they would have required aspects within the bill and legislation, but we were expecting a greater investment in the Canada water agency and the related promises there, and in making more of our protected areas funding more permanent, to incentivize particularly indigenous protected and conserved areas, but also, to some degree, to incentivize the provinces and territories to protect more land.

Those were some of the things that were in there. Not all of them need to be in this bill, though, I would point out.

Mr. Daniel Blaikie: Thank you very much.

Mr. Chair, I'm looking to you to make sure I'm not going over time.

The Chair: You still have a minute left, MP Blaikie.

Mr. Daniel Blaikie: That's excellent.

I have a question for our witness from the Co-operative Housing Federation.

Mr. Ross, there are a couple of items about housing in the bill. There's the home accessibility tax credit, and then there's the elimination of GST and HST on assignment sales. I'm looking for your feedback on the extent to which you think these will help address the housing crisis in Canada and on what other things you think government needs to focus on with a sense of urgency in order to address that crisis.

Mr. Timothy Ross: Broadly, we're seeing greater attention given to housing in successive federal budgets, but one area of concern that needs to be addressed more thoroughly is the lack of a dedicated investment in an urban, rural and northern housing strategy that's developed by and for indigenous housing organizations and communities in Canada. This has been a recommendation of the national housing council. The disparities were further highlighted by the Parliamentary Budget Officer.

That's a critical area that requires greater federal leadership.

The Chair: Thank you.

Thank you, MP Blaikie.

That concludes our first round of questions. We are moving to our second round, members and witnesses.

We're starting with the Conservatives. I have MP Stewart up for five minutes.

Mr. Jake Stewart: Thank you, Mr. Chair.

My first question, again, is for Diabetes Canada. Can I ask you to explain the differences between type 1 diabetes and type 2 [*Technical difficulty—Editor*] Canadians and talk a bit more about the eligibility for the disability tax credit? How does it relate to them?

Give the public and the rest of the parliamentarians a view of both diseases and how it works with the tax credit.

Mr. Andrew Jones: Let me begin with type 1 diabetes. This is a disease that affects individuals. It often comes on in childhood, although it can be diagnosed later in life. This is the situation where the pancreas does not work properly and insulin is required for life. Insulin is a life-saving therapy for those individuals with type 1 diabetes.

We believe that for individuals with type 1 diabetes, with respect to the disability tax credit, it ought to be a simple process where anyone who has been diagnosed with type 1 diabetes immediately qualifies for the disability tax credit.

Type 2 diabetes is more wide-ranging and there are a greater number of individuals who have type 2 diabetes. Some individuals in the type 2 diabetes category also require insulin therapy. This is where we think the disability tax credit can be well aligned with Canada Revenue Agency's disability advisory committee's recommendations. They stated in recommendation 14 that individuals who require therapy and didn't have it could not survive, or they would face serious, life-threatening challenges. We believe that individuals with type 2 diabetes who are on insulin therapy would fall into that category, so we welcome that recommendation.

We think that if the recommendation is implemented, the administrative burden would decrease significantly for those individuals who are on insulin therapy. All of the challenges around the 14-hour rule would dissipate and certainly make things easier to qualify and be eligible for that disability tax credit.

● (1055)

Mr. Jake Stewart: Thank you, Mr. Jones.

I have this friend of mine who has a child with type 1. I think he was diagnosed around the age of seven, if I remember correctly. I want to read this to you because it's something she said to me. She said, everyone who is a parent of a type 1 diabetic uses the same expression: "I am now functioning as my child's pancreas. It's all on me to do what the pancreas is supposed to but now doesn't." Basically, she wondered if the Prime Minister needed his pancreas 24 hours a day. Those are her words. It's not to be partisan. You can see that with respect to the parents of young children, this woman doesn't sleep. She's always up late at night checking blood sugar. It's a full-time job for anyone in that situation.

You mentioned earlier an advisory committee recommendation. As you know, my party and I support going to automatic approvals of type 1 diabetes patients for the DTC. We're going to be working with all parliamentarians. I'm curious to know in regard to the amendment that would come forward, should one come, and I believe there's one coming, should it be targeted specifically to type 1? You mentioned something earlier, when I think you made a direct recommendation from an advisory board. Do you want to read that again to the committee just how it was worded? I think you worded a recommendation.

If you could read that into the record once more just so that parliamentarians can hear it, I want to see how it lines up with something that's in the works.

Mr. Andrew Jones: Thank you for this opportunity.

The advisory committee is Canada Revenue Agency's disability advisory committee. They recommend replacing the current eligibility requirements, which include the 14-hour a week rule, with the following:

> Individuals who require life-sustaining therapies (LSTs) are eligible for the DTC because of the time required to administer these therapies. Without them, the individual could not survive or would face serious life-threatening challenges.

Mr. Jake Stewart: Thank you.

Mr. Andrew Jones: Again, we believe that's being aligned with that recommendation makes perfect sense.

The Chair: Thank you.

Thank you, MP Stewart.

Mr. Jake Stewart: Thank you.

The Chair: We'll now move to the Liberals.

MP Dzerowicz, you have five minutes.

Ms. Julie Dzerowicz (Davenport, Lib.): Thank you so much, Mr. Chair.

Thanks to all the presenters for their excellent presentations and for being here today.

My first question is for Mr. Ross of the Co-operative Housing Federation of Canada. Thanks so much for being here today, and for your amazing advocacy and presentation.

In my riding of Davenport, we've had a number of organizations, groups who own property and buildings, who want to create co-ops—that is, to build co-ops or to turn their properties into co-ops. Do you think that is a good idea and do you think we should find a way to leverage the $1.5 billion that has been set aside to help them do that?

● (1100)

Mr. Timothy Ross: Thank you for the question and for your support. It's nice to see you.

In short, yes, we need to convert as many opportunities to the co-operative housing model as possible. I'd be interested in learning more about the group's ideas and can certainly touch base to explore that opportunity in real time.

As well, one of the benefits of the language in the federal budget is that we are engaging in a co-design process with CMHC to make a program that is co-designed with the co-op housing sector to make sure that we can convert as many opportunities to co-op housing development as possible.

I will say there's a bit of a caveat—and I did mention it earlier in my presentation—that we need to find a way to bring co-op housing assets closer together because we have a very disaggregated asset base. A disaggregated asset base makes it harder to renew ongoing co-operative housing developments and to ensure ongoing good and sound asset management.

As much as possible, through this opportunity, we should be looking for ways to bring groups together to develop opportunities at a greater scale than what we saw in the earlier federally funded programs.

Ms. Julie Dzerowicz: Thank you for that. There are many groups that would love to be able to step up. They don't have the know-how or the capacity, but they do have the land and they do have, usually, buildings. They usually have that to contribute. Hopefully we can find a model moving forward.

You mentioned that we need to really accelerate getting co-op housing built, and you said that most of the co-ops are delivered through CMHC. We don't have time now, because I have only two minutes left, but I'd be grateful if you could write in to our committee if you have recommendations about how we could maybe make CMHC involve a little less red tape and be a little bit more efficient or how we could make the program more accessible, easier and faster. Any advice that you have around that would be really helpful.

I'd like to turn my attention over to the Green Budget Coalition. I want to thank all three of you for being with us today. I'm a huge climate activist, and I listened very closely to your comments today. I appreciate your mentioning the good things in our budget and the things that you're very concerned about and don't like.

One of the key things we're trying to do is to encourage or ensure that we have private investment in the deep retrofits, clean energy, renewable energy and basically many of the things that we need to have in place in order to reach our climate targets and net zero by 2050.

What would be your advice about how we can help ensure that we engage more of the private sector and private investment, whether it's through the Canada growth fund that we are setting up or any other methods that you might be able to recommend?

Mr. Tom L. Green: I think one thing that's really critical is to create some policy certainty. For instance, I appreciate that the government has brought in a price on carbon pollution across Canada and has indicated what this price is going to be out to the year 2030 to ensure that we don't have these lurches in policy that have been happening at the provincial level. You create those conditions whereby private investors understand that climate policy is going to continue to tighten and that if they invest in carbon-saving technology or in increased energy efficiency, then the project is going to pay for itself. It also allows them to go to financial institutions and invest in that way.

I totally agree with you. I think it's a great observation that government can't do all of this and that a lot of it is also about incentivizing other partners, not just the private sector but also, for instance, indigenous nations to participate in the build-out of renewable energy—or co-op housing, for example. I'm also a big fan of co-op housing. I grew up in a co-op residence at the University of Waterloo and I have to say that was a wonderful experience there.

I think you're right. We have to create the conditions under which there's that long-term certainty and attractiveness of bringing in the private sector. I don't know if others—

● (1105)

The Chair: Thank you.

Ms. Julie Dzerowicz: Thank you so much.

The Chair: That is the time. Thank you.

Thank you, MP Dzerowicz.

Now we'll have questions from the Bloc from MP Garon for two and a half minutes.

Go ahead, please.

[*Translation*]

Mr. Jean-Denis Garon: Thank you very much, Mr. Chair.

Mr. Gilbert, you ran out of time during your opening statement.

In 30 or 35 seconds, is there something you would like to add concerning division 32 of part 5 of the bill?

Mr. Maxime Gilbert: Thank you.

The questions you asked earlier actually brought me back to this, but I'll nevertheless restate our position on the subject.

Employment insurance is a complex world. We need to take action on this aspect, and so should others.

In addition to that, the boards must truly be tripartite, and not just when an individual is heard before three board members. Their tripartite nature must be apparent throughout the entire appeal process. Members must be appointed upon consultations with people in the region, not solely on the advice of the chair of the Employment Insurance Commission.

Mr. Jean-Denis Garon: I understand.

If I may, I would add that we were nevertheless promised something in 2015 and that it was announced to us in 2019. What we see today are half measures compared to what was advertised.

Do you think that an omnibus bill, by which I mean this budget implementation bill, is the right tool to introduce this reform in circumstances that force us to consider it hastily?

Mr. Maxime Gilbert: Thank you for that question.

Frankly, no.

The budget implementation bill is an omnibus bill that contains many statutory amendments. Without seeking to involve ourselves in the management of employment insurance, if we're going to do a good job of representing workers regarding the application and amendment of these statutes—I'm speaking for them this morning—the Centrale des syndicats démocratiques believes it would be appropriate to conduct an individualized examination of that reform, if I may put it that way—

Mr. Jean-Denis Garon: You mean a distinct examination.

Mr. Maxime Gilbert: Yes, “distinct” is the word I was looking for. Thank you.

We feel we've been playing this game for years now. Despite our constantly repeated demands to government after government, we're ultimately stopped in our tracks. The object of our demands seems elusive. We think we're getting somewhere, and when we seem to be approaching our goal, the mirage vanishes and the result falls short of expectations.

Yes, sir, we think it would be appropriate to conduct a distinct examination of this division of Bill C-19.

Mr. Jean-Denis Garon: Thank you.

Mr. Maxime Gilbert: Thank you.

[*English*]

The Chair: Thank you, MP Garon.

Now we go to the NDP and questions from MP Blaikie for two and a half minutes.

Go ahead, please.

[*Translation*]

Mr. Daniel Blaikie: Thank you very much.

Mr. Gilbert, the changes to the board of appeal proposed in division 32 of part 5 of Bill C-19 raise the broader and more general issue of reform of the employment insurance program.

Do you think this bill is a missed opportunity for the government to institute other necessary reforms of the employment insurance program?

Generally speaking, what changes to the plan do you think are necessary?

Mr. Maxime Gilbert: Thank you for your question; it's a broad one.

Actually, as regards missed opportunities, I'll expand on the answer I gave Mr. Garon earlier.

The bill is an imperfect response to the proposed changes to the board of appeal which were a pressing concern for labour associations and representatives. However, we actually could have waited for that response to be given in a much broader and more comprehensive context.

In our view, you can't have one reform without the other. When ineligibility and disqualification cases arise, they'll necessarily result in challenges that will have to be heard by the employment insurance boards of appeal or by the Social Security Tribunal.

If those appeal bodies aren't operating optimally or at a level appropriate to the workers' situations, we'll be constantly running around in circles. This is addressed in the joint demands of the union federations and other labour representation organizations. A lot of work would have to be done on eligibility issues, if only on the method for recording the number of insurable hours, eligibility criteria and so on.

During the pandemic, with the Canada emergency response benefit, the CERB, and the changes made to the employment insurance program during that time, which, if my memory serves me, will remain in force until September 24, the current criterion is 420 hours. We think that threshold should be retained rather than raised.

To prevent certain individuals from falling victim to the system's deficiencies or from being unable to qualify because they work on a part-time basis or have irregular work schedules, we suggest that a new criterion be used based on the number of weeks of work that, in one way or another, will result in the same contribution rate, the same amounts of money contributed by workers. This would harm neither the Employment Insurance Commission of Canada nor the Treasury Board. There would be ways to provide better eligibility guarantees for workers.

Furthermore, when overpayments are made, we would like each recovery amount not to exceed the amount of one week's overpayment to avoid overpenalizing workers, for whom these are considerable amounts, whereas they're negligible for the commission.

Those are the main suggestions that immediately come to mind.

● (1110)

Mr. Daniel Blaikie: Thank you very much.

Mr. Maxime Gilbert: Thank you.

The Chair: Thank you, Mr. Blaikie.

[*English*]

Now we will hear from the Conservatives.

MP Albas, you have five minutes. Go ahead, please.

[*Translation*]

Mr. Dan Albas (Central Okanagan—Similkameen—Nicola, CPC): Thank you, Mr. Chair.

I'm going to yield my time to Mr. Garon.

Mr. Jean-Denis Garon: Thank you, Mr. Albas.

I have some questions for the people from the Green Budget Coalition.

If my understanding is correct, we should normally price carbon properly, and that would urge the oil companies to reduce their emissions. Using their own funds, they would have to invest in technologies that reduce their emissions. However, what we see in the budget is $2.6 billion of public spending on unproven carbon capture technologies.

Do you think this $2.6 billion, which will total $13 billion over five years, could be considered a government subsidy to the oil companies?

Mr. Tom L. Green: Yes, we do consider it a subsidy.

Mr. Jean-Denis Garon: The U.S. Congress and other authorities are talking about excess profits generated by the oil companies.

Do you think those businesses could afford to finance their own investments in technologies designed to reduce emissions?

Mr. Tom L. Green: Yes, I think that's their responsibility and that it would work if properly regulated.

Of course, since carbon pricing affects businesses in the industrial sector, only a very small portion of their emissions will be affected by carbon pricing since we have a system for major emitters.

Mr. Jean-Denis Garon: The budget also includes $121 million of public funding, once again, to develop small nuclear reactors. We produce unconventional oil in Canada, particularly in Alberta. So a great deal of energy is required to increase production.

Do you think the $121 million earmarked for small reactors falls into the category of subsidies for oil companies, if only indirectly?

Mr. Tom L. Green: It may be indirect, but instead I'd like to emphasize that the cost of renewable energy has declined sharply in recent years and continues to fall. The International Energy Agency has declared that renewable energy is now the cheapest energy in history. It makes no sense to allocate these sums to small reactors. We don't yet have a model that works, and, as we know, electricity will be very expensive.

● (1115)

Mr. Jean-Denis Garon: If I correctly understand you, you're telling us this is both a subsidy and a bad investment of public funds.

Mr. Tom L. Green: It's definitely not what we would recommend.

Mr. Jean-Denis Garon: I see.

We're talking here about $2.6 billion a year that would be allocated to these technologies and that would go directly to oil companies. Then we would continue for five additional years, beyond 2030.

Do you think this strategy will help the government meet established greenhouse gas emissions targets?

Mr. Tom L. Green: It could help a bit, but it's a very inefficient way to go about it. There's also a risk that it might encourage the sector to increase rather than decrease our emissions.

That's definitely not what the planet needs right now.

Mr. Jean-Denis Garon: Okay.

Just recently, the government announced that it was going to provide a $10 billion loan guarantee for the Trans Mountain project. In other words, after having financed an extremely risky project that has already generated numerous cost overruns, let's make a loan at the taxpayers' expense.

The government is telling us that it does not constitute public support to Trans Mountain. Do you agree?

Mr. Tom L. Green: No. We consider it to be public support and a very regrettable move.

This unnecessary project should have been shut down. A large amount of money will be spent on it. When you think of what these funds could have accomplished in other sectors, we don't understand why this project is being maintained.

Mr. Jean-Denis Garon: Ten billion dollars is an enormous amount of money. Do you think that the government could have guaranteed loans to finance other projects that could have been more helpful in meeting our targets?

Mr. Tom L. Green: Yes. The point I want to make is that renewable energy sector is really where Canada should be making significant investments. There are all kinds of opportunities.

Alberta and Saskatchewan could be renewable energy superpowers. There has clearly already been a lot of investment in this sector in Alberta. That's where we ought to be headed.

Mr. Jean-Denis Garon: All right.

Also very recently, the government of Canada, according to the Minister of the Environment himself, approved the Bay du Nord project. I believe that this could in the end represent a billion barrels produced by Canada.

Do you think this was a sound decision given today's climate context?

[*English*]

The Chair: Give a very short answer, please.

[*Translation*]

Mr. Tom L. Green: It's not in tune with the recommendations made by the Intergovernmental Panel on Climate Change, the IPCC.

Mr. Jean-Denis Garon: Thank you.

The Chair: Thank you, Mr. Garon.

[*English*]

Now we're moving to the Liberals and MP Baker for five minutes to finish the second round.

Mr. Yvan Baker (Etobicoke Centre, Lib.): Thank you very much, Mr. Chair.

Thanks to all of our witnesses for being here today.

I'm going to begin by directing my questions to Mr. Green.

Mr. Green, it's interesting that just before walking into this finance committee, I was in a Zoom meeting with a group of constituents and residents from around the city of Toronto who are part of a group called the Citizens' Climate Lobby. You may be familiar with them. They do wonderful advocacy work—certainly at the local level in my community in Etobicoke Centre. They've inspired me to direct my questions your way today.

I want to ask you a little bit about electric vehicles.

In the prior parliament, I was a member of the environment committee, and we studied zero-emission vehicles during that time. I'm wondering if you could talk about the necessity of electric-vehicle charging infrastructure and how the government's consumer incentive program can make zero-emission vehicles more affordable.

Mr. Tom L. Green: Sure, I'd be happy to.

We certainly support the transition to zero-emission vehicles as a way to swap out fossil fuels and put in clean electricity. In our recommendation for this year's budget, we suggested that Canada really has an advantage in how clean our grid is and that we can get it to zero-percent emissions by 2035, as the government has promised.

It's really a key climate measure. Our rationale with the feebate is rather than make the public purse pay, you put a fee on the gas guzzlers and you pool it to give it to people who buy zero-emission vehicles. The government chose not to go in that direction and instead put the money in the purchase incentive, which is a good way to go as well. It needs to be supported with a zero-emission vehicle mandate, which the government is working on now, so that manufacturers put more zero-emission vehicles on the lots.

The problem is that if you go to a dealer now, especially if you're in Alberta or Saskatchewan, and sometimes in Atlantic Canada, it's very hard to find a zero-emission vehicle. In fact, across Canada, many, many people are driven by current gas prices and are seeing how our dependence on fossil fuels is really a form of energy insecurity, and so they want a zero-emission vehicle, yet they're being told that it's a six-month wait-list for that particular model or maybe a year-long wait-list and they have to put down a deposit, whereas if they want to buy a gas vehicle, they just walk on the lot and there it is. They have the keys and half an hour later they're driving away.

There are certainly some things to attend to there.

● (1120)

Mr. Yvan Baker: Sure, and we also presumably don't want to provide.... What you're saying makes a lot of sense. I hear you saying that we need a mandate so that the auto makers put those vehicles on the lot and offer them up for sale, because, for a number of reasons you stated—and some that come to my mind—if we provide an incentive, but they're not providing the product, then they can hike the prices and the incentive just goes into the bottom line of the manufacturer, the car seller or the distributor.

Quickly, what about infrastructure, though? Talk to me, if you can, about the importance of electric vehicle-charging infrastructure. It's fine to say that we're incenting people to buy cars, and even if manufacturers are mandated to have a certain number available for consumers, it has to be a viable alternative, presumably, to the current options for consumers. Am I right?

Mr. Tom L. Green: Yes, that's right. It really does make sense to continue encouraging those investments across Canada in charging infrastructure. It is now possible to travel coast to coast, and there are fast chargers along the Trans-Canada Highway, but we need more of them. In particular, we need to attend to renters in older apartment buildings, who won't have charging infrastructure there. We need more charging infrastructure in smaller communities.

We also need to start thinking about much larger vehicles that will need higher-capacity chargers so that commercial trucks will be able to take advantage of this.

I really appreciate the government's investments in this area. I think it's certainly an area for the committee to encourage continued work on.

Mr. Yvan Baker: Thanks very much, Mr. Green. I appreciate it.

The Chair: Thank you, MP Baker.

Members, we only have about six minutes or so left in this first panel. As we usually do—I know there's very limited time—we're going to have about a minute for each of the parties to ask a final question of the witnesses before we transition to our second panel. We'll start with the Conservatives.

Who will be going for the Conservatives?

Mr. Dan Albas: Mr. Chair, we have no further questions. We thank all the witnesses for being here today and for sharing their expertise with us and with Canadians.

The Chair: Thank you, MP Albas.

We'll go to the Liberals for a final question or two.

Mr. Heath MacDonald (Malpeque, Lib.): Thank you, Chair.

I'll go to Mr. Ross very quickly.

I come from Prince Edward Island. I always feel that co-op housing is an extremely important asset to any community, but I feel that sometimes there isn't a champion to carry the charge for co-op housing.

I'm wondering if you could give any advice, based on your organization and what you do across the country, for small provinces or even smaller communities, as Ms. Chatel discussed with you about rural. Can you provide any information or leeway that could help alleviate some of these issues?

Mr. Timothy Ross: I think some of our sector's strongest leaders have come from more rural settings. I'm actually originally from New Brunswick. I personally know a lot of the members from Prince Edward Island as well.

Our organization participated in the provincial task force on affordable housing. We know how urgent and acute the crisis is on the lack of housing supply on Prince Edward Island. As a membership association, we give our members the tools to speak up and speak with decision-makers to promote the model of co-op housing. We have a regional office that serves Prince Edward Island. We can certainly follow up with you after the committee meeting to connect you with those resources.

● (1125)

The Chair: Thank you, MP MacDonald.

Thank you for following up on that, Mr. Ross.

We're moving to the Bloc for a question or two from Monsieur Garon.

[*Translation*]

Mr. Jean-Denis Garon: I have a supplementary question for the Green Budget Coalition.

I am going back again to the hydrocarbon grants. We're talking about $2.6 billion over five years, and approximately $1.5 billion for each of the following five years. If I quickly add all that up, it comes to $17.5 billion that goes directly into the pockets of the oil companies.

If you had a $17.5 billion budget to put hydrocarbons behind us and meet our emissions reduction targets, what would you do?

Mr. Tom L. Green: I think we could invest more on renovating buildings to reduce energy use, on renewable sources of energy and on getting them to every part of the country, in addition to the electrification of heavy transport, public transit and personal transportation.

Mr. Jean-Denis Garon: Needless to say, the government would tell us that some of the measures are green, but we know that there are others that are not very green at all. Even though we realize that it's impossible to do everything perfectly and that there are some positive measures in the budget when you look at it closely, do you think that when the time comes to invest large amounts of money, there is a bias in favour of the oil companies? If so, how would you explain that?

Mr. Tom L. Green: It's difficult to explain, given that the government said that it was going to eliminate grants to fossil fuels.

It's also worth mentioning Export Development Canada, where things are also highly problematic.

Mr. Jean-Denis Garon: If I'm not mistaken, we're talking about $58 billion.

Thank you very much, Mr. Green.

That's it for me, Mr. Chair.

Mr. Tom L. Green: Thank you.

The Chair: Thank you, Mr. Garon.

[*English*]

For our final questions, we'll go to the NDP and MP Blaikie.

Mr. Daniel Blaikie: Thank you.

Mr. Ross, we've talked a little bit today about new spending on co-op housing. We've also talked about deep energy retrofits. We've talked about electric vehicle infrastructure a little bit.

I know that sometimes co-ops are forgotten in the policy-making process or they end up excluded from certain kinds of programs, whether it's intentional or whether it's as an afterthought.

Are there any envelopes or programs that the federal government is currently undertaking on the housing file that you think co-ops should have more equitable access to or where there might be opportunities to enhance investments in co-ops, either for the buildings or for the residents, which are currently missed opportunities?

Mr. Timothy Ross: Thanks for highlighting the importance of including all business types in eligibility for government programs, so including co-operatives. It's absolutely critical that there's no unintentional exclusion of them from eligibility. I know that has been an issue in the past, but it has certainly improved in recent budgets.

On the importance of the energy retrofits and supporting energy efficiency in housing co-operatives, we've done a lot of work in partnership with the Federation of Canadian Municipalities to provide an energy coach to the co-op housing sector. That provides the technical advisory services to access the funding and financing programs offered by government for support with retrofits. We're very proud of that work as well.

The Chair: Thank you, and thank you, MP Blaikie. That is the end of our first panel for today.

We want to thank the witnesses, and the members. We're doing this as a hybrid session. We have witnesses from right across the country and members from coast to coast to coast with us to discuss these very important issues.

We thank you very much for your time, your expertise and for answering so many questions by all of the members. On behalf of the committee, the clerk, the analysts and all those who help bring us together, we want to thank you. Have a great day.

We are now transitioning to our second panel. We'll suspend at this time.

● (1125)

_____(Pause)_____

● (1130)

The Chair: I'd like to welcome today's witnesses for our second panel. It will go from 11:30 to 1 p.m.

From Access Copyright, we have Roanie Levy, president and chief executive officer. Welcome. As an individual, we have Vivek Dehejia, associate professor of economics and philosophy at Carleton University. As an individual, we have Elizabeth Long, barrister and solicitor; and from the Centrale des syndicats du Québec, we have Luc Beauregard. From the Canadian Chamber of Commerce, we have Mark Agnew, senior vice-president of policy and government relations.

We will begin by hearing from Roanie Levy from Access Copyright for the opening remarks, for up to five minutes, please.

● (1135)

Ms. Roanie Levy (President and Chief Executive Officer, Access Copyright): Thank you for the opportunity to appear before you.

Before beginning, I would like to acknowledge that I am speaking from the traditional territory of many nations—including the Mississaugas of the Credit, the Anishinabe, the Chippewa, the Haudenosaunee and the Wendat peoples—which is now home to many diverse first nations, Inuit and Métis peoples.

Access Copyright is a not-for-profit copyright collective that represents over 13,000 Canadian publishers, authors and visual artists. We facilitate the reuse and sharing of content by licensing copying from books, magazines, newspapers and journals to schools, universities, colleges, governments and businesses.

I would like to start by thanking the government for including in its budget commitments the extension of the term of of copyright protection to life plus 70. However, on behalf of the writers and publishers I represent, I am here to speak more specifically to the second copyright commitment made in the budget. This is the commitment to restoring a functioning marketplace for the sale and licencing of educational materials by urgently addressing the issue of massive and systematic unpaid copying of creators' works by the education sector.

[*Translation*]

Canadian creators and publishers are an indispensable part of Canada's culture and economy.

[*English*]

For over a decade, the ability to sell our stories has been under constant threat. Since 2013, when their work has been copied and shared by most of the Canadian education sector, they have not been paid for its use outside of Quebec.

The issue here is the expansion of the fair dealing exception in the 2012 Copyright Modernization Act, which included uses for educational purposes, provided those uses are fair. In response to those changes, most of the education sector outside of Quebec abandoned the collective licensing system that worked to the mutual benefit of creators and publishers, as well as educators and students, for over two decades and in its place adopted self-defined copying policies that promote the widespread and systematic free copying of approximately 600 million pages of published works annually.

There is always a cost to "free". In this case, the cost is being paid by all Canadians.

Let me explain. First, it has led to the devastation of Canada's creator and publisher communities. This in turn has led to significantly reduced investment in Canadian content for our classrooms. This is not hypothetical. Ten years of reduced investments have deprived our students and educators of new Canadian learning resources. "Free" is shortchanging the future of our education system by stifling investment in educational resources. A poorly resourced education sector affects us all.

Over the last decade, Canadian creators and publishers have been deprived of approximately $190 million in unpaid royalties under tariffs certified by the Copyright Board. The loss of these royalties, combined with the effect of free copying on primary sales of published content, has led to a reduction of investment in Canadian works and the elimination of publishing jobs. Overall, employment in the Canadian book industry has dropped by 31% since 2012. That's a loss to Canada's economy of 4,400 jobs. Several publishers have exited the education marketplace outright.

The uncertainty over the scope of fair dealing has led to a decade of litigation before the courts. Notwithstanding the years of litigation, including a trip to the Supreme Court, the uncertainty remains. Every day, I hear our members' frustration and anger about how increasingly difficult it is for them to make ends meet. What they want is what anybody would want: to be paid for their work. Ten years is an impossibly long time for anyone to wait to be paid.

The good news is that consultations on these issues have already taken place, so the government can and must act quickly. Thanks to these consultations, we have four unanimous recommendations from the Standing Committee on Canadian Heritage in its 2019 "Shifting Paradigms" report. These recommendations continue to have the support of each of the opposition critics for Canadian heritage. The most important recommendation is recommendation 18, which would restore a functioning marketplace by clarifying that fair dealing should not apply to educational institutions when the work is commercially available.

The government needs to act at the earliest possible opportunity. Time is of the essence. After 10 years of not getting paid, we cannot wait any longer.

● (1140)

Thank you for your time. I look forward to answering your questions.

The Chair: Thank you, Ms. Levy.

Now we'll hear from Vivek Dehejia for up to five minutes, please.

Mr. Vivek Dehejia (Associate Professor of Economics and Philosophy, Carleton University, As an Individual): Thank you, Mr. Chair.

When I gave testimony before this committee just two months ago, I expressed my concern about rising inflation in Canada. When I was last here, virtually, it was 5.7%. Since then, CPI inflation has jumped to 6.7% and now 6.8%, and possibly will go higher.

Inflation remains a big issue, and despite the bank's recent interest rate increase, both the central bank and the government are going to need to remain extremely vigilant that we do what we have to do to bring inflation back under control, for the reasons I went into, in my last testimony, in great detail.

Today I want to highlight the fact that there is an important relationship between the large fiscal deficit, which fuels the current high deficit and debt-to-GDP ratio, and rising inflation.

Whenever the federal government increases the deficit, that money has to come from somewhere. In the absence of new taxes, it comes from borrowing. When that happens it puts upward pressure on interest rates and creates a problem economists call "crowding out". Public spending sucks up investment dollars and makes private investment more expensive. The net effect is that the share of public spending in total GDP goes up relative to private spending. In other words, our economy becomes more socialized.

The government projects both deficits and debt to decline, but these depend upon fairly optimistic assumptions about GDP growth. Now, with what is likely to be a protracted war in Ukraine, and pressure on energy prices and global supply chains, GDP growth may be below zero or even turn negative. We may go into recession, and that will create an even bigger problem.

We've seen this movie before in Canada, both in the 1970s and again more recently in the late 1980s and early 1990s, and it never has a happy ending. Invariably, loose fiscal and monetary policies that lead us to stagflation have to be combatted with tight fiscal and monetary policies. They invariably cause a recession to occur as a by-product of fighting high inflation and the stagflation problem. That's an avoidable scenario if the government works harder to get onto a steeper path of debt and deficit reduction and if the bank aggressively tackles inflation by raising interest rates and pushing ahead with its QT policy, meaning that it stops buying government bonds and so forth, for which it needs the moral support of the government.

As a last word, Mr. Chair, we often hear that the current problems we face in Canada are a "global problem", but as I told the CBC a few days ago, this is a half-truth at best. High inflation in Canada is a product of a decade or more of loose monetary policies and high fiscal spending. While it's true that part of the high inflation right now is a by-product of the war in Ukraine and energy price increases, those aren't the whole story. Even if the problem is partly global, we can't outsource the solution to Washington, New York, Geneva, or, I dare say, Davos. The solution is right here at home in our fiscal and monetary policies.

Thanks, Mr. Chair.

The Chair: Thank you, Mr. Dehejia.

Now we'll hear from Elizabeth Long for five minutes, please.

Ms. Elizabeth Long (Barrister and Solicitor, Long Mangalji LLP, As an Individual): Thank you for allowing me to testify.

I am speaking to you today because I have grave concerns about the provisions in division 23 with regard to the proposed changes to the Immigration and Refugee Protection Act.

As an immigration lawyer with over 16 years of practice, I have worked with tens of thousands of individuals who have immigrated to Canada through skilled migration. The changes that are proposed in this bill are extensive and will have a significant impact on hundreds of thousands of people who are looking to immigrate to Canada. They are controversial and should be examined thoroughly by experts in the field as a bill on its own, not as part of a budget bill.

For those of you who are not well versed in immigration law, let me explain briefly what the proposed amendments mean.

The proposed amendments have to do with a system called the express entry system. This system chooses the vast majority of immigrants in our immigration system. The latest figures published by IRCC list applications at over 332,000 in 2019—in one year—and this does not include accompanying family members.

Here's how express entry works. Individuals who qualify under the three most widely used skilled migration categories are able to submit their profile into the express entry pool. The kicker is that just because they submitted their profile into the pool does not mean they can actually apply. They are issued a score based on their background, such as age, education, language proficiency, work experience, etc. In the current system, the government issues draws based on the individual's scores and the categories they qualified under to send invitations to apply. If a person receives an invitation to apply, they can apply and receive their permanent residence.

The provisions in this bill essentially seek to change how individuals will be selected to receive these invitations to apply. They would allow the government to create groupings, which are currently undefined, to select those who can apply and obtain permanent residence.

There are several reasons that this is problematic.

First, without identifying which groups the government will be using for selection, these provisions provide the minister and all ministers after him with the power to define these groupings without parliamentary oversight. For example, a minister could decide to limit immigration based on nationality, as the United States does. This could lead to severe inequity in processing times based on nationality, as is currently the case in the States.

I have also heard that a minister may wish to use these provisions to select based on occupation. This is problematic, as the minister does not have a transparent system for how they select the occupations. As such, the system is prone to lobbying and influence by large industries, leaving smaller, less powerful employers and those with lesser-known occupations without the ability to hire and retain workers. The occupations-based program has already been used several times in Canada's immigration history without success, yet the minister may be using this factor again.

Maybe I'm wrong and occupations-based selection is the bee's knees. If so, then the provisions should state occupations-based selection, not groupings that are undefined, and provide opportunities for other expert immigration witnesses to provide evidence to the parliamentary standing committee on immigration to examine this. These provisions, which give the minister the unchecked power to select based on whatever groups they wish to in the future, would not allow this process for checks and balances to happen.

Second, ambiguity leads to unpredictability. The permanent residence system requires applicants to spend thousands of dollars, and many spend years to prepare to qualify. With this ambiguity of not knowing whether or not they would qualify even if they invested their time and money, many individuals would be turned off by the system. Canada is in competition for the best and brightest of the world through our skilled migration system. The unpredictability that these provisions bring to the system would deter many of those whom we aim to attract to our country.

● (1145)

Our immigration system chooses who forms our labour pool, but it also chooses who our neighbours are and who will become part of our community and our country. Surely, choosing who will form the vast majority of immigrants to our country warrants more than a brief consideration in a budget bill.

Thank you.

The Chair: Thank you, Ms. Long.

Now we'll hear from the Centrale des syndicats du Québec and Mr. Luc Beauregard for five minutes of opening remarks.

● (1150)

[*Translation*]

Mr. Luc Beauregard (Secretary-Treasurer, Centrale des syndicats du Québec): Good afternoon, and thank you for this invitation.

Today, I'm basically going to talk about part 5, division 32 of Bill C-19.

The CSQ represents approximately 200,000 members, about 125,000 of whom work in the field of education, including higher education. It is the most representative organization for this sector in Quebec. It also has 11 federations, which in turn represent some 240 affiliated unions, and the Association de retraitées et retraités de l'éducation et des autres services publics du Québec, AREQ. The CSQ also plays a role in health and social services, early childhood educational services, municipal services, recreation, and culture, as well as the community and communications sectors. In short, it is everywhere in Quebec.

A few days ago, we told Ms. Qualtrough, the Minister of Employment, Workforce Development and Disability Inclusion of our concerns about division 32 of part 5, in Bill C-19, which is about the Employment Insurance Board of Appeal and the Social Security Tribunal, commonly referred to as the SST. We asked her to remove division 32 of part 5 from the bill so that it could be analyzed separately.

The SST was established in 2013 to serve as a one-stop shop to replace four administrative tribunals, including the arbitration boards. Before that, tripartite boards made decisions at the first appeal level for employment insurance clients. This provided better access to justice and the participation of community representatives familiar with the labour market in their region. The appeal structure went from a three-member tribunal, which was viewed as a trial by one's peers, to a single decision-maker who was often remote from the appellant and that person's living and working environment.

In 2019, the government announced in a news release that, further to a recommendation made by KPMG in its report on the review of the SST, reforms would be undertaken. These included a return to the tripartite system to begin in April 2021. The government assured us that people would be at the centre of the appeal process, which would become faster, simpler and better suited to the needs of Canadians. The announcement also said that community stakeholders would be consulted. This did not happen, however, despite our many efforts to remind the departments of our full cooperation.

Bill C-19 provides that the SST would report solely to the Commission's commissioner. And yet, it is essential that the structure be tripartite to ensure proper monitoring of how the union representatives and employers are deployed and trained to perform their duties within the Board of Appeal, which would not really be tripartite unless the social partners take part directly in the selection and appointment of member workers and employers.

In addition, the right to regional representation and an in-person hearing is not found in Bill C-19. The necessary reforms were to be flexible and client-centred. Genuine access to an in-person hearing was recognized as an essential feature of any reform of the employment insurance appeal process. The presence of members of the tribunal with expertise and knowledge of local markets is essential.

The composition of the Board of Appeal also provides two types of status: full-time members of the tribunal appointed by the Governor in Council, and part-time members from the employers or insured persons, appointed by the commission. This different status is of concern to us because it necessarily leads to inequity between members, in addition to a different hiring status. The full-time members will have status as employees of the public service, strengthened by the fact that they will be the only ones eligible to hold the position of chair, vice chair and coordinating member. The inequity is obvious.

In short, we would have liked to have been consulted beforehand and to have had the opportunity to contribute to the development of the appeal process. The provisions included in Bill C-19 do not reflect what was suggested and proposed by the government at the beginning of the process. Of course we understand the delays caused by the health crisis, but that should not have prevented consulting the social partners on such an important matter. If no changes are made to the provisions in the bill, we believe that they should be withdrawn and studied separately.

Thank you very much for hearing me out.

● (1155)

The Chair: Thank you, Mr. Beauregard.

[*English*]

Now we'll hear from the Canadian Chamber of Commerce and Mr. Mark Agnew.

You have up to five minutes, please, for opening remarks.

Mr. Mark Agnew (Senior Vice-President, Policy and Government Relations, Canadian Chamber of Commerce): Chair and honourable members, it's a pleasure to be here today.

The honourable members would have seen the submission that the chamber made via the clerk, so I'm going to focus my remarks mostly on the competition policy provisions of the budget implementation act as well as the luxury goods tax.

Let me start on competition policy. Given the evolving nature of the economy, our competition policies certainly need to keep pace; however, getting it right is critical. This means robust consultation with stakeholders, including the business community and others in legal, civil society and consumer groups as well.

The chamber is particularly concerned with three elements. It is urging this committee and the government to remove them from Bill C-19 and place them into the mandate of the full Competition Act review that the minister of industry has committed to undertaking later this year.

First is the abuse of dominance provisions and codifying a number of definitions. An overly broad approach to defining what is anti-competitive is particularly problematic because every act of competition may, at least in the eyes of the competitor, impede their progress or expansion. Indeed, an action seeking to outdo a competitor is at the very heart of healthy and necessary competition. Clarity is also needed on areas like privacy, given that we have a separate federal privacy regulator in this country.

While some have argued that these proposals codify existing practice, we should not be haphazard about amending legislation, given that it cannot be then changed back on a whim later on.

Second is the changes made to the administrative monetary penalties. The proposed changes to the AMPs represent a significant overcorrection. Such significant penalties of up to 3% of worldwide revenues are problematic when the provisions are being expanded and companies are left without the benefit of existing jurisprudence to understand what they mean in practical terms. The penalties additionally scope in activities that are not linked to violations occurring in Canada, by virtue of taking a worldwide revenue approach instead of a Canadian revenue approach.

Third, and finally, is the other provisions relating to no-poach. Others have pointed out in separate forums that this poses challenges in the franchise context where companies often have provisions written into contracts as a means to ensure that investments in training their employees are not being undermined. Interactions with provincial labour laws also need to be considered.

I don't have specific amendments to offer today, which reflects the time needed by the chamber to consult our members that sit across different sectors. A few hours of meetings on legislation at committees unfortunately does not suffice for the consultations we hope the government will make as part of the phase two review, rather than putting these three provisions into the budget implementation act.

Despite the assertions made by some that we should make the changes now and figure it out later through administrative guidance or by reopening it in the phase two review, I think that would be a mistake. We don't know what will happen from that review, given that it has not yet actually begun.

Additionally, there may be a tendency to view these Competition Act changes in the context of the current inflationary environment. Unfortunately, these changes will not address current inflationary pressures, so we should not have a knee-jerk reaction with that goal in mind.

I want to briefly end by talking about the luxury goods tax.

Members will be aware from other witnesses who have appeared about what the luxury goods tax means for Canadian aircraft manufacturers. The industry is still in recovery mode from the pandemic and concerns persist, from our standpoint, as to what this tax means for industry. We hope to see amendments made to specific areas of the bill, should the government continue to go ahead with the proposal. This includes exemptions for exports and also the treatment of liabilities when it comes to usage by the buyer after a sale has occurred.

We also need to understand how the tax will impact our competitiveness relative to other jurisdictions. The U.S. experience, of course, was to introduce such a tax, only to then repeal it a short time thereafter.

Thank you for taking the time to consider the chamber's perspective. I'd be happy to answer your questions.

The Chair: Thank you, Mr. Agnew.

Now we'll start with our first round of questions by members. In this first round, each party will have up to six minutes to ask questions.

We will commence with the Conservatives and have MP Albas up for six minutes.

Mr. Dan Albas: Thank you, Mr. Chair

Thank you to all of our witnesses for being here today.

I'd just like to give the chair notice that about halfway through I'm going to share my time with MP McCauley.

I would like to start with Ms. Long.

Thank you for your testimony here today. We appreciate your views on this.

I've had some experience with the B.C. nominee program. it seems to have very much the same kind of lines as what you've set out here, where it gives so much discretion that a minister could be subject to lobbying. They could simply make a grouping based on abstract criteria or have been lobbied for a specific group.

That's exactly what seems to happen in the B.C. nominee program. In fact, one case came across my desk where one engineer was being brought in and his wife, children and, I believe, an uncle and a parent were all included under the same file for one position. I worry about how these things come together.

When you say occupation-based selection, would this require a definition to the act or does the occupation-based selection amendment that you're suggesting already exist? How would you best construct this so there is criteria where the government has to show some transparency?

● (1200)

Ms. Elizabeth Long: The occupations-based selection is just something that I have heard from other lawyers from their meetings with IRCC, namely, that they were considering with regard to selection. In the current provisions, there is no definition of what these groupings could be. In the future, the minister, if these provisions passed, could choose to use occupations-based selection. What this will mean, how they will select occupations, is not known. Normally in the past when they've used occupations-based selection, it's just been a list. Nobody knows where these occupations come from. That's why I say it could be subject to lobbying. Who knows where this research comes from as to which occupations are in need?

My main concern with these provisions is that they're not defined and as such, in the future, the minister is not subject to parliamentary oversight.

Mr. Dan Albas: What sorts of amendments would create more transparency around this to make sure that when someone's invited through the express entry program, it is for the stated purpose of needed necessary skills for our labour shortages?

Ms. Elizabeth Long: Right now the express entry system is pretty clear as to what individual selection criteria are being used. As to whether or not we need further selection criteria, I would be happy to take a look once I actually know what the minister wants to do.

Mr. Dan Albas: So you're of the opinion that this addition is not necessarily helpful to the public interest—albeit it might be helpful to someone who is lobbying the government.

Ms. Elizabeth Long: Absolutely. It only gives more power to the minister and it only adds more unpredictability to the system.

Mr. Dan Albas: Thank you. I'll pass on the rest of my time, Mr. Chair.

The Chair: MP McCauley.

Mr. Kelly McCauley (Edmonton West, CPC): Mr. Albas, thank you.

Thanks, Mr. Chair. Witnesses, thanks very much.

I find it interesting how many witnesses throughout the day have stated the need for more study of these. It's quite bizarre how some of these items, in what are clearly omnibus bills, are pushed in and all getting rolled up together.

Mr. Beauregard, I'd like to hear a bit from you, please. Oddly enough, in a past life, I was a chair of the EI appeals board here in Edmonton, so I understand a lot of the concerns. Would your organization like to, or are you pushing to, see a return to the old system straight out?

[*Translation*]

The Chair: Mr. Beauregard, we're all ears.

Mr. Luc Beauregard: I'm sorry. To answer…

[*English*]

The Chair: Did you catch the question from MP McCauley?

[*Translation*]

Mr. Luc Beauregard: Yes. I believe he asked me whether we should return to the procedures in force prior to 2013. Is that correct?

[*English*]

Mr. Kelly McCauley: Basically, yes.

[*Translation*]

Mr. Luc Beauregard: Okay, thank you.

At the outset, you said that we had asked for more studies. We're not asking for more studies, but rather for a separate study, because the bill seriously limits...

[*English*]

Mr. Kelly McCauley: I commented on the general omnibus areas, but please go ahead.

[*Translation*]

Mr. Luc Beauregard: I'll get to the question you asked me.

A separate report is needed because this issue is becoming very important and affects a lot of Canadians.

Should we return to the previous system? We believe that the answer is yes. A genuine tripartite mechanism assumes having people who represent employers, employees and the government.

In addition, the part-time aspect is important for us, because people are assigned by group. A significant portion of the people represent the region at issue. Whereas in what is being proposed now, the region has no representation. It's more centralized.

● (1205)

[*English*]

Mr. Kelly McCauley: Can I interrupt, Mr. Beauregard. Do you see any advantages of the SST that could be carried over, if we revert back to the old system, such as perhaps in terms of the speed of hearing cases so that people are not waiting in limbo for so long? Or does it just need to be thrown out altogether and we start afresh?

The Chair: Please give a very short answer, Mr. Beauregard.

[*Translation*]

Mr. Luc Beauregard: I don't think we have to start from scratch. Prior to 2013, it all worked. There were no long delays and there was a first level of appeal with a tripartite group, attended by people from the community who were familiar with employment insurance and that community.

We believe that the best option would be to return to what there was before.

The Chair: Thank you, Mr. Beauregard.

Thank you, Mr. McCauley.

[*English*]

Now we'll move to the Liberals. We have MP MacDonald for six minutes, please.

Mr. Heath MacDonald: Thank you, Chair.

I'm going to go to the Canadian Chamber of Commerce in regard to competitiveness and maybe to innovation a bit.

Over the past number of years, we've certainly seen many businesses complain to governments, provincial and federal, relevant to interprovincial trade barriers. When we're talking about competitiveness, I believe that's a huge issue. I'm wondering, Mr. Agnew, if you have any advice for policy-makers on how we increase or better adapt to competitiveness from province to province within Canada and, I guess, get our own house in order before we start worrying about international trade.

Mr. Mark Agnew: Yes, I'll try to tackle that as best I can. It's a thoroughly broad question that probably behooves several committee meetings to discuss.

I think the one overarching point I would want to make about it is that when we talk to companies, it's easy for us as policy-makers and people here in the Ottawa bubble to really get caught up on what this level of government is doing, what this silo of government is doing and what that department is doing. It might be three levels of government, but it's one company at the end of the day.

It has to bear the cumulative burden of these things, whether it's on tax decisions, regulatory decisions or the ability to attract talent from both within and outside of the country, or having a much more robust economic competitiveness perspective to how taxes are done, and what the impact is going to be on business competitiveness when we pass a new regulation, and what it means for businesses.

I could sit here all afternoon and list the things that people aren't happy with and where they want to see change in the agriculture sector or the digital economy. It's quite a long list of things, but maybe to bridge back to some of the stuff we're talking about in the context of the budget implementation act, this is where there's a need to make sure we get it right the first time. Unfortunately, some of these competition provisions require a more deliberative approach, and competition policy is one of those things that affects the competitiveness of the environment in which businesses operate.

Mr. Heath MacDonald: Thank you.

I'm going to move, Chair, to Access Copyright and Ms. Levy.

You mentioned the 2012 Copyright Modernization Act, which I'm not familiar with, but it's better to know where we're coming from to get to where we going. Can you talk a bit about the demise of that act or why it was eliminated or changed?

Ms. Roanie Levy: The 2012 Copyright Modernization Act included quite a few amendments. It was a massive bill. Specifically to “fair dealing”, education was added to fair dealing so that uses can be made of works for educational purposes as long as they are fair.

The intent of the change was never to have education institutions stop paying for the copying they were doing. In fact, many representatives of the education community came before the legislative committee and said that they would not stop paying, that they would continue paying and they would continue buying books.

Unfortunately, that is not what happened. Immediately, within weeks of the act coming into force, educational institutions stopped paying for the copying of the books and essentially decided to do the copying for free under the rubric of fair dealing.

The idea of fairness—what is fair and what is not fair—is where the rubber hits the road, and it gets super complicated. We then end up in court for years and years.

The surest way to solve this problem is to provide more parameters around fair dealing and to do what the U.K., Ireland and New Zealand have done, which also have fair dealing for educational purposes. What they've done is that they've limited the ability to rely on fair dealing by educational institutions when a work is available under licence, either through a collective or through the rights holders.

Students can continue relying on fair dealing for the use of reasonable portions of works, but when a work is being copied in a massive and systematic way by an educational institution, that would be the subject of a licence, when a licence is available. It ensures that the market is able to function, while also ensuring that students and educators have access to works in a reasonable and cost-efficient way.

● (1210)

Mr. Heath MacDonald: Thank you.

Has there ever been a crossover or have you ever looked into intellectual property regulations that have been presented to see if there's any just cause or relation in that regard?

Ms. Roanie Levy: Unfortunately, you can't have regulations under that provision. It requires a legislative amendment to be done. That is the only way to set this straight.

Mr. Heath MacDonald: Thank you.

I know I don't have much time left, but where there are national security or business innovation implications with foreign countries, in particular, and possibly hostile foreign countries, do you see any risks relevant to that in your business?

Ms. Roanie Levy: No, there is no relation to that scenario.

Mr. Heath MacDonald: Thank you.

Do I have much—

The Chair: Thank you. That's about it.

Mr. Heath MacDonald: Thank you, Chair.

The Chair: Thank you, MP MacDonald.

Now we'll have questions from the Bloc and MP Chabot for six minutes, please.

[*Translation*]

Ms. Louise Chabot (Thérèse-De Blainville, BQ): Thank you, Mr. Chair.

Good morning to everyone. I'd like to thank our witnesses for their presentations.

Mr. Beauregard, I'd like to ask you a question about division 32 of part 5 in Bill C-19, which involves numerous reforms and over 400 pages. It's clear that things are going slowly for employment insurance. We had been promised a comprehensive reform in 2015, but nothing was done, except for minor amendments. In 2019, A major reform of the Social Security Tribunal was promised, with a return to tripartite appeal boards. Today, we find ourselves with this division, which contains the word “tripartite”, but I think that what you're resolutely asking for is the removal of this division from the bill for a separate study.

How would studying it separately facilitate everyone's approval of this bill?

Mr. Luc Beauregard: Thank you for your question, Ms. Chabot.

Why do we feel it would be better for us to remove division 32 of part 5 of the bill? I think we would give us time to look into the matter in greater depth. A reform had been planned in 2015 and it still hasn't happened. Given where we are at the moment, we think it should be done properly and thoroughly. There is division 32 of part 5, but we know that there will probably be lots of other changes made to employment insurance, including the matter of accessibility. It would be helpful to remove this division of the bill in order to conduct a study on employment insurance.

As for the term “tripartite”, it's only that in name for the time being. The structure looks as if it's tripartite, but it is basically very different from what there was before, and we think there will be problems if it's applied as is.

I'll stop there, but it is certainly something to reconsider.

Ms. Louise Chabot: So what you're saying is that it would enable us to do an in-depth study with the stakeholders concerned, from both the employee and employer standpoints. I hope that it will be brought to the attention of everyone in attendance at the Standing Committee on Finance. We've already waited more than two years, so we can wait another few months to do things properly.

I wanted to ask you a question about a subject that seems to be important to you.

Why is it important for the employment insurance appeal process to provide the right to regional representation and to an in-person hearing?

● (1215)

Mr. Luc Beauregard: Thank you.

For a long time, before 2013, people came in person to defend their case. They could see the interveners properly and there were people there from their community. In Quebec, there were between 15 and 20 regions represented, and they too were people from the same kind of background. When it was the union party, people were appointed by the union organizations and when it was the employer party, there were also people appointed from that side.

These were people who knew the region and the community, and were accordingly familiar with the case at issue. Needless to say, there are considerable differences between the status of a seasonal worker in British Columbia and one working in Gaspé, even though there are similarities as well. That's why it's important to factor in the realities of each setting to make the decisions as equitable and fair as possible.

Ms. Louise Chabot: As someone on the union side, are you expecting to play an important role in appointing these representatives, the members who are eligible to be on the board?

Mr. Luc Beauregard: Definitely. The answer is clear, neat and precise. We are hoping for a return to the way things were before.

Ms. Louise Chabot: I infer from what you said that for the time being, division 32 of part 5 does not meet these objectives at all.

Mr. Luc Beauregard: Our opinion is that division 32 of part 5 does not meet them.

As I pointed out, the structure looks tripartite, but it is basically not.

Ms. Louise Chabot: Have you had any feedback about whether it would be possible to remove this division from the bill? This division doesn't really have a financial impact, whereas Bill C-19 is generally about budgetary matters.

Mr. Luc Beauregard: No, we haven't heard anything back.

Ms. Louise Chabot: You haven't had an answer to your…

Mr. Luc Beauregard: No, none, in spite of the letters that were sent. As I mentioned, on May 9, we sent a letter to Minister Qualtrough about this issue and haven't had a reply.

Ms. Louise Chabot: You spoke about the process at the regional level and the right to an in-person hearing. Why is it important for this new tribunal to report to the Canada Employment Insurance Commission rather than to a single chair?

Mr. Luc Beauregard: The important thing is that the management and union sides can have an influence. One of the parties would no longer exist. Real tripartism means getting along, working together and coming to a decision.

I have often been involved in consultations that were not really consultations. I can tell you that if we are not performing an advisory role, the process can become perilous. When we are part of the decision-making and the process, we take more time to look at things and analyze circumstances.

We believe that it's dangerous to put all the power into the hands of a single person.

Ms. Louise Chabot: Thank you.

Do I have any speaking time left, Mr. Chair?

[*English*]

The Chair: Thank you, MP Chabot. That is the time. There will be other rounds.

Now we will have questions from MP Blaikie for the NDP for six minutes.

Mr. Daniel Blaikie: Thank you.

Ms. Long, I was hoping that we could talk a bit more about some of the risks inherent in the government's approach to the express entry system. One place to start is making the change based on membership in a group, versus being explicit about the fact that these appear intended to be occupational lists.

If there are a bunch of Canadians who are inclined to agree that there should be some kind of occupational classification for the express entry system, what are some of the risks of defining it in the legislation as membership within a group, instead of being very explicit about membership within an occupational category?

Ms. Elizabeth Long: This may be the intention right now for the current minister, but these provisions give power to any minister in the immigration system. For example, maybe one minister might think that selection based on nationality—this is what they do in the States—is something that they want to do.

There is an endless variety of selection. The issue is that right now the minister is subject to parliamentary oversight when they want to make changes to the selection criteria. With these provisions, there will be no parliamentary oversight.

● (1220)

Mr. Daniel Blaikie: If the government was more clear in the legislation about its current intent, that would also provide opportunities for Parliament to weigh in when a different government or even the same government decided that it wanted to make alterations to the express entry system. Is that fair to say?

Ms. Elizabeth Long: Yes, that's right. If it defined it, instead of having ambiguous groupings.... If it defined it based on occupation-based selection, at least we'd know that that's its intent and that it could only select based on occupations.

However, at that point, I would also like to argue that it would be best to have time for other immigration witnesses to speak about this provision and the benefits and costs of doing that occupation-based selection, rather than having a brief debate in a finance committee on a budget bill.

Mr. Daniel Blaikie: Are you aware of some examples in the past of an immigration minister abusing discretionary authority within the system? How do you think a more public system with more transparency and more clarity around the determination of rules for the express entry system would help to avoid similar kinds of abuse in the future?

Ms. Elizabeth Long: I don't necessarily know if it's intentional abuse. I think every minister does what they feel is right according to what they think. The end results, however, are often problematic. For example, this year, we have had a huge issue with backlog in express entry because last year the Minister of Immigration decided to impose an occupation-based system under the ministerial instructions, which they are now able to do because of the wide discretionary powers. Last year in October they filled up all of the inventory for this year. Now we are facing a huge issue in immigration because of a discretionary decision by a minister on which immigration experts in the field were not consulted with respect to whether or not that would be a good idea.

Mr. Daniel Blaikie: One of the questions that comes up when we're talking about a really high level of discretionary authority for a minister is that people might say circumstances change and we need to have some flexibility. Within the immigration community, when we're talking about what targets Canada should have and what criteria we should have for entry, is it your impression that things are changing so much year to year that the minister has to be in power to have this kind of discretionary authority, or is it more the opinion that immigration is meant to respond to medium- to long-term strategic economic factors, or certainly the express entry system is? There are other parts of the immigration system based on moral considerations about family reunification and refugees, but within economic immigration, is it the view that this is really a medium- to long-term strategic thing and we shouldn't need to make major program changes year to year at the discretion of a particular individual as opposed to having a more strategic process?

Ms. Elizabeth Long: Absolutely. I think the decision-makers like to have flexibility in their decision-making. It would be nice if when they made a decision, they could just carry it out.

On the other side, you have people who depend on their decisions. People, when they go through the immigration system, need to structure their lives. They get a lot of points by studying in Canada, for example. They get a lot of points by doing certain sorts of occupations.

People actually plan their lives out and probably spend hundreds of thousands of dollars going to school in Canada and finding a job, and then all of a sudden when the system changes and they are no longer able to go to apply for permanent residence, this creates havoc for the applicants. The situation in Canada right now, because of the backlog, is that we have hundreds of thousands of people who can't apply under the express entry system. It also is very detrimental to Canada's reputation and our ability to attract the very people who this system is meant to attract.

● (1225)

The Chair: Thank you.

Thank you, MP Blaikie.

Mr. Daniel Blaikie: Thank you.

The Chair: That concludes our first round of questions.

We're moving to our second round, members and witnesses, commencing with the Conservatives. We have MP Chambers for five minutes.

Go ahead, please.

Mr. Adam Chambers (Simcoe North, CPC): Thank you very much, Mr. Chair. It's nice to see everyone here. Thank you for taking time this week to be with us with excellent presentations.

I'd like to swing back to the chamber, if I may, for most of my time, Mr. Chair.

Mr. Agnew, you talked about two issues. I'd like to focus on both, but first let's talk about the Competition Act changes.

Are there challenges in principle with these changes or is it mostly around process and interpretation and having some ability to have feedback on some of this legislation before it becomes law?

Mr. Mark Agnew: Absolutely it is the latter. We don't have any challenge with discussing how to modernize the penalties, because admittedly they are quite small today. We don't have a problem with talking about abuse of dominance, because we want to make sure there is something in there that balances the needs of both businesses and consumers.

Unfortunately, what we saw in the budget document, which was going to be something that was a bit more narrow in scope, has ended up being quite a broad piece now in Bill C-19. Having a more robust consideration of those and a more structured process as part of the phase two the government has committed to doing already I think would be the way to go about having that conversation.

Mr. Adam Chambers: From your perspective, is there a pressing need that this has to become law by the end of this session—by June? Is it possible that we could perhaps consult on some of these changes over the summer, not at this committee but with respective stakeholders within industry, and then perhaps put a refined version of these in the budget bill in the fall?

Mr. Mark Agnew: That's correct. There is no need to press through with changes before the end of the spring sitting of Parliament.

As I alluded to in my opening comments, there has been a tendency by some to link the Competition Act changes to what can address the current inflationary environment. Certainly our views is that these changes, if they're enacted in June, are not going to move the dial on inflation. We need to make sure that we get it right as opposed to getting it done quickly.

Mr. Adam Chambers: Thank you.

We heard last week a stakeholder mention a question around constitutionality of at least one of the sections. Is that a view that you've looked at as the chamber, or have you sought external opinions that give you the same kind of concern?

Mr. Mark Agnew: Yes. We sought out the views of our members, and we have heard from some of them the concern about the scope of the penalty size and what that means from a constitutional perspective. Thankfully, despite all my sins, I'm not a lawyer—I didn't have to go to law school—but this is the sort of thing where we do need to have a fairly rigorous discussion about it. Again, some members have raised that constitutional concern with us.

Mr. Adam Chambers: Thank you.

I'll turn now to the recreation tax, or the boat tax, as we've talked about many times here at this committee. You mentioned the U.S. having gone down this road and reconsidering it.

What's the experience that we should be drawing on here in Canada?

Mr. Mark Agnew: I'm not familiar with all the ins and outs of the U.S. experience, but there are a couple of things to consider. One is the impact on manufacturing jobs, because this is a very real business cost that is imposed upon companies. Certainly in the current, again, inflationary environment and recovery from the pandemic, companies have an even thinner margin and less manoeuvre room to go with.

Then, of course, another thing is that if other jurisdictions aren't doing this, people are going to be looking for circumvention measures. Are those jobs just going to go away and move elsewhere? The people who are intended to be taxed are going to move the economic activity, and we will have nothing to show for it here on the domestic end.

Mr. Adam Chambers: Would it surprise you to learn that the government did not complete an economic impact assessment prior to the introduction of the tax? They have been talking about it for at least a couple of years, but we haven't seen any economic analysis.

Mr. Mark Agnew: I haven't seen any economic analysis.

Again, this goes back in some ways to the point about competition, and I think some of the other remarks that witnesses made today. There's a need to make sure we're doing this right and that, as people like to say, it's evidence-based policy-making. What is the evidence base around it, and what are going to be the real-world impacts if we go ahead with it?

● (1230)

Mr. Adam Chambers: I have one final question.

If you had any advice to the committee over the next couple of weeks, are there amendments that you could perhaps provide in writing to the Competition Act changes, if we're unsuccessful in having it separated out from the bill? That would be helpful.

Mr. Mark Agnew: Absolutely.

If the chair could just indulge us, the fact that we haven't been able to come forward with amendments from the discussions that we've had with our members thus far, I think underscores just how complex this really is.

To go back to the honourable member's opening question to me, we're not actually seeking to have the entirety of the Competition Act provisions removed from the BIA. We've really tried to give it some diligent thought to say what the real problems are that need to be consulted on more. Hence, that's why I've come to the committee today seeking for those three specific provision to be removed.

Mr. Adam Chambers: Thank you very much, Mr. Chair.

The Chair: Thank you. Thank you, MP Chambers.

Now we're moving to the Liberals, and I have MP Chatel, for five minutes, please.

Mrs. Sophie Chatel: Thank you, Chair, and thank you to all the witnesses with us today.

My first question will be for Mr. Agnew from the Canadian Chamber of Commerce.

In its newsletter, the chamber said that "it has never been more important for the federal government to focus on economic growth", which was a good positive mark for the budget. On that, I think I completely agree with you. I would add that we should focus on inclusive growth—although some would say that we should focus rather on our deficit. I agree with that too. However, we should also focus on having the best net debt-to-GDP ratio of the G7 and the G20.

As the world is transitioning towards a green and digital economy, I think it's very important that we focus on key sectors of our economy—where it could grow and where we could all succeed in tomorrow's economy.

On economic growth and the key sector investments, may I have your thoughts on them and our budget's focus on those sectors?

Mr. Mark Agnew: Again, there are a lot of sectors that I could talk about, being from a multi-sector association, but I'll pick up on two that were addressed in the budget specifically.

One is around the critical minerals industry. I think this is an opportunity for Canada to step up on the world stage and show that we have some heft and something useful to bring to the table for our allies. Critical mineral products are used in everything from cellphones to industrial applications, through to and including defence and military applications. So certainly, in the current environment, that was something we were happy to see the government make an investment in to get more of those products out of the ground and then develop the downstream supply chains. Of course, that will also help in the transition to a lower carbon economy.

The other measure, of course, that we were also quite happy to see included in the budget was the CCUS investment tax credit. This is very expensive technology to deploy, and certainly there isn't going to be any hope at all of hitting our already very ambitious targets by 2030 without the use of CCUS technology. I think to help maintain the viability of the oil and gas sector, that's quite a critical measure to have happen, and we're happy to see that in the budget as well.

Mrs. Sophie Chatel: You mentioned the green transition in the budget and the investment in new technologies to position Canada ahead of the pack in the new green economy. Often the concession towards a green economy are these costs at a higher level, a more fundamental ecological level, but could you talk to this committee about how this is also an economic issue?

Mr. Mark Agnew: As much as there's going to be a transition, it creates new opportunities for Canada. For instance, in lower emissions-intensity products like natural gas, what does this mean for us, particularly, again, in the context of what's going on in the war between Russia and Ukraine?

Nuclear is another area where we have a potential to deploy SMRs. Again, we need to make sure that we're on the forefront of that, and also hydrogen. I think hydrogen is still a bit more of a ways off, and there are still a lot of details that need to be worked out, but those are other fuel sources where, if we're making the investments now, then we're going to position ourselves to be a much more competitive global player in the future.

● (1235)

Mrs. Sophie Chatel: If we were to focus only on our deficit and the fiscal balance and not focus on how important it is to invest in those sectors of growth, what could happen on the world stage for Canada?

Mr. Mark Agnew: Well, certainly there does need to be de-risking of a lot of these products. They are expensive, and companies need to be able to have assistance in that transition. I wouldn't want to leave the impression that we see it as an either/or proposition. There does still need to be work that's quite critical to our sustainable public finances.

What you'll often hear us talking about as the Canadian Chamber is ensuring that when we are spending those public dollars, they're going to the areas that will support sustainable economic growth that will set up future generations for success rather than being spurious investments that may not have a long-term benefit to the Canadian economy.

The Chair: Thank you.

Thank you, MP Chatel.

Now we'll hear from the Bloc and MP Chabot for two and a half minutes, please.

[*Translation*]

Ms. Louise Chabot: Thank you, Mr. Chair.

I have trouble understanding how the employment insurance appeal process got shoved into a budget bill of over 400 pages. It would seem to me to be a highly specialized subject. We could have studied it in connection with the reform of the Employment Insurance Act. Our hands are tied.

Mr. Beauregard, you said that there were four essential elements that should be in the reform: the new appeal board should report to the Employment Insurance Commission rather than the chair; employment insurance recipients should be entitled to regional representation and an in-person hearing; all members of the appeal board should be appointed on a part-time basis to guarantee equity; and last, the Employment Insurance Commission should be in charge of the selection process for employer and employee members.

Is that an accurate summary of your main positions on what needs to be studied in greater depth?

Mr. Luc Beauregard: Yes. That's an excellent summary of what it took us five minutes to present. That's precisely what we want.

As you just said, it's a very specialized area, and we think that it requires a separate analysis.

My headset went wonky in the middle of my presentation. I apologize if the sound isn't very good.

Ms. Louise Chabot: It's mainly a problem for the interpreters.

I understood you because I speak French.

What we have here in division 32 of part 5 does not in any way correspond to the 2019 commitment, or to the announced reform of the Social Security Tribunal.

Mr. Luc Beauregard: You're absolutely right. At the outset, we were told that a reform was planned. We were also told that the tripartite structure would return to the way it was before. That's not what's being proposed now. We believe there is a problem with it, and that's why we're asking questions.

The analysis needs to be done elsewhere. There's a reason why consideration was being given to returning to the former way of doing things, and that's what we would like to study. We think that this needs to be done somewhere other than in the study of this bill. That would be the best way to proceed. As you pointed out, it's too specialized.

And although a promise was made, it has not yet been kept.

Ms. Louise Chabot: So what's needed…

[*English*]

The Chair: Thank you, MP Chabot. That is the time.

Now we will move to the NDP and MP Blaikie for two and a half minutes, please.

Mr. Daniel Blaikie: Thank you.

Ms. Long, I just wanted to circle back to our previous conversation and ask if you have some thoughts or reflections on what an appropriate public process for determining occupational streams or other kinds of groups might be within the express entry system. What do you think a transparent, accountable, appropriate process would look like in allowing for some flexibility, but also limiting the opportunities for abuse, whether intentional or not?

● (1240)

Ms. Elizabeth Long: If I could provide a vision for an occupation-based program, first of all we'd need to discuss whether or not that is even a good thing. If so, then there should be a process where different industries have a transparent process as to their input and whether or not we require occupations for a specific industry. Right now we don't know where the researchers and the minister are getting their information from. If they have their own internal researchers, which they claim that they do, where do these researchers get their information? There are a lot of problems with that.

There are also a lot of problems with the predictability of the system. We have a lot of people who spend years and years trying to apply, and if all of a sudden every single month the occupations change, then how do they even know whether or not they have a good chance to apply? It's not a game to people; these systems affect people's lives to the core for their families, and we can't just play games with their lives. This system should be in a bill of its own, properly debated with immigration experts from around the country, and the government should answer to what kind of system it envisions for an occupation-based system.

The Chair: Thank you MP Blaikie.

Now we'll hear from the Conservatives for five minutes of questions. We have MP Stewart up for five minutes.

Mr. Jake Stewart: Thank you, Mr. Chair.

My questions are for Professor Dehejia.

I appreciate all of the witnesses coming in today, and it's great to have the professor back with us as well.

Professor, obviously we're looking at the budget and the BIA process. When I first got here back in September, the government at the time was blaming inflation pretty much predominantly on the global pandemic. Sometimes inflation would be blamed on other global phenomena, and recently the blame seems more pointed towards the war in Ukraine—although that's only been with us for a short time compared to the pandemic itself. The pandemic was primarily blamed for issues like supply chain issues, shortages and inflation in particular, and now the war is blamed for those.

In your opinion as an economist, can you speak to, number one, those insights from the government on where the blame falls, if any? Also, perhaps look at some glaring missteps in this budget that most certainly could have given Canadians some relief in their pocketbooks.

Thank you.

Mr. Vivek Dehejia: Thank you, Mr. Chair.

That's a broad question. I would say the following.

The claim that our inflation problem is a global problem, is a half-truth—you can call it a cop out—because we had high inflation long before the war in Ukraine. It's not all just a supply side issue or caused by the pandemic.

Last fall, I was warning that inflation was ticking up towards 3%, 4%. Ultimately, the cause of high inflation is monetary. We've had very loose monetary policies for the last 10 or 15 years, and that is now showing up in high inflation. Couple that with a large fiscal deficit, which again gets monetized by the central bank—the central bank buys all those bonds—that puts cash in the system. They've been very slow in starting the so-called QT that they say they're now planning to do. It's very slow.

Couple together fiscal profligacy, very loose monetary policies and really, I think, perhaps an unrealistic road map in this budget, making rather rosy assumptions about growth that may not pan out, and we'll have a worse fiscal deficit.

I'm worried about both of those things, Mr. Chair.

● (1245)

Mr. Jake Stewart: Thank you, professor.

Obviously, it seems like there's a level of complacency within the government with respect to inflation. Following up on your points, I should stress that the government seems somewhat oblivious to the struggles of average Canadians, as it further drives the divide between rural and urban. I see that here in my riding, which is very rural. We have very few options for plugging in electric cars. I think my riding is a couple of times the size of Prince Edward Island, and I might have two, maybe three, places to plug in. It would take many hours to drive around my constituency.

In my riding as well, Northumberland County for the most part, the median income is $34,500 per year. Food and fuel prices are forcing families to make hard choices they never had to make before. Do you believe that it's time that this government remove its punitive carbon tax on fuel in Canada to give low and medium-income families relief at the pumps and at the grocery store? Would this reduction take some of the pressure off of inflation?

Mr. Vivek Dehejia: Thank you, Mr. Chair.

Yes, I do think so. I think there would be several benefits to slashing carbon taxes. One, as we've seen, is that we are in a very energy-insecure world. There's a war going on right now in Ukraine, and it teaches us that we can't be complacent about this. We actually have made-in-Canada energy, so we would not only be helping consumers by giving them lower prices at the pumps, but that would also feed through to lower food, transport and travel costs. It's good in terms of most sectors of the economy, but it will also be less punitive to our oil and gas sectors.

I'd say, all told, there are families that I know and that you know that really can't make ends meet. Families on fixed incomes or low incomes simply can't pay their rent and buy food, so we are in a real crisis. I must say, I'm surprised and disappointed that the government doesn't seem to be more concerned about this, Mr. Chair.

The Chair: Thank you, both.

Now we'll hear from the Liberals. We have MP Baker for five minutes, please.

Mr. Yvan Baker: Thanks very much, Mr. Chair.

I'd like to begin my questions with our representative from Access Copyright.

Just speak to the government action on the extension of copyright protection from 50 to 70 years. Could you speak to why this is important for creators and for Canada's international reputation.

Ms. Roanie Levy: Absolutely. The international norm now is life-plus-70. It has been for a long time, so all of Canada's major trading partners have been at life-plus-70 for a very long time. Canadian rights holders are at a disadvantage when in Canada the term of protection is shorter than what it is in the rest of the world, so this will allow Canadian creators to be more competitive and Canada to be more competitive in the cultural sector.

Mr. Yvan Baker: Can you talk a little bit about the impact on those among my constituents who might be watching this and who aren't close to the cultural sector? We're all beneficiaries of it, of course. How does this impact creators and how does this impact our economy? Could you speak to that a bit?

Ms. Roanie Levy: Sure, it extends the time under which a creator and the estate of the creator, as well as the producers of the works, will be able to monetize and get return on their investment. This is absolutely critical to ensuring that there is continued investment in creative works.

Mr. Yvan Baker: Thanks very much, Ms. Levy, for your time here.

I'm going to switch over, if I may, to ask Mark Agnew a question about the investments in zero-emission vehicles charging infrastructure.

Can you talk a little bit about the importance of that and what you think the impact of that is on some of your members who are in that industry or seeking to grow within that sector, or in sectors that are adjacent to it and would be beneficiaries from the expansion of zero-emission vehicle infrastructure and the expansion of the use of zero-emission vehicles by Canadians?

● (1250)

Mr. Mark Agnew: There are a couple of different things that most readily come to mind. Certainly I would be happy to send more information to the member in writing afterwards.

One, for instance, as everyone is going to be going out at some point in the coming years to think about electric vehicle purchases, is that we're still at a relatively small market share right now. So even a small increase will still be a relatively large jump compared with where we are today.

I think there's going to be even greater and more reliable needs to generate electricity to power these electric vehicles as demand goes up. That's probably a cleaner way to put it. How are we going to have that grid capacity in place?

As events in Ottawa have shown over the weekend—a lot of us are still without power—how do we also have resiliency in that infrastructure? The events this weekend have really brought home that point for us to think about quite clearly.

Of course, how do you make it cost effective? I think, for the average family out there, a lot of these vehicles are not cheap. Certainly when we were looking at cars recently, for where we are in our stage of life, a lot of these vehicles are not cheap, particularly if you're talking about vans, for instance. How do you make this more cost effective? Is the current tax credit sufficient? I think there are a lot of people who would take the view that we need to have greater investments to support uptake by Canadians.

Mr. Yvan Baker: Sure, and let's say that uptake was there, what's the economic opportunity? I'm thinking about the members you represent. What's the upside for them here, whether they're the folks helping manufacture the cars, providing the hydro infrastructure or whatever? Talk to us a little bit about the economic benefits for your members.

Mr. Mark Agnew: I don't have a number in front of me as to what the benefit is, but certainly, we have an opportunity to attract manufacturing jobs to make electric vehicles here. We need to make sure, at the same time, that we have the regulatory environment, the tax environment and access to labour as well. For us to be able to seize an opportunity, it's not just about assuming it's going to land in our lap; we do have to do our homework and get our own house in order to make that happen.

Mr. Yvan Baker: Is the opportunity big enough to do that homework?

Mr. Mark Agnew: Yes, absolutely, and not everything involves the government providing direct cash assistance. Regulatory reform is something that the government can do at no cost to the public purse, but it's an absolutely tangible way in which we help the business environment improve.

Mr. Yvan Baker: Thank you.

The Chair: Thank you, both.

Members and witnesses, we're pushing up close to the end of our meeting. I need a few minutes at the end so that we can have a discussion and look to adopt the two budgets that were sent to you by the committee clerk.

We'll have a rapid round here with it's a quick question and a quick answer. We'll start with the Conservatives for a question and one answer.

Mr. Dan Albas: Thank you, Mr. Chair.

Mr. Dehejia, I have a quick question with regard to inflation. Obviously consumers are feeling the pressure at the pumps, and that creates all sorts of spinoffs into the economy as people charge higher rates.

Do you believe that now is the time for the government to introduce a temporary reduction in the GST on fuel?

Mr. Vivek Dehejia: Yes. That's a one-word answer, Mr. Chair.

The Chair: Well, that was quick. Thank you very much.

Now we'll move to the Liberals again for a quick question and one answer, with MP Dzerowicz.

Ms. Julie Dzerowicz: Thank you so much, Mr. Chair, and I want to thank everyone for their excellent testimony.

My question is for Ms. Long.

Ms. Long, I want to say a huge thank you to you. I very much appreciate your experience and your testimony today, and your exchange with my colleague Mr. Blaikie.

As someone who has worked quite heavily on the immigration file for the last six years, I'm very familiar with the express entry system and its failings. Even before the pandemic, we had huge job needs, so we had labour shortages. What happened was that so many industries were not able to bring key workers in legitimately because the system didn't facilitate skilled or semi-skilled workers coming in. After the pandemic, we now have this huge need in so many different sectors, and I suspect—and you mentioned this as well—the minister was probably trying to ask how we can address these huge labour shortages very quickly.

I'm going to ask you a similar question, and you'll probably have to write the answer in since we don't have time for a response. If we had to move forward with this legislation—assuming it's going to move forward—and there is anything we could do, how do we give the minister the flexibility and speed they need, but with the proper oversight that is needed? It might not be parliamentary, but there's some sort of accountability mechanism that we could put into place.

If you could kindly put some thought to that, it would be really appreciated.

● (1255)

Ms. Elizabeth Long: Yes, I'm happy to do that. Thank you.

Ms. Julie Dzerowicz: Thank you.

The Chair: Thank you.

Now for a quick question and answer, we have MP Chabot.

[*Translation*]

Ms. Louise Chabot: Mr. Chair, I would like Mr. Beauregard to explain to us in 30 seconds why this is an important issue.

Mr. Beauregard, what message would you like to send to the Standing Committee on Finance and the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, which are also going to be studying the issue about the importance of reforming the appeal process? We were all surprised to find this reform included in Bill C-19.

What message would you like to send to the government to ensure that the reform meets the objectives that were set?

Mr. Luc Beauregard: Thank you for your question.

Right off the bat, I would say that it doesn't have much to do with the initial project announced in 2015.

The request to address the matter separately was made because the social partners were supposed to have been consulted, but were not. The union, the employees and the employers were not consulted.

We believe that these consultations are important. That's why we are asking that they be done separately.

Thank you.

Ms. Louise Chabot: Thank you.

The Chair: Thank you, Mr. Beauregard.

[*English*]

Thank you, MP Chabot.

Now for our final question and answer, we have MP Blaikie.

[*Translation*]

Mr. Daniel Blaikie: Thank you very much, Mr. Chair.

Mr. Beauregard, many unions have told us that they wanted changes to the Board of Appeal to be addressed separately from Bill C-19, that certain changes be made to ensure that members of the board would all be part time, that the appeal board should report to the Employment Insurance Commission, and not just the chair, and that there be a right to regional representation and to in-person hearings, among other things.

Do you feel that it would be preferable for these changes to be included in the bill, or addressed separately from the bill?

Mr. Luc Beauregard: Thank you for your question.

If the changes are made, that's all well and good, but I think that further changes need to be made to employment insurance.

I don't think it would prevent us from having a discussion about it. So why not remove this part of the bill? It would allow for a full analysis of the issue.

If there are changes to be made, they could be addressed in a separate analysis that would include all aspects of employment insurance.

Mr. Daniel Blaikie: Thank you.

The Chair: Thank you, Mr. Blaikie.

[*English*]

We want to thank our witnesses. On behalf of the committee, we thank you. I know you came together in a very short order, with limited time, and we thank you even for any technological issues that we had today. The questions were great and the answers were greater. We appreciate that. On behalf of our committee, our clerk, our analysts and interpreters, and all of those who helped bring us together, thank you very much. We want to wish you a wonderful day.

Members, I need your attention, and we can release the witnesses now. Thank you, everybody.

I do need members' attention just for a little bit. The clerk did distribute budgets for these current studies on Friday at 12:50 p.m. so you would have received an email. Now I want to see if there's any discussion—

● (1300)

Mr. Dan Albas: Mr. Chair, I move for unanimous consent to let the two budgets as presented proceed.

The Chair: Okay, great.

Some hon. members: Agreed.

The Chair: Congratulations, thank you.

Mr. Dan Albas: I move to adjourn.

The Chair: Thanks, members, and everybody.

Yes, we're adjourned.

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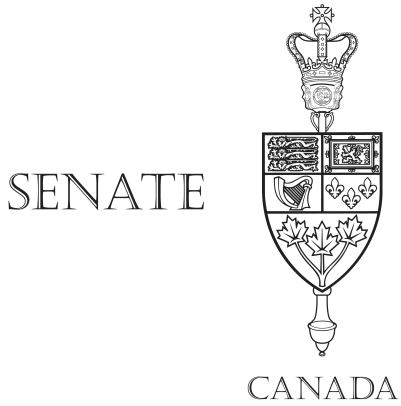

DEBATES OF THE SENATE

1st SESSION • 44th PARLIAMENT • VOLUME 153 • NUMBER 53

OFFICIAL REPORT
(HANSARD)

Tuesday, June 14, 2022

The Honourable GEORGE J. FUREY,
Speaker

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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Tuesday, June 14, 2022

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Elaine R. Goldstein, spouse of the late Honourable Senator Goldstein; Dahna Goldstein, his daughter; Sarah Altschuller, his daughter-in-law; Ezra Altschuller, his grandson; Doron Goldstein, his son; and friends and collaborators of the late senator.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

THE LATE HONOURABLE YOINE GOLDSTEIN

Hon. Dennis Dawson: Honourable senators, on behalf of the Progressive Senate Group and Senator Cordy who couldn't be here, I would like to address a few words to the family.

There are numerous reasons why people gather. Many of them are happy, many of them are sad. No matter the occasion, it is undoubtedly better when we are able to mark it with others. It is this important connection that has been missing for us over the course of the last two years as we navigate the pandemic. We are all knit in this together, together and apart. These were crucial statements to keep our family and friends safe.

As things open up somewhat, we are better equipped to manage COVID. We must now catch up with the occasions we were unable to properly mark.

[*Translation*]

One such occasion is the passing of our former friend and colleague Yoine Goldstein. Many of Yoine's family members are with us today, and I want to give them my regards. I hope they will find a measure of comfort in this belated commemoration of his life and, more specifically, his time in the Senate.

[*English*]

Senator Larry Campbell and I were sworn in at the same time as Yoine, and it marked us. I know that Yoine really appreciated the time he spent with us here in the Senate.

[*Translation*]

Yoine was born in Montreal in 1934. He received a Bachelor of Arts and a Bachelor of Civil Law with distinction from McGill University. During his studies at McGill, he was selected as the articles editor for the *McGill Law Journal*. In 1960, he obtained his Doctor of Laws from the Université de Lyon and was called to the Quebec Bar the following year. He was recognized nationally and internationally for his expertise in insolvency, bankruptcy and commercial litigation.

[*English*]

He became an advocate for Canadian students and reforms to the system to ensure that post-secondary education would not saddle them with an insurmountable financial burden. More directly, he also worked with students, sharing his knowledge as a lecturer from 1973 to 1997 at the Faculty of Law at the University of Montreal. Named to the Insolvency Institute of Canada, Yoine was also the only Canadian made to be a fellow of the American College of Trial Lawyers and the American College of Bankruptcy.

Very active in Montreal's Jewish community — and I'm sure my friend Marc Gold will elaborate on that — Yoine was president from 1995 to 1997 of the Federation CJA, a funding and planning coordinating body for the Jewish community in Montreal. He was also a member of the community advisory board of the Concordia University Chair for Canadian Jewish Studies.

[*Translation*]

Although he served only four years with us here in the Senate, Senator Goldstein made a significant impact. Not surprisingly, he made a valuable contribution as a member of the Standing Senate Committee on Banking, Trade and Commerce. He was a strong advocate for human rights, often speaking out about tolerance, respect and social justice around the world. His descriptions of the situation in Darfur were particularly important. Internationally, he represented Canada and Canadians at the Parliamentary Assembly of the Council of Europe.

• (1410)

[*English*]

Senator Goldstein appreciated his time in this place and the opportunity to serve Canadians. In his farewell speech, he said:

> Canada is not only physically beautiful; it is a country that has a soul. . . . It is evidenced by the sincere desire and intent of all political parties to make Canada better and, indeed, to try to make it the best it can be.

[*Translation*]

A country can ask no more of its citizens.

Here is my wish for his wife, Elaine, his children and the rest of his family: I hope you know that he achieved his goals in spades. I know you are still grieving his loss, but I hope the memory of Yoine and this farewell to a dear friend and colleague will help you feel a little better.

[*English*]

Hon. Marc Gold (Government Representative in the Senate): Honourable senators, I rise today to pay tribute to former senator and my lifelong friend Yoine Goldstein, and to honour his memory in the presence of his wife, Elaine, their son Doron, daughter Dahna, daughter-in-law Sarah, grandson Ezra, and his trusted colleagues and devoted friends.

[*Translation*]

As our colleague, Senator Dawson, said, Yoine had a brilliant legal career. I will not list all of his achievements, but I would like to add that he was also a talented teacher at the Université de Montréal's law school from 1973 to 1997.

In August 2005, Yoine was appointed to the Senate by the Right Honourable Paul Martin. He joined the committees that mattered most to him professionally and personally: the Standing Senate Committee on Banking, Trade and Commerce, the Standing Committee on Internal Economy, Budgets and Administration, the Committee on Human Rights, and the Committee on Official Languages. He was a hard-working, model senator, and everyone he worked with recognized his contribution.

[*English*]

Let me quote former senator Nancy Ruth from May 7, 2009, the day of Senator Goldstein's retirement:

> Let me say that week after week, day after day, statement after statement, motion after motion, inquiry after inquiry, I have listened to you, your eloquence, your fury, your righteousness, your commitment, your sadness, your perseverance, your dedication and your vision.
>
> Thanks for taking the time to be here . . . .

This, in a nutshell, was Yoine Goldstein.

Let me share another dimension of Yoine with you, for I knew and worked with him for many decades in his capacity as a leader in my community.

Yoine devoted himself tirelessly to community work, and he held all the leading positions in the Jewish community and, indeed, beyond the Jewish community in Montreal, at the national level and internationally. He made a real difference, colleagues. He was a bridge builder between the Jewish community and Quebec society. He was a progressive voice, and a pioneer in intercultural dialogue and collaboration.

Yoine was also a founding member of The Tolerance Foundation, which is now known as ENSEMBLE for the respect of diversity, an organization that is dedicated to helping the youth of Quebec better understand the issues and challenges of living together in our increasingly diverse and pluralistic society.

Yoine and I worked together in this organization for many years, and I had the honour of succeeding him as co-president when his duties in the Senate required him to pass the baton. He was a role model, he was a mentor and he was an inspiration to me and to countless others who had the privilege of working with him.

I will close, as did our colleague Senator Dawson, with words from Yoine's final speech in the chamber:

> . . . the Book of the Bible, Koheleth, which you know as Ecclesiastes, contains one phrase that is particularly significant to me at the moment. The phrase is, "To everything there is a season." This is the season for me to take leave . . .

Yoine, you left us too soon. But you leave behind a magnificent legacy, and the challenge to all of us of continuing the good works that you did on behalf of all Canadians. You have blessed us with your presence. We miss you terribly.

Hon. Senators: Hear, hear.

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, I also rise today and wish to pay tribute to the Honourable Yoine Goldstein. Born in Montreal, Yoine Goldstein strongly believed in the importance of giving back to his community. His lifelong actions demonstrated his dedication and devotion to public service.

Prior to being appointed by the Right Honourable Paul Martin, Yoine Goldstein was a lawyer and an academic. He was a managing partner of Goldstein, Flanz & Fishman law firm, where he specialized in insolvency, bankruptcy and commercial litigation.

He was very active in the academic world. As a matter of fact, his name appears on the list of Canadian legal scholars. His expertise was well known and was recognized with many awards that figure in his name, such as the Lord Reading Law Society Human Rights Award, and the Lord Reading Law Society Service Award.

Yoine Goldstein gave lectures for more than a quarter of a decade at the Faculty of Law at the Université de Montréal. But law was just one of his many ways of giving back. He was also very active in Montreal's Jewish community. We have heard about it already today. He served as the President of the Federation CJA, which aims to collect funds and ensures the money is used in a multitude of local and national programs. Senator Gold also knows this organization well.

Senator Goldstein served in the Senate from August 2005 to May 2009, so our paths never crossed in this chamber. I was appointed just a few months after Senator Goldstein retired. Although his tenure was not very long, he certainly made valuable contributions as the Deputy Chair of the Standing Senate Committee on Banking, Trade and Commerce.

Colleagues, I also wish to conclude with a quote, and this quote is from Jonathan Kay of the *National Post* from October 2013:

> . . . Yoine Goldstein is a model: He came to the Senate with all sorts of experience as a legal expert, and from day one he used that expertise to craft legislative initiatives governing complex areas of law that few other senators could master.

On behalf of the opposition in the Senate, I wish to express my deepest sympathies to his wife, Elaine, to his children, Doron and Dahna and to all his family and friends. Your loved one's dedication to this chamber will not be forgotten. Thank you for sharing your husband, father and grandfather with all of Canada. May God richly bless you.

Hon. Senators: Hear, hear.

[*Translation*]

Hon. Pierrette Ringuette: I have the distinct honour to rise today on behalf of the Independent Senators Group to pay tribute to our late colleague, the Honourable Yoine Goldstein.

When Prime Minister Martin appointed Senator Goldstein to represent the Quebec senatorial division of Rigaud in 2005, he reaffirmed his commitment to revitalizing the institution of the Senate.

From that point on, for the next four precious years, our institution benefited from the professional excellence of Senator Goldstein, an internationally renowned and outstanding jurist who raised the calibre of our debates and speeches, both in committee and in the chamber.

[*English*]

But the framework for the enduring legacy of our dear colleague was laid out in a statement he made in this chamber. On April 5, 2006, in the first session of the Thirty-ninth Parliament of Canada, the Honourable Senator Yoine Goldstein did not speak of policy. He made no allusion to politics. Instead, he spoke directly to future generations of Canadians — both native and immigrant, Jew and gentile. He spoke directly to all of us, calling on us all to be our better selves.

• (1420)

Sixteen years have already passed, but his words resonate today louder than ever. The wisdom of a great mensch from Montreal bears repeating. Today, I feel I could do no better service to the memory and legacy of our beloved colleague than to quote him back into the official record of our nation.

He said:

> Honourable senators, tolerance is a passive state. While it reflects mere acceptance of differences, acceptance or tolerance of differences is not enough. Our goal is to instil a realization that diversity in our society is a significant value, that diversity is to be celebrated, that diversity is to be actively valued and not merely accepted.

He went on to say, ". . . the celebration of diversity, the celebration of differences, as fundamental, positive societal values and not causes of division."

Honourable senators, today we live in times of increasing uncertainty. Social media has made us hypervigilant and critical of one another. Economic downturn looms ever closer on the horizon.

Yoine Goldstein lived his faith and imparted his values of tolerance and conciliation to any and all. We will remember him best by acting in the spirit of his legacy. Let us carry ourselves with charity of spirit. Let us stand in solidarity with those suffering a conflict not of their making. Let us bring collective relief to those facing social and economic hardships. Let us be steadfast in our intolerance of intolerance and discrimination.

To the memory of the Honourable Yoine Goldstein, let us say, "Mazel tov, dear Yoine." May the wisdom you imparted to the generations educated by The Tolerance Foundation, now known as ENSEMBLE for the respect of diversity, and your call to conciliation resound louder than ever. Thank you for your service.

I would also like to take this opportunity to thank his beloved widow, Elaine, and his son and daughter for sharing his precious time with us in the Senate and with all Canadians. Thank you.

Hon. Senators: Hear, hear.

(*Honourable senators then stood in silent tribute.*)

[*Translation*]

The Hon. the Speaker: Thank you very much, colleagues.

HYBRID AND VIRTUAL COMMITTEE MEETINGS

EXPRESSION OF APOLOGY

Hon. Rosa Galvez: Colleagues, I rise today to acknowledge a mistake I made, with no ill intent, and to offer my sincere apologies.

The Standing Senate Committee on Energy, the Environment and Natural Resources met last week to examine Bill S-5, an important study that took longer than expected to complete its clause-by-clause review and required some additional meetings with just few days' notice. At the same time, my parliamentary work took me to Los Angeles to participate with the ParlAmericas delegation in the Summit of the Americas, which had been planned for months.

[*English*]

Honourable senators, unfortunately, I made a mistake. While attempting to continue this important work both with the National Finance Committee and the summit, I connected at 5:30 a.m. to the National Finance Committee via Zoom using my Senate laptop. I thought it was possible because it did not conflict

with the summit. However, upon my return to Ottawa, I was reminded by my facilitator that the motion concerning hybrid sittings stipulates that:

> . . . subject to variations that may be required by the circumstances, to participate in a committee meeting by videoconference senators must:
>
> (a) participate from a designated office or designated residence within Canada;

I take my parliamentary work and duties seriously, and I — by inertia and in my eagerness to keep working — did not realize that participating in the committee virtually from my hotel while on parliamentary business was not permitted under the adopted motion. I just kept going with all my Senate activities, which I even posted about on social media, thinking that I was in my right to keep working.

I do recognize, dear colleagues, my mistake, and my ignorance of this rule is not an excuse. I want to apologize, especially, to my fellow committee colleagues and to all senators. I commit to being more careful and attentive to the details of rules we have adopted to ensure the fair and good functioning of the Senate and its committees.

Thank you. *Meegwetch.*

EMBER FIRE ACADEMY

Hon. Pat Duncan: Honourable senators, I'm honoured to rise on the traditional territory of the Algonquin Anishinaabe Nation to speak about the Ember Fire Academy. It is available to all Yukon women over the age of 16, and participants in the academy range in age from 16 to their mid-sixties.

The Ember Fire Academy is an introduction to the fire service and firefighting. It is an opportunity for Yukon women to experience the most challenging and exciting tasks in firefighting and emergency response in an inclusive, safe and supportive environment.

It's a week-long program with twice-daily workouts where recruits learn to use personal protective equipment and gear, cut open a car to free trapped passengers, respond to hazardous material emergencies, rescue people from heights using ropes and ladders, fight vehicle and structural fires, train for functional fitness and performance tests and use proper nutrition.

As honourable senators know, in describing programs and policies, it's about the people. Penny and Grace Sheardown Waugh, a mother-daughter team who participated in the program, introduced me to Kiara Adams. Ms. Adams blazed the way, becoming the first ever City of Whitehorse female firefighter. She inspires and empowers women by sharing her passion and knowledge through the creation and delivery as chief of the Ember Fire Academy. She does all of this, as many women have done, with a young one balanced on her hip.

Ms. Adams is joined by Ursula Geisler, the only female deputy fire marshal in the Yukon Fire Marshal's Office and deputy chief of the Ember Fire Academy. She is a leading member of the Golden Horn Volunteer Fire Department, which is just outside of Whitehorse, and participates globally as part of the ShelterBox response team.

Women who have participated in the Ember Fire Academy have gone on to become members of Wildland Fire Management, volunteer firefighters and members of Emergency Medical Services. As those of us who are from less populated areas of Canada know, firefighters are our communities' first responders to so much more than fires. They are the strength of our communities.

• (1430)

As I spoke of first responders being more to our communities than the first to arrive on the scene, Ember Fire Academy is about so much more than firefighter and emergency response training. It has been described as life changing.

I invite senators to reach out to me for the link to an Ember Fire Academy video to share with Canadians, as every year there are women from elsewhere in Canada — including attendees from Saskatchewan — who have asked to attend the Ember Fire Academy. Communities from Alberta have reached out to institute similar programs in their communities.

Honourable senators, the Ember Fire Academy begins on June 20 this year, in part on the traditional territory of the Carcross/Tagish First Nation. May I wish each participant and graduate of the Ember Fire Academy success on your journey of exploring your strengths, resilience and talents. Thank you for your service to our communities wherever you live. Stay safe and look out for one another. *Mahsi cho*, *gùnáłchîsh*, thank you.

ROUTINE PROCEEDINGS

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

THIRD REPORT OF COMMITTEE ADOPTED

Hon. Sabi Marwah, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Tuesday, June 14, 2022

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

THIRD REPORT

Your committee, which was authorized by the *Rules of the Senate* to consider financial and administrative matters, recommends that the following funds be released for the fiscal year 2022-23.

Legal and Constitutional Affairs (Legislation)

General Expenses	$	6,000
TOTAL	**$**	**6,000**

Respectfully submitted,

SABI MARWAH

Chair

The Hon. the Speaker pro tempore: Honourable senators, when shall this report be taken into consideration?

Senator Marwah: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(f), I move that the report be adopted now.

The Hon. the Speaker pro tempore: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

BUDGET IMPLEMENTATION BILL, 2022, NO. 1

FOURTH REPORT OF ABORIGINAL PEOPLES COMMITTEE ON SUBJECT MATTER DEPOSITED WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Brian Francis: Honourable senators, I have the honour to inform the Senate that pursuant to the order adopted by the Senate on May 4, 2022, the Standing Senate Committee on Aboriginal Peoples deposited with the Clerk of the Senate on June 10, 2022, its fourth report, which deals with the subject matter of those elements contained in Divisions 2 and 3 of Part 5 of Bill C-19, An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures.

BILL RESPECTING REGULATORY MODERNIZATION

THIRD REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE PRESENTED

Hon. Pamela Wallin, Chair of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Tuesday, June 14, 2022

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

THIRD REPORT

Your committee, to which was referred Bill S-6, An Act respecting regulatory modernization, has, in obedience to the order of reference of April 28, 2022, examined the said bill and now reports the same with the following amendments:

1. *Delete clauses 132 to 152, pages 54 to 73.*

2. *Clause 159, page 76*: Add the following after line 1:

   "and under a written agreement or arrangement that defines the elements of personal information, the purpose for disclosure, any limits on secondary use and onward transfer of personal information, and other relevant details,".

3. *Clause 160, page 77*: Replace line 8 with the following:

   "for the purposes of cooperation, where such disclosure would be made under a written agreement or arrangement that defines the elements of personal information, the purpose for disclosure, any limits on secondary use and onward transfer of personal information, and other relevant details.".

Your committee has also made certain observations, which are appended to this report.

Respectfully submitted,

PAMELA WALLIN

Chair

(*For text of observations, see today's* Journals of the Senate*, p. 712.*)

The Hon. the Speaker pro tempore: Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Wallin, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

IMMIGRATION AND REFUGEE PROTECTION ACT IMMIGRATION AND REFUGEE PROTECTION REGULATIONS

BILL TO AMEND—FIFTH REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE PRESENTED

Hon. Peter M. Boehm, Chair of the Standing Senate Committee on Foreign Affairs and International Trade, presented the following report:

Tuesday, June 14, 2022

The Standing Senate Committee on Foreign Affairs and International Trade has the honour to present its

FIFTH REPORT

Your committee, to which was referred Bill S-8, An Act to amend the Immigration and Refugee Protection Act, to make consequential amendments to other Acts and to amend the Immigration and Refugee Protection Regulations, has, in obedience to the order of reference of May 19, 2022, examined the said bill and now reports the same with the following amendment:

1. *New clause 15.1, page 5*: Add the following after line 20:

"Coordinating Amendments

Bill C-21

15.1 (1) Subsections (2) to (4) apply if Bill C-21, introduced in the 1st session of the 44th Parliament and entitled *An Act to amend certain Acts and to make certain consequential amendments (firearms)* (in this section referred to as the "other Act"), receives royal assent.

(2) On the first day on which both section 52 of the other Act and section 1 of this Act are in force, paragraph 4(2)(c) of the *Immigration and Refugee Protection Act* is replaced by the following:

(c) the establishment of policies respecting the enforcement of this Act and inadmissibility on grounds of security, violating human or international rights, sanctions, transborder criminality or organized criminality; or

(3) On the first day on which both section 55 of the other Act and section 9 of this Act are in force, paragraph 55(3)(b) of the *Immigration and Refugee Protection Act* is replaced by the following:

(b) has reasonable grounds to suspect that the permanent resident or the foreign national is inadmissible on grounds of security, violating human or international rights, sanctions, serious criminality, criminality, transborder criminality or organized criminality.

(4) On the first day on which both section 56 of the other Act and section 10 of this Act are in force, paragraph 58(1)(c) of the *Immigration and Refugee Protection Act* is replaced by the following:

(c) the Minister is taking necessary steps to inquire into a reasonable suspicion that they are inadmissible on grounds of security, violating human or international rights, sanctions, serious criminality, criminality, transborder criminality or organized criminality;".

Respectfully submitted,

PETER M. BOEHM

Chair

The Hon. the Speaker pro tempore: Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Boehm, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

FISHERIES AND OCEANS

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON THE IMPLEMENTATION OF INDIGENOUS RIGHTS-BASED FISHERIES ACROSS CANADA—THIRD REPORT OF COMMITTEE PRESENTED

Hon. Fabian Manning, Chair of the Standing Senate Committee on Fisheries and Oceans, presented the following report:

Tuesday, June 14, 2022

The Standing Senate Committee on Fisheries and Oceans has the honour to present its

THIRD REPORT

Your committee, which was authorized by the Senate on Thursday, February 10, 2022, to examine and report on the implementation of Indigenous rights-based fisheries across Canada, including the implementation of the rights of Mi'kmaq and Maliseet communities in Atlantic Canada to fish in pursuit of a moderate livelihood, respectfully requests funds for the fiscal year ending March 31, 2023 and requests, for the purpose of such study, that it be empowered:

(a) to engage the services of such counsel, technical, clerical and other personnel as may be necessary;

(b) to travel within Canada.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

FABIAN MANNING

Chair

(*For text of budget, see today's* Journals of the Senate*, p. 725.*)

The Hon. the Speaker pro tempore: Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Manning, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

[*Translation*]

BILL TO AMEND THE CRIMINAL CODE AND THE IDENTIFICATION OF CRIMINALS ACT AND TO MAKE RELATED AMENDMENTS TO OTHER ACTS (COVID-19 RESPONSE AND OTHER MEASURES)

SIXTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

Hon. Mobina S. B. Jaffer, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Tuesday, June 14, 2022

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

SIXTH REPORT

Your committee, to which was referred Bill S-4, An Act to amend the Criminal Code and the Identification of Criminals Act and to make related amendments to other Acts (COVID-19 response and other measures), has, in obedience to the order of reference of March 31, 2022, examined the said bill and now reports the same with the following amendment:

1. *New clauses 78.1 and 78.2, page 37*: Add the following after line 7:

"**Independent Review**

78.1 (1) The Minister of Justice must, no later than three years after the day on which this Act receives royal assent, initiate one or more independent reviews on the use of remote proceedings in criminal justice matters that must include an assessment of whether remote proceedings

(a) enhance, preserve or adversely affect access to justice;

(b) maintain fundamental principles of the administration of justice; and

(c) adequately address the rights and obligations of participants in the criminal justice system, including accused persons.

(2) The Minister of Justice must, no later than five years after the day on which a review is initiated, cause a report on the review — including any findings or recommendations resulting from it — to be laid before each House of Parliament.

"**Review of Act**

78.2 (1) At the start of the fifth year after the day on which this Act receives royal assent, the provisions enacted or amended by this Act are to be referred to a committee of the Senate and a committee of the House of Commons that may be designated or established for the purpose of reviewing the provisions.

(2) The committees to which the provisions are referred are to review them and the use of remote proceedings in criminal justice matters and submit reports to the Houses of Parliament of which they are committees, including statements setting out any changes to the provisions that they recommend.".

Your committee has also made certain observations, which are appended to this report.

Respectfully submitted,

MOBINA S. B. JAFFER

Chair

(*For text of observations, see today's* Journals of the Senate*, p. 715.*)

The Hon. the Speaker pro tempore: Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Jaffer, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

[*English*]

CRIMINAL CODE

BILL TO AMEND—THIRD REPORT OF HUMAN RIGHTS COMMITTEE PRESENTED

Hon. Salma Ataullahjan, Chair of the Standing Senate Committee on Human Rights, presented the following report:

Tuesday, June 14, 2022

The Standing Senate Committee on Human Rights has the honour to present its

THIRD REPORT

Your committee, to which was referred Bill S-224, An Act to amend the Criminal Code (trafficking in persons), has, in obedience to the order of reference of April 28, 2022, examined the said bill and now reports the same without amendment.

Respectfully submitted,

SALMA ATAULLAHJAN

Chair

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

(On motion of Senator Ataullahjan, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

• (1440)

CRIMINAL CODE

BILL TO AMEND—FIRST READING

Hon. Yvonne Boyer introduced Bill S-250, An Act to amend the Criminal Code (sterilization procedures).

(Bill read first time.)

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the second time?

(On motion of Senator Boyer, bill placed on the Orders of the Day for second reading two days hence.)

ABORIGINAL PEOPLES

COMMITTEE AUTHORIZED TO DEPOSIT REPORTS ON STUDY OF THE FEDERAL GOVERNMENT'S CONSTITUTIONAL, TREATY, POLITICAL AND LEGAL RESPONSIBILITIES TO FIRST NATIONS, INUIT AND MÉTIS PEOPLES WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Brian Francis: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(a), I move:

That the Standing Senate Committee on Aboriginal Peoples be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate two interim reports relating to its study on the constitutional, treaty, political and legal responsibilities to First Nations, Inuit and Metis peoples, no later than July 31, 2022, if the Senate is not then sitting, and that the reports be deemed to have been tabled in the Senate.

The Hon. the Speaker pro tempore: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

BUSINESS OF THE SENATE

The Hon. the Speaker pro tempore: Pursuant to the order adopted by the Senate on December 7, 2021, Question Period will begin at 3:30 p.m.

ORDERS OF THE DAY

CHEMICAL WEAPONS CONVENTION IMPLEMENTATION ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Coyle, seconded by the Honourable Senator Deacon (*Nova Scotia*), for the second reading of Bill S-9, An Act to amend the Chemical Weapons Convention Implementation Act.

Hon. Salma Ataullahjan: Honourable senators, I rise today to speak on Bill S-9, An Act to amend the Chemical Weapons Convention Implementation Act. Unfortunately, this bill died on

the Order Paper in the other place almost two years ago, and I would like to thank Senator Coyle for introducing this bill once again.

Bill S-9 would allow us to uphold our country's strong stance on controlling dangerous chemicals, which include weapons of mass destruction as well as nuclear and biological weapons. Canada has played an important role in the creation of the Chemical Weapons Convention, or CWC, having been one of the first countries to sign on to it in 1993. To this day, Canada continues to actively serve on the executive council of the Organisation for the Prohibition of Chemical Weapons.

At the 2019 meeting of states parties to the CWC, two decisions were adopted to add new toxic chemicals to Schedule 1, including Novichok-type agents. Novichok is an umbrella term that includes several families of nerve agents developed by the Soviet Union during the Cold War under the scope of its chemical weapons program. As Senator Coyle eloquently explained last week, there has been a resurgence in the use of Novichok, as we saw in Salisbury in 2018. Two years later, Russian opposition leader Alexei Navalny was also poisoned with a Novichok nerve agent. I believe these cases only show the importance of this bill and the threat that undeclared chemical weapons programs represent to humankind.

Today I fear we may witness more casualties in Ukraine, where Russia threatens to use chemical weapons. We know Moscow has a history of falsely accusing its opponents of staging provocations that never took place or were carried out by themselves or their allies. This was the case during the Syrian conflict, and, although we lack hard evidence, analysts consider Mr. Putin's willingness to ignore the international ban on chemical weapons to be a threat of chemical warfare.

Chemical weapons, unlike nuclear weapons, are relatively cheap and easy to make, and small amounts can cause mass casualties. Indeed, organs such as eyes, noses and lungs are particularly vulnerable to these weapons, and it is nearly impossible to limit the breadth of an attack as it can spread easily. Unfortunately, this generally entails heavy civilian casualties.

Bill S-9 is a timely bill, as it will update the text of the Chemical Weapons Convention Implementation Act to reflect the CWC and will allow for greater clarity in law without changing Canada's obligations relating to controlled chemicals. At present, the CWC takes precedence when there are inconsistencies between the convention and our legislation, but these discrepancies may easily cause confusion. I believe Bill S-9 shows good governance, provides clarity for Canadians and reaffirms our engagement to putting an end to the use of chemical weapons. It is important to note that Canada was once a major centre for chemical and biological weapons and testing as well as for human experimentation during World War II. Canadian military forces also dumped millions of tonnes of unexploded ordnance into the Atlantic Ocean off ports in Nova Scotia. Now it is time to lead by example for a safer future.

Honourable colleagues, I would like to thank Senator Coyle once again for introducing this bill. I see no downsides to Bill S-9, and I give it my full support. Colleagues, in light of the growing conflict in Ukraine, I hope you can join me in sending Bill S-9 to committee for further study.

Thank you.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

(On motion of Senator Coyle, bill referred to the Standing Senate Committee on Foreign Affairs and International Trade.)

• (1450)

BILL TO GIVE EFFECT TO THE ANISHINABEK NATION GOVERNANCE AGREEMENT AND TO AMEND OTHER ACTS

BILL TO AMEND—SECOND READING

Hon. Patti LaBoucane-Benson moved second reading of Bill S-10, An Act to give effect to the Anishinabek Nation Governance Agreement, to amend the Sechelt Indian Band Self-Government Act and the Yukon First Nations Self-Government Act and to make related and consequential amendments to other Acts.

She said: Honourable senators, before I begin, I would like to acknowledge that I have always lived on and am speaking to you today from this beautiful Treaty 6 territory, where we are all treaty people.

I am pleased today to speak to the second reading of Bill S-10, which advances Indigenous self-government for the shíshálh Nation and Anishinabek Nation. This bill is a reflection of our country's commitment to work with First Nation partners to implement their inherent right to self-government and self-determination and to support their visions of a better future for their communities. It supports Canada's goal of addressing our long history of colonization and it's a tangible action toward reconciliation.

Honourable senators, let's take a step back for a moment to reflect upon what self-government means for Indigenous communities. For thousands of years before contact, Indigenous peoples operated their own forms of government. They established and enforced their own laws with their own forms of

leadership, and they divided responsibilities according to their customs. When settlers arrived on the shores of this land now known as Canada, some pacts and partnerships were forged with Indigenous groups through treaties, trade agreements and military alliances. However, the rights of Indigenous peoples were gradually eroded with each new colonial decision, policy and law. The treaties and partnerships were neither upheld nor respected.

In 1876, the government passed the Indian Act, which imposed a colonial system of governance on First Nations. It actively erased systems that had been in place for centuries, and it failed to recognize the unique needs and aspirations of communities. But Indigenous inherent rights to governance were never relinquished and, in 1982, they were reaffirmed in section 35 of the Canadian Constitution. Now Canada is working to undo federally imposed systems of governance and reaffirming the inherent rights of Indigenous peoples.

Self-government agreements support this process. These agreements set out law-making authority in many areas, including how to educate their children, how to manage their lands, how to protect their cultures and languages and how to build their economies and create jobs.

Senators, Bill S-10 is dual-pronged. First, it contains measures that would modernize the Sechelt Indian Band Self-Government Act and, second, it supports the implementation of the Anishinabek Nation Governance Agreement. I will provide some context for both.

In 1986, the shíshálh Nation became the first Indigenous nation in Canada to achieve self-government with their own self-governance act. Now, almost 40 years later, the legislation is showing its age.

When I spoke with shíshálh Chief Warren Paull today, he said that, in 1986, their constitution was basically a cut-and-paste from the Indian Act. There just wasn't time to think about it deeply. Now, over 30 years later, they want to decolonize their constitution. Canada's policies and relationships with Indigenous partners have evolved and now, at the request of the community, we know this arrangement must evolve, too.

For the past two years, the government has been collaborating with the shíshálh Nation on proposed amendments to their self-government legislation. The most symbolic of these changes is an update to the act's name. If approved, it would transition to the "shíshálh Nation Self-Government Act," removing the Crown-imposed anglicized name and spelling of "Sechelt."

Other changes include removing outdated provisions that are not required under modern self-government arrangements; confirming lawmaking powers over social and welfare services, including child and family services for all shíshálh Nation members; and allowing the establishment of new land registries, as an alternative to the Indian Act reserve land register.

The shíshálh Nation is a leader in the realm of Indigenous self-governance, and these amendments uphold their leadership. Support for this bill would show that Canada continues to be an active partner in supporting nation-to-nation relationships with self-governing Indigenous partners, not only now but on an ongoing basis as their needs evolve in the future.

The second part of this bill is the Anishinabek Nation Governance Agreement Act. In April 2022, Minister Marc Miller joined the Anishinabek First Nations leaders in signing the Anishinabek Nation Governance Agreement, and the proposed governance agreement act would bring this agreement into effect. This historic agreement recognizes Anishinabek control over their government and law-making powers in four key areas: leadership selection, citizenship, language and culture and government operations.

Notably, this would be the second self-government agreement concluded by the nation in a span of five years. In 2018, 23 First Nations signed a self-government agreement recognizing Anishinabek control over education on-reserve. And there's a third one on the horizon; in 2021, an agreement in principle on Anishinabek child, youth and family well-being was reached, which lays out a road map for negotiating a final agreement in the future.

Honourable senators, the Anishinabek First Nations are ready to reclaim their inherent rights to governance. We simply need to support them.

Before concluding, it's important to note that this legislation was drafted and co-developed in partnership with both First Nations. I would like to take a moment to acknowledge the work of the shíshálh Council and Anishinabek Nation in developing these pieces of legislation. After years and years of work, both of these initiatives have strong support from these First Nations partners. I can think of no better reason for us to work efficiently and without delay on this bill.

Honourable senators, we must take action. The proposed shíshálh Nation Self-Government Act and the proposed Anishinabek Nation Governance Agreement Act are just two examples of how the Government of Canada can support First Nations and all Indigenous peoples in achieving their inspiring visions of a better future for all of their citizens. It's not the federal government's place to control or oversee the affairs of Indigenous peoples. This bill helps remove the federal government from that colonial role.

If we want to have any hope of addressing the long history of colonization in this country, we must support initiatives like this. We must respect and acknowledge the long-standing and established practice of Indigenous governance. And we must lift up arrangements that are created by Indigenous communities, for Indigenous communities, so that they can achieve their own visions of success.

I thank the honourable senators for their time, and I would respectfully ask that we send this bill to committee today, without delay. Thank you, *marsee* and *hiy hiy*.

The Hon. the Speaker: Would Senator LaBoucane-Benson accept a question?

Senator LaBoucane-Benson: I will.

Hon. Pat Duncan: Senator LaBoucane-Benson, you spoke of the consultation with the shíshálh First Nation. Can you also outline, or must it wait until committee to outline, what consultation process took place with self-governing Yukon First Nations and the Yukon government?

Senator LaBoucane-Benson: Thank you, Senator Duncan. I have not spoken with the Yukon government nor the First Nations there, but I do know that the act removes an outdated provision requiring Governor-in-Council approval prior to entering into financial agreements between Canada and Yukon First Nations. This was a provision that was removed in the Sechelt Indian Band Self-Government Act; they're doing that right now. Because that was a copy-and-paste into the Yukon First Nations Self-Government Act, they made that change as well, but we will have to wait until committee study to find out the details of consultation. I hope that answers your question.

Senator Duncan: Yes. Senator LaBoucane-Benson, is it possible that this "cut-and-paste," as you refer to it, took place at the technical level, rather than the political level?

Senator LaBoucane-Benson: I cannot answer for sure, and we really do need to ask that question in committee, but it seems to me to be a technical cut-and-paste. But, again, this needs to be resolved in committee.

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I rise today to speak to Bill S-10, An Act to give effect to the Anishinabek Nation Governance Agreement, to amend the Sechelt Indian Band Self-Government Act and the Yukon First Nations Self-Government Act and to make related and consequential amendments to other Acts.

As noted in the title, this bill has three purposes: one, to give effect to the Anishinabek Nation governance agreement; two, to amend the Sechelt Indian Band Self-Government Act; and, three, to amend the Yukon First Nations Self-Government Act. But the primary purpose is the first one, which is reflected in the choice of a short title of the bill, the "Anishinabek Nation Governance Agreement Act."

• (1500)

At the outset, I want to acknowledge that the process of restoring respectful nation-to-nation relationships with the First Nations of Canada has been, and continues to be, a lengthy and arduous process with Indigenous peoples of Canada. Recognizing their inherent right to self-determination and their need for support as they move out from under the Indian Act and transition to self-government is critical and ongoing.

The bill which we have before us today is the culmination of more than 20 years of work between numerous governments and the Anishinabek Nation. As noted on the Anishinabek Nation's website, self-government negotiations between Anishinabek Nation and the government began in 1995, led to an agreement in principle in 2007 and concluded in 2019.

This agreement, and the bill which puts it into effect, is a testament to the diligence, persistence and patience of the Anishinaabe people. It also reflects the sincere desire of Canadians to see true and lasting reconciliation with our First Peoples from coast to coast to coast.

Although I stand in the role of the critic of this bill, I and the Conservative caucus support it wholeheartedly. We applaud the efforts of all those who have been involved in the negotiations and consultations over the last 20 years and pray the enactment of this bill will help to bring us closer to our common goal of reconciliation and restoration of jurisdiction.

Honourable senators, as I mentioned, this bill puts into effect the Anishinabek Nation Governance Agreement signed on April 6 of this year. It is a self-government agreement between Canada, the Anishinabek Nation and the First Nations that approved the agreement by vote.

The Anishinabek Nation represents 39 First Nations throughout the province of Ontario, from Golden Lake in the east, to Sarnia in the south to Thunder Bay and Lake Nipigon in the north. These nations have an approximate combined population of 65,000 citizens, about one third of the province of Ontario's First Nation population.

Each of the 39 Anishinabek Nation communities decides for themselves whether they wish to ratify the Anishinabek Nation Governance Agreement or not using the ratification process set out in the agreement. Those who choose to approve the agreement will be able to make their own decisions about how their elections will be held, who their citizens are and how their governments will operate, as well as how best to protect and promote Anishinaabe language and culture. Once in effect, the parts of the Indian Act that deal with governance will no longer apply to the signatory Anishinabek First Nations. To date, six First Nations have completed the ratification process and are signatories to the agreement.

This is not the first self-government agreement negotiated with the Anishinabek Nation. In 2018, the parties concluded a self-government agreement on education, which is now in effect for 23 Anishinabek First Nations in Ontario. This agreement builds on the previous one and is the next step towards the restoration of jurisdiction to the Anishinabek Nation over their own affairs, including governance, education, social services, jurisdiction, economic development and health.

In addition to giving effect to the Anishinabek Nation Governance Agreement, the legislation before us today also amends the Sechelt Indian Band Self-Government Act and the Yukon First Nations Self-Government Act. The Sechelt Indian Band Self-Government Act, which was passed in 1986 after 15 years of negotiation and consultation, was the first formal Aboriginal self-government arrangement in Canada. The act enabled the Sechelt Indian Band to exercise and maintain self-governance on Sechelt lands and to regain control over and the administration of the resources and services available to its members.

Bill S-10 amends the preamble of the act and updates a number of terms contained in the act, including the name of the nation. This reflects the desires and the will of the Sechelt Nation and brings the legislation into line with ongoing developments. The amendment to the Yukon First Nations Self-Government Act is quite minor, removing a total of nine words from section 24 of the act in order to streamline the process of entering into agreements for the provision of funding to the First Nations covered by the act. There are also numerous consequential amendments which the bill makes to other acts to bring them into alignment with the changes.

Honourable senators, it is not often that we stand in this chamber and speak with one voice, but on this bill I believe we are. Although the journey towards reconciliation and the restoration of First Peoples jurisdiction over their own affairs is a long one, it is one we must take, and we must take it together. Thank you.

Senator Duncan: Honourable senators, I rise in support of the proposed amendments to the Sechelt Indian Band Self-Government Act, but I also want to speak with regard to the provisions for the Yukon First Nations Self-Government Act.

Senators have heard me speak several times about the Yukon, and — to borrow the phrase from the Assembly of First Nations Regional Chief in the Yukon — "a Yukon that leads."

Following up on my question to Senator LaBoucane-Benson, I asked her about what consultation process had taken place. I asked that because, by way of a bit of background, there are challenges in negotiating these agreements — the land claim agreements and the self-governing agreements. The process for the umbrella final agreement under which all self-governing agreements are negotiated in the Yukon began with discussions in the 1970s with the document *Together Today for our Children Tomorrow* and concluded in the 1990s. They take a great deal of time, thought and work on the part of all parties involved.

Of the 14 Yukon First Nations, 11 have self-governing agreements. As I mentioned, it's not an easy task to reach these self-government agreements. The real challenge is giving life and meaning to the agreements.

I mentioned a consultation process. It is clearly set out in the policies and procedures of the Government of Yukon — that is, how consultation must take place in order to ensure that it is a true consultation process. A part of giving life and meaning to these agreements is ensuring we live up to them.

This minor change — a "cut and paste," as was discussed — after my consultation and discussions with the grand chief, I believe took place at the technical level and by technicians. Really, this is a minor technical amendment, but it gives life and meaning and respect to the self-government agreements that are so important.

When I say "self-governing agreements," what I'm referring to is also a government-to-government relationship between the Government of Yukon and the government of, for example, the Carcross/Tagish First Nation; or the Tr'ondëk Hwëch'in First Nation in Dawson City; the Vuntut Gwitchin First Nation in Old Crow. These government-to-government relationships are really the life and meaning of self-governing agreements. They treat one another with respect, understanding and recognition of a new relationship. They are recognition, again, of "a Yukon that leads" in this particular area.

I support this amendment, and I am looking forward to committee discussions, further elaboration on what has gone on in terms of the background to this piece of legislation and the "cut and paste," as it was referred to. And I look forward to being able to further elaborate at third reading and explain to my colleagues how the government-to-government relationship works on the ground in such manners as the Yukon Forum that is held annually with First Nation chiefs, the Government of Yukon, and how it is heard and understood as well by the Government of Canada.

I'm proud to be able to stand in support of this legislation and to recognize the work of the individuals who worked so hard in the public service of First Nation governments, the Government of Canada and the Government of Yukon in ensuring that we do indeed give life and meaning to self-governing agreements and respect to one another.

I look forward to committee debate on this and supporting it further at third reading.

Hon. Senators: Hear, hear.

• (1510)

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

(On motion of Senator LaBoucane-Benson, bill referred to the Standing Senate Committee on Aboriginal Peoples.)

[*Translation*]

BUDGET IMPLEMENTATION BILL, 2022, NO. 1

SECOND READING—DEBATE

Hon. Lucie Moncion moved second reading of Bill C-19, An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures.

She said: Honourable senators, I rise today at second reading of Bill C-19, An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures. As the sponsor of this bill in the Senate, I am pleased to present the measures proposed by the government.

This bill enables the government to move forward with certain measures in Budget 2022. As you will see from my speech, the investments described in the government's recent budget — and through Bill C-19 — are focused on some of the more pressing issues in the Canadian economy, because we are all well aware of the high inflation that is weighing heavily on the minds and wallets of Canadians.

This budget implementation bill contains several measures to meet the current challenges most Canadians are facing. These challenges include affordable housing, the labour shortage and the inequities in our current tax system, among others.

In my speech I will explain how the government plans to meet these challenges. I will then present the improvements that were made to the bill at the other place and, finally, I will talk about the Senate's contributions to this bill, particularly by means of studies and private bills introduced by senators.

[*English*]

The first is making housing more affordable.

Knowing it is top of mind for many Canadians, I want to first touch on the set of measures aimed at addressing the housing crisis in Canada and, more specifically, the need for housing that is accessible and affordable to all Canadians.

Everyone should have a safe and affordable place to call home. However, according to StatCan, in 2018 more than 1.6 million Canadian families lived in an unsuitable, inadequate or unaffordable dwelling. This means that one in ten Canadian families was living in poor housing and couldn't afford alternative housing in their community.

The people most impacted by this housing crisis are seniors living alone and racialized Canadians.

The government wants to change that by putting Canada on a path to double the number of homes being built over the next 10 years. Some of the measures proposed in Bill C-19 support this effort, including addressing barriers that keep more housing from being built.

The first one concerns payments of up to $750 million to support municipalities to address their pandemic-driven transit shortfall and improve housing supply and affordability.

More specifically, Bill C-19 would authorize the Minister of Finance to make payments to the provinces and territories out of the Consolidated Revenue Fund. The payments would be subject to the terms and conditions that the minister considers appropriate and, to maximize funding, be conditional on provinces and territories matching federal contributions.

At the Standing Committee on Finance in the other place, la Fédération québecoise des municipalités spoke about the importance of housing investment in coordination between the provincial and federal governments. For this to work, all levels of government will need to collaborate.

It's important to note that the House of Commons unanimously adopted an amendment requiring that a report detailing the amount paid to the provinces and territories for transit and housing be prepared within three months, and another requirement for the tabling of this report within 15 sitting days after it is completed. Improving the transparency and accountability mechanisms could lead to greater and more visible results.

[*Translation*]

The investments announced in Budget 2022 to double the construction of new housing in Canada over the next decade are part of an ambitious plan that will require the cooperation and commitment of all levels of government.

Through Bill C-19, the federal government is giving itself the means to meet its goal of significantly increasing the number of affordable housing units in Canada.

[*English*]

Bill C-19 also seeks to make Canada's housing market fairer by legislating a two-year ban on foreign investors buying houses in Canada. For years, foreign money has been flowing into Canada by way of residential real estate. This has fuelled concerns about the impact on costs in cities like Vancouver and Toronto, and across the country, leading Canadians to be worried about being priced out of the housing market.

Local average-income-earning taxpayers simply cannot compete in a market where foreign money flows freely, driving up prices. Division 12 of Part 5 of the bill would prohibit non-Canadians from purchasing residential property in Canada for a period of two years starting on January 1, 2023. This measure would apply to foreign corporations and entities, and prevent ineligible persons from avoiding the ban by using corporate structures.

Individuals with work permits who reside in Canada, refugees, people fleeing international crises and international students who are on their way to becoming permanent residents would be exempted from this ban.

By banning foreign purchases of Canadian housing for two years, the government's purpose is to make sure that houses in Canada are being used as homes for Canadian families, not as speculative financial assets.

In addition to these measures, Bill C-19 aims to help tackle speculative trading by making all assignment sales of newly constructed or renovated housing taxable for GST and HST purposes. This amendment would eliminate the ambiguity that can arise under the existing rules regarding the GST/HST treatment of assignment sales.

This would ensure the GST/HST applies to the full amount paid for a new home, including any amount paid as a result of an assignment sale, which would result in greater consistency in the GST/HST treatment of new homes and would contribute to a fairer housing market for Canadians.

[*Translation*]

For those who already own a home, Bill C-19 will help seniors and people with disabilities to live and age at home by doubling the annual limit of the home accessibility tax credit from $10,000 to $20,000 as of the 2022 tax year.

Doubling the credit's annual limit will help make more significant alterations and renovations more affordable, including the purchase and installation of wheelchair ramps, walk-in bathtubs, and wheel-in showers; widening doorways and hallways to allow for the passage of a wheelchair or walker; and building a bedroom or a bathroom to permit first-floor occupancy.

This measure will be particularly helpful for Canadians who live in multi-generational homes. Even before the pandemic, the trend of multi-generational housing was on the rise. It only became more pronounced during the pandemic, when grandparents began playing a bigger role in the lives of their grandchildren to help parents better manage their work obligations, school and day care closures and remote learning. Multi-generational housing makes it possible to take care of the oldest and youngest family members at the same time.

During the pandemic, we also saw how young adults living with a disability had to settle for a very isolated and restricted lifestyle in long-term care homes, even when other options that could have considerably improved their quality of life were available.

[*English*]

Bill C-19 also aims to help build a strong and diverse workforce.

Through the bill, the government is also aiming to bolster Canada's workforce and address labour shortages that have overwhelmed the economy for some time now; this includes making it easier for the skilled immigrants that Canada needs to come to our country by improving the government's ability to select applicants from the Express Entry system who match the needs of Canadian businesses.

• (1520)

Express Entry has a proven record of selecting skilled immigrants who succeed in Canada's economy and society. It is a significant improvement over the "first in, first out" model that was previously in place.

Division 23 of Part 5 of Bill C-19 proposes amendments to the Immigration and Refugee Protection Act that would build upon Express Entry's existing flexibility and support Canada's economic recovery and future growth by permitting the government to easily select candidates who meet a range of economic needs and priorities. The parties in the other place worked together to improve this section of the bill by adding a requirement for a public consultation process when establishing the categories.

[*Translation*]

Bill C-19 proposes to make an amendment to the Income Tax Act by introducing a new labour mobility deduction for tradespeople for the 2022 and subsequent tax years to reduce the shortage of skilled tradespersons.

In the construction industry, at different times, some regions have more job opportunities than others. Many workers take advantage of these opportunities and accept temporary jobs in different parts of the country when opportunities arise.

This new measure would make it possible for eligible workers to deduct eligible expenses up to half of their employment income earned by relocating, up to a maximum amount of $4,000 per year.

[*English*]

Bill C-19 would also introduce 10 days of paid sick leave for workers in the federally regulated private sector, which will support 1 million workers in industries like air, rail, road and marine transportation, and banks, postal and courier services with implementation by no later than December 1, 2022. One proposed amendment would give the Governor-in-Council the option of delaying the application of the paid sick leave provision to small employers: for example, businesses with fewer than 100 employees. This is because small employers may require additional time to implement the necessary payroll and organizational changes to comply with the new requirements.

However, the government is not planning to use this option, and the paid sick leave provisions are expected to come into force on December 1, 2022, for all employers, small and large.

[*Translation*]

Bill C-19 provides for a one-time $2-billion payment through the Canada Health Transfer to address the many challenges Canadians have experienced because of delayed medical procedures during the pandemic, which caused significant backlogs. That payment is on top of the $4.5 billion already provided to the provinces and territories to help them reduce backlogs in their health care systems.

This amount, which would be proportionally distributed to the provinces and territories on a per capita basis, would help to further reduce the backlogs of surgeries and procedures that Canadians need but were forced to postpone because of the impact of COVID-19 on Canada's health care system.

As part of the Canada-United States-Mexico Agreement, Canada agreed to amend the Copyright Act, by the end of 2022, to extend the general term of copyright protection from 50 to 70 years after the life of the author. The general term of copyright protection applies to a wide variety of works, including books, films, music, photographs and computer programs. Division 16 in Part 5 will enable Canada to fulfill its obligations before the deadline, to be on equal footing with its trade partners and to create new export opportunities for Canada's creative industry and Canadian content.

Some 80 countries, including some of Canada's main trading partners, such as the United States, Mexico, the European Union, the United Kingdom, Australia, Japan and South Korea, have adopted the general term of protection for 70 years or more after the life of the author. Extending the term of protection will ensure that Canadian copyright holders enjoy protection for the same period of time in those countries.

[*English*]

Next is a fair and robust tax system. By enacting the proposed select luxury items tax act, Bill C-19 would also strengthen Canada's tax system. Those who can afford to buy expensive cars, planes and boats can also afford to pay a bit more. To that end, through Bill C-19, the government would introduce a tax on the sale of new luxury cars and aircraft with retail sales prices of over $100,000 and on new boats over $250,000. Luxury items of that kind are entirely out of reach for most Canadians.

The act includes modern elements of administration and enforcement aligned with those found in other taxation statutes. The tax would be calculated at the lesser of 20% of the value above this price threshold or 10% of the full value of the luxury vehicle, aircraft or vessel, with a coming into force date of September 1, 2022. It is important to note that the majority of the demand for these million-dollar yachts or private planes is not in Canada. Rather, 80% of what is produced in Canada is exported and so is not covered by the luxury tax. Therefore, manufacturers are not expected to feel a major impact. Regarding luxury vehicles, the majority are not manufactured in Canada, so there will be little impact on jobs.

To respond to concerns expressed by stakeholders regarding the potential impact of the tax on the aircraft industry, the other place adopted an amendment to Bill C-19 granting the government the flexibility with respect to the coming into force of the aircraft provision. This flexibility will allow the government to consult further and potentially improve what is currently proposed.

[Senator Moncion]

[*Translation*]

The government will also accelerate the creation of a public, searchable registry of federally incorporated corporations. The registry will go live by the end of 2023, which is two years earlier than planned, to fight illegal activity, such as money laundering and tax evasion. This measure will address the problem of Canadian shell companies being used to conceal the true ownership of assets, including businesses and property. It will help Canada reverse this trend through a risk-based approach to fighting money laundering.

On a more urgent and pressing note, Bill C-19 will also enable the Government of Canada to cause the forfeiture and disposal of assets held by sanctioned individuals and entities, including Russian elites and those who act on their behalf, and to use the proceeds of confiscated assets to help the Ukrainian population. This measure actually came from Senator Omidvar's Bill S-217, An Act respecting the repurposing of certain seized, frozen or sequestrated assets. I applaud Senator Omidvar's hard work and resilience in moving this important matter forward, especially given the current international situation because of the war in Ukraine.

That brings me to my next topic, recognizing the Senate's and senators' work on this voluminous and complex bill.

First of all, I would like to highlight the important work of the six committees that have already completed the pre-study of certain sections of Part 5 of Bill C-19: the Aboriginal Peoples Committee, the Banking, Trade and Commerce Committee, the Foreign Affairs and International Trade Committee, the Legal and Constitutional Affairs Committee, the National Security and Defence Committee, and the Social Affairs, Science and Technology Committee.

The National Finance Committee is studying all the details of the bill and doing its work, which is already well under way. I would like to thank the members of these committees and their chairs for their excellent work, which is crucial to the sober second thought worthy of this upper chamber.

[*English*]

Improvements to the bill: In the meantime, while the Senate was conducting its pre-study of the bill, the House of Commons, based on its work at their Standing Committee on Finance, adopted a series of amendments that greatly improved this legislation. The amendments were adopted with the support of the government and opposition parties. I mentioned some of them earlier in my speech. Let me go through a few more.

• (1530)

Part 1 of Bill C-19 expands the eligibility criteria for impairment in mental function as well as the essential therapy category of the disability tax credit. An amendment adopted unanimously makes it so that those who are diagnosed with Type 1 diabetes automatically qualify for the Canada disability benefit. This is a great improvement to the bill, and I am grateful that it was supported by all parties in the House of Commons.

[*Translation*]

The Hon. the Speaker: Senator Moncion, I am sorry to have to interrupt you. You may use your remaining time when debate resumes.

[*English*]

QUESTION PERIOD

(Pursuant to the order adopted by the Senate on December 7, 2021, to receive a Minister of the Crown, the Honourable Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship, appeared before honourable senators during Question Period.)

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, we welcome today the Honourable Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship, to ask questions relating to his ministerial responsibilities.

Pursuant to the order adopted by the Senate on December 7, 2021, senators do not need to stand. Questions are limited to one minute and responses to one and a half minutes. The reading clerk will stand 10 seconds before the expiry of these times. Question Period will last one hour.

On behalf of all senators, minister, welcome to the Senate of Canada.

MINISTRY OF IMMIGRATION, REFUGEES AND CITIZENSHIP

SUPER VISAS

Hon. Donald Neil Plett (Leader of the Opposition): Minister, I'm sure we've all heard the saying, "There is no end to what you can accomplish if you don't care who gets the credit." On May 3, 2022, minister, your parliamentary secretary told the other place that the NDP-Liberal government did not support a proposal in Conservative MP Kyle Seeback's private member's bill — Bill C-242 — to allow super visa applicants to purchase private health insurance from foreign companies. She told the House it would be risky and too complex.

A week ago, minister, your government completely changed its tune, and you, minister, issued a press release which passed off two of the three proposals put forward by MP Seeback on Bill C-242 as your own.

Minister, why didn't you show any respect for your House of Commons colleague by simply acknowledging his work? Why did you pass off Mr. Seeback's proposals as your own?

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: Thank you very much to one of my Senate colleagues for the question.

Let me be quite clear: I'm actually very grateful for my colleague Mr. Seeback's work. I sent him a note in the House of Commons to that effect because I think he's done something important by putting some ideas down in the private member's bill. I don't think that the private member's bill, as it was crafted, had accomplished things in exactly the correct way.

For those of you who might not be completely familiar with the program, the super visa provides an opportunity for family reunification for people who may not have qualified under a permanent residency program —

The Hon. the Speaker: Excuse me, minister, could you hold for one moment, please. It appears that we're having trouble with translation. We have a technical issue. My apologies, minister. We will come right back to you.

(The sitting of the Senate was suspended.)

(The sitting of the Senate was resumed.)

• (1540)

The Hon. the Speaker: Honourable senators, our interpreters tell us that the issue has been resolved, so we will recommence with the answer from Minister Fraser to Senator Plett's question.

Mr. Fraser: Excellent. For the sake of continuity for those who were interrupted, I'll try to summarize very quickly and then complete my answer.

To answer the question, I was grateful for the work that Mr. Seeback had done, as well as that of members of the committee. We agreed with the spirit of the private member's bill as it was put forward; however, I had some reservations about its content, including, for example, the fairly unrestricted nature on the medical insurance that would have been available without having an opportunity to vet the insurance providers.

By making certain changes but still moving forward with the essence of the bill, we're going to be able to do a lot of good and reunite families who may not have qualified for permanent programs. Had this been about credit, we probably would have had a big flashy announcement, but to me, and I hope to Mr. Seeback and others, this is and always was about reuniting families.

Senator Plett: On May 3, your parliamentary secretary also told the House that increasing the length of a super visa from two years to five years, as Mr. Seeback's bill proposed, would undermine the system and contradict the spirit of the super visa. She said that the NDP-Liberal government supported increasing the stay to three years and not five.

A week ago, again, your government's concerns about the five-year extension disappeared and you, again, minister, claimed this idea as your own.

Minister, you've been condemned for the delays in helping thousands of Afghans and their families come to Canada. Passport Canada is a complete and total mess. Isn't that why you passed off Kyle Seeback's ideas as your own — because you need some positive news to cover for your many failures?

Mr. Fraser: That's an interesting and very non-partisan start to our conversation today. If I were in need of successes, I would not have a shortage of things to point to, with great respect.

When it comes to Afghanistan, we now have more than 15,500 refugees who have landed. When it comes to our response to Ukraine, there are tens of thousands of people already in Canada. When it comes to our permanent residency, we have now welcomed 200,000 new permanent residents who were already here a month and a half faster than any year on record. We are pumping out work permits at more than double the pace of last year.

With great respect, senator, there are many successes to point to. I would chalk up the changes to the super visa as one of them, but I would not claim it as my own; it has been the result of collaboration amongst different parties in the House of Commons. I think that is something we should all celebrate.

HUMANITARIAN PROGRAM FOR AFGHAN NATIONALS

Hon. Yonah Martin (Deputy Leader of the Opposition): Thank you, minister, for being here.

Minister, tomorrow will mark 10 months since Kabul fell to the Taliban. It's a terrible stain on our country that Afghans who risked their lives alongside Canadian soldiers and diplomats who are now seeking safety in Canada have not yet received a response from your department almost a year later. On May 12, you told a committee of the other place that everyone would get a response from your department in a matter of weeks to let them know if they will be brought into the special resettlement program or not. You said they would ". . . have an answer in a very short period of time . . . ."

That has not happened, minister. Your office told *The Globe and Mail* on Monday that more clarity would be provided in the coming weeks. Your government left these Afghans behind to focus on an election no one wanted, and you still can't help them. How much longer do you expect Afghans living in constant fear of the Taliban to wait?

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: First, thank you very much for the question. I really do appreciate when people draw into focus the importance of helping those who have helped Canada in our time of need.

As I mentioned in response to the previous answer, a significant number of people have been arriving in Canada from Afghanistan as part of our special program. We are currently in excess of 15,500. There is another charter scheduled to arrive this Thursday with more than 300 people on board.

Despite some of the challenges and the very serious uptick in the pace of arrivals that we've seen since the end of March and the beginning of April, there remain certain challenges. Some of those have to do with safe passage on the ground. We also have an extraordinary number of people — in excess of 1 million — who have reached out to the department I'm responsible for in the hopes that they can be a part of the program.

We're going to continue to move forward until we achieve our goal of 40,000, but, with respect to your particular question, for those who are not yet enrolled in the program who have made an actual application or submitted some sort of expression of interest that we have a touch point with, we will be letting them know very soon — I don't have a specific date for you, but I expect it will be in a very short period of time — that those who qualify for the program will be certain. Also, those who, unfortunately, won't be part of the program will be made aware.

IMMIGRATION PROCESSING BACKLOG

Hon. Ratna Omidvar: Thank you, minister, for being here today. It's good to hear about your successes. Everyone needs successes, and I want to congratulate you on them. However, I want to pivot our attention to the significant backlog of over 2 million people waiting in line for a response in every business stream of your department, from temporary work permits to renewals, to family sponsorships, to permanent residencies, to citizenship.

The complaint I hear most often is that there isn't even communication with people waiting in line — not a peep. I want to ask you whether your government is making some effort to reach out to the customers — and I want to view them as customers — standing in line to let them know about the first response from you.

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: Thank you very much.

To put this into perspective, the volumes we're seeing are immense. If we are going to solve the problem, we have to understand where they came from. Certainly there are challenges with the short-term response to different humanitarian crises, but we saw during the pandemic that a decision was taken to resettle people who are already in Canada on a temporary basis, in some ways to the exclusion of people who couldn't travel when the borders were closed. At the same time, our operational capacity as a department was hamstrung by public health orders all over the world that shut down offices, reducing our capacity.

• (1550)

We've seen an uptick in calls to IRCC in fiscal year 2020-21, from 5.9 million calls to 10.41 million the following year, and we're increasing from there. What we're doing right now to address the problem is putting more resources into the system, adopting policies to make more spaces and also adopting new

technology. In a perfect world, we won't be in the business of reaching back out to the millions of people who have come with us but proactively giving them information in their pocket so they can catch it themselves on their own schedule. We've already introduced that feature, a case tracker, in February of this year for family reunification. Because we're transitioning from a paper-based system towards a digital one, it will take a little bit of time for all other lines of business to have access to the same feature. We are doing what we can and, frankly, we are starting to see immense progress.

I'll wrap up by saying that we expect to be back to standard processing times across almost all lines of business by the end of this calendar year, pending further COVID shutdowns or humanitarian crises, with citizenship probably spilling a bit into next year before we're fully caught up.

INFRASTRUCTURE TO SUPPORT IMMIGRATION

Hon. Tony Loffreda: Minister Fraser, thank you for joining us today. I want to discuss infrastructure. I strongly support your government's intention to welcome over 1.3 million new Canadians in the next three years. Our economy actually depends on that, and hopefully it will contribute to correcting our labour shortages. But it's one thing to welcome thousands of new citizens to our country, and it's a whole other thing to properly integrate them by ensuring we have the infrastructure to adequately support and address their needs.

What discussions are you having with your cabinet colleagues and provincial counterparts to ensure that Canada is best positioned to meet the infrastructure needs of its immigrants? I'm talking about community centres, schools and hospitals. A population of 1.3 million Canadians is bigger than Ottawa — it's the size of Calgary. If we are going to welcome 1.3 million new immigrants, we need infrastructure.

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: Let me share a personal experience from my own community that sort of flips your question on its head to some degree. My belief is that if we don't continue to welcome people to our communities we will actually lose that infrastructure, but we should be planning on it in the way you've suggested.

When I was first running for office, the biggest controversies in my community were the closure of the River John Consolidated School and the loss of the mental health unit at the Aberdeen Hospital in Pictou County, Nova Scotia. We've embraced immigration. We have seen a lot of people coming back to our community and a lot of people like me, who spent time in Western Canada and came back home. The biggest challenge we have now is whether we can build enough houses to welcome all the people who want to move here instead of losing schools and hospitals because so many people are leaving. I know which problem I would rather have.

We have conversations constantly. In the House of Commons, I sit beside the Minister of Housing and Diversity and Inclusion to talk about how we can expand housing stock to make sure that we can provide homes, not just for newcomers but for people who are here now. He quickly tells me that we need a workforce through immigration to actually bring the workers here to build out that housing stock.

When we seek to table the immigration levels plan in Parliament, I have conversations with my provincial counterparts to understand the absorptive capacity that they are dealing with. We are trying to develop strategies right now to ensure that, as we welcome more newcomers, we push them to communities that have the absorptive capacity to welcome people so that they don't just get here but they actually succeed after they arrive.

[*Translation*]

FOREIGN WORKERS AND JOB OFFERS

Hon. Amina Gerba: Minister, welcome to the Senate. Nearly every one of Canada's immigration programs requires a job offer, which workers need to have prior to applying for a work visa. It is extremely difficult for foreign workers to get a job offer if they are outside the country. As an employer, I have had to deal with these difficulties myself when trying to recruit qualified foreign employees. However, as you know, minister, there is a major labour shortage in Canada, and immigration is now seen as a solution to this problem.

Minister, what can you do to ensure that the job offer requirement is no longer a barrier to addressing labour shortages in our country?

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: I have many ideas about how to address the labour shortage and increase the number of permanent and temporary workers in Canada.

[*English*]

On the specific issue that you raise around the need to have a job offer before you can come, I think you have to remember that we're designing a program to meet the needs of the Canadian economy. There will inevitably be many people who would like to come to Canada that exceeds the capacity of Canada to resettle on a permanent basis.

One of the things we do to monitor the ability to welcome people here in a way that our communities can manage is having our temporary programs be driven by employers. One of the enormous changes I have seen in my own community is extending supports to small- and medium-sized employers who may not have a significant human resources department focused on recruitment and the hiring of foreign nationals to fill gaps if the labour force. It actually teaches them that immigration doesn't have to be a scary thing. Most of them are so focused on manufacturing the thing that they sell or working on their core line of business that growing their workforce through immigration is a secondary thing that they would like to take on but may not be able to.

In addition, I think we need to continue to look for opportunities to make it easier for people to get here and think about changes to make it easier for spouses of people who are already here so we can promote both family reunification and drive the economy. We are in a really unique moment in time, with the economy running as hot as it is yet still having hundreds of thousands of job vacancies. Anything we can do to pull the levers to actually get workers here more quickly and meet the needs of the Canadian workforce and economy without taking advantage of those workers is essential. I would extend an open invitation, or perhaps a dedicated session would be appropriate, to actually solicit ideas from members of the Senate on how we can more effectively and quickly get workers into Canada to meet the gaps in the labour force.

STUDY PERMIT

Hon. Percy E. Downe: Minister, thank you again for taking some questions. As reported in the P.E.I. *Guardian* newspaper, at 9 a.m. on September 11, 2021, a young woman walked into a Staples store in Charlottetown and spoke to an employee about buying a desk. After a discussion, she walked away and continued shopping in another aisle. She was followed by the employee and sexually assaulted. The employee was in Canada under a study permit issued by your department. The international student was charged and pleaded guilty to sexual assault.

It appears from the website of your department that only if you self-declare a criminal record on your application for a study permit is any confirmation of your police or court record required. Minister, is a criminal conviction background check conducted for all applicants for a study permit in Canada?

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: Thank you very much for the question, senator. For everyone who is seeking to come into Canada who is not subject to visa-free travel, there is a requirement that you complete the biometrics analysis in order to come into Canada. In addition, we typically do a biographic screening.

It sounds, in the case that the senator has laid out, that there was an absolutely horrible fate that befell the individual. Not being familiar with the personal circumstances, I hesitate to go further, but it's essential that we continue to apply a rigorous analysis to understand that the people who are coming here meet a very high threshold for people we would like to come to Canada and who will make a contribution and not be a detriment to our society.

To the extent that there are shortcomings in the system that anyone would like to raise for us to continue to improve the process, please know that I'm not rigid in my defence of the status quo. We seek to continually look for ways to improve the system and strengthen the integrity so that Canadians continue to believe that immigration is a good thing for our communities. I believe this is essential to our social and economic well-being.

[*Translation*]

WORK PERMIT PROCESSING BACKLOG

Hon. Pierre-Hugues Boisvenu: Minister, I asked your colleague, the Honourable Marie-Claude Bibeau, a question on June 2 about the troubling issue of the labour shortage, particularly in Quebec, where this problem seems to be having a serious impact on the economy. One reason for this shortage is the basically unacceptable amount of time it is taking your department to process visa applications, as well as the equally unacceptable wait times. It can take more than a year to get a work visa from Immigration Canada.

Minister, we know that the backlog of applications at the department is in the millions. According to some media reports, we are talking about 2 million pending applications across all categories. Can you tell us how many work permit applications are pending and what you plan to do to fix these unacceptable delays, which are having a negative impact on the Quebec economy?

• (1600)

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: Thank you for the question.

It is often said that immigration is essential to combat labour shortages.

[*English*]

Just for the sake of specificity and wanting to make sure I give good detail, I'll answer in my first language, if that's okay. One of the things that is really important that we understand is that the numbers you're citing would include everyone who has applied, including those who have applied as recently as yesterday. When we recently introduced a program to welcome large numbers of Ukrainians, for example, we have seen a significant number of applications. I don't think that's a bad thing.

What we need to continue to focus on is whether we are seeing the processing times come down so the individual applicant can actually have a reliable period in which they can predict and plan their lives accordingly in terms of how they are going to get to Canada.

What we are actually doing to address these challenges is really monumental, and it's really starting to have a positive impact. In the Economic and Fiscal Update 2021, we invested $85 million to reduce the processing times for work permits, study permits, temporary residence visas, permanent residence cards and proof of citizenship, followed by a $385-million investment in the system to improve client service for people who are seeking to come to Canada. We have hired 500 new staff.

Regarding work permits, we have now processed more than 216,000 this year before the end of last month, compared to only 88,000 the year before. As I mentioned in a previous answer, we are now at 200,000 permanent residents, as of last week, who have landed in Canada, with 100,000 more in the landing

inventory, which has never been achieved this early in the year. It was a month and a half later in 2016 when we hit that record previously.

The other things we need to do are continue to adopt policies that allow people to get here quickly, allow more people in a year to get here through the immigration levels planned and, of course, continue to advance the digital transformation of our department.

To sum it all up, it's resources, policy and technology adoption. We will continue to promote all three. Canada has a world-class immigration system. It has been hit hard by the pandemic, but when I look at the numbers internally, the resources we are putting into the system are having the desired effect by boosting the processing times, getting workers here more quickly and reuniting families at a pace much faster than last year.

CALL CENTRE PERFORMANCE

Hon. Salma Ataullahjan: Minister Fraser, an Auditor General's report in 2019 found that 1.2 million calls to your department's call centre were prevented from reaching an agent. Regrettably, the situation has only become worse.

An answer to a written question on the Senate Order Paper shows that between April and December of last year, the Immigration, Refugees and Citizenship Canada call centre received over 2.6 million calls and 1.45 million of them were prevented from reaching the wait queue.

Minister, let me repeat that for you. In less than a year, almost 1.5 million calls were dropped, including calls from Canadian citizens, permanent residents and foreign nationals, some of whom are in desperate situations around the world and need your government's help.

Minister, is that acceptable to you? Service has gone from bad to worse. Can you share with us what you are doing to fix it?

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: Thank you very much. Once again, if we're going to identify the solution, I think we have to understand where the problem comes from. There are a couple of things going on that have created record demand in Canada's immigration system at a time when our ability to supply services has been reduced primarily by the pandemic, but also by competing priorities, including the responses to both Afghanistan and Ukraine.

The numbers that we're seeing now actually far exceed some of the numbers in your question, and when you seek to add thousands of staff over the last couple of years, it is still not enough to keep up with this short-term spike as a result of challenges related to the factors that I have just laid out.

Now, it's not all negative news because, of course, we're doing things to address these problems. I laid out some of the investments we have made that I won't repeat. The big secret here is going to be to transform Canada's immigration system into a digital one. We have a heavily paper-based system today. You can imagine somebody who has reached out to Immigration, Refugees and Citizenship Canada and made a phone call will figure out that their paper is on the other side of the world. They call their MP, who reaches out to my office, who reaches out to a local office where somebody might actually have to pull out a physical piece of paper and then call everyone back in that chain to have the client receive an update on their case.

That's unacceptable to me. I'm changing it. We have an $827-million digital renovation of Canada's immigration system under way. I mentioned the permanent residence case tracker available to family reunification previously. That's going to give real-time information about a person's case to them, so they not only will get good information, they won't call Immigration, Refugees and Citizenship Canada, which will free up the resources so we can deal with other challenging situations where a person is seeking something more than just an update.

We will have 17 lines of business with the ability to take digital applications as soon as this summer. We are already seeing some of the results of the investments in citizenship pay dividends with increased processing and results.

[*Translation*]

WELCOMING FRANCOPHONE COMMUNITIES INITIATIVE

Hon. Bernadette Clement: Welcome, minister.

The Welcoming Francophone Communities initiative committed to funding 14 Canadian communities from 2018 to 2023. This type of investment is all the more important given that rural areas are still in the process of developing their network and have to compete with the larger cities to attract and retain newcomers.

My home city, Cornwall, was not selected for this first round, so the community members are doing their best with the limited resources they have. Imagine what more they could do with proper funding.

Will the Welcoming Francophone Communities initiative be renewed beyond 2023 and expanded to serve more French-speaking newcomers and the minority language communities that want to welcome them?

[*English*]

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: Thank you so much for the question. The Welcoming Francophone Communities initiative, in my view, was a big success. I don't want to pre-empt some very important consultations I need to have. You will have likely seen in my mandate letter a requirement that I develop an "ambitious national strategy" to boost francophone immigration. We're seeing some of the numbers come up but, to answer your question, if it's not simply repeated, the lessons we learn from it will be reimplemented.

I would also like to draw your attention to an enormous tool we are going to have that will help both boost francophone immigration and regionalize our immigration system, and that's in Bill C-19, which the House of Commons recently adopted. There are new flexibilities proposed to the Express Entry system

that will allow the Minister of Immigration — me today, but whoever my successor may be — certain flexibilities in targeting people who are going to a particular region, filling a particular need in the labour force or meeting certain criteria.

[*Translation*]

I think that is a better opportunity to welcome francophone newcomers and people who want to live in very small communities like the ones in my riding. I encourage all senators in this chamber to support the bill.

[*English*]

TRANSITIONING FROM CHILD WELFARE

Hon. Kim Pate: Thank you, Minister Fraser, for joining us. As you know, too many children who come to Canada as immigrants and refugees can end up in the care of the state through no fault of their own. That means the state becomes their parent, and it can be a very quick slide from child welfare into the criminal legal system, which is where they often find out for the first time that they are not citizens. Only unrelenting advocacy and last-minute interventions by the government have currently been accessible to prevent such deportations.

Minister, what does your government intend to do to stop these children from falling through the cracks? Will you commit to the solutions found in Senator Jaffer's Bill S-235 that could help protect these vulnerable people?

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: Thank you so much for your question, and to you and Senator Jaffer for the advocacy on this particular issue. Frankly, though I don't have notes in front of me, I would push them aside dramatically if I did and speak as a human being. It is an injustice to see someone who has had the state placed in charge of their care, who believes they are a citizen, who has grown up in our country and who has no ability as a child in care to have pursued citizenship themselves to face the kind of circumstance that you have outlined.

Frankly, I think we have some policy work to do to fully understand the proposed outcomes that are in the Senate public bill that you have identified. There is also a suite of other measures that are outside of my mandate letter commitment that I would like to consider for reforms when it comes to the rules around citizenship in Canada.

I do think I have more work to do to satisfy myself that a change to the rules will achieve their intended outcome.

• (1610)

I would like to address this because, at the end of the day, you are responsible not only for your own actions but, in my view, the instances where you witness an injustice and choose to stand by. I look forward to continuing our work on this. However, we have a bit of policy work left to do before we can identify the best path forward to ensure this kind of consequence doesn't harm innocent children who are raised by the state in Canada.

[Mr. Fraser]

[*Translation*]

WORK PERMIT PROCESSING BACKLOG

Hon. Pierre J. Dalphond: Thank you for being here today, minister. We've heard a lot of questions about work visa backlogs. The wait can be up to 13 months, but we need to shorten these wait times if Canada is to remain competitive.

What would be your ideal target for processing foreign worker applications? Four months, five months? What measures have been implemented to achieve the target processing time that the department has set or that we should set?

[*English*]

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: I want to make clear that we have to do whatever we can to bring workers into Canada as quickly as possible. To make that happen, we need to continue to put resources into the system in the short term and adopt policies that make it easier for people to work — some of whom are already in Canada and some of whom are in another country.

In terms of resources, we simply need to put more people to work to ensure we're processing the files. We need to digitize the application process and ensure that we're identifying bottlenecks.

To answer your question on the service standard that we are trying to get back to, we're typically looking at 60 days. I believe we can get there as soon as the end of this calendar year. If we continue to see the uptick in processing that I'm witnessing when I look behind the curtain at the processing numbers, some of which I shared, I anticipate that we'll be able to get back there.

There are certain challenges in the province of Quebec because there is sometimes a two-stage process — some of which the provincial government is responsible for and some of which the federal government is responsible for.

To answer your question, the service standard is 60 days. I have faith that with the resources we have already put into the system, we could get back there as soon as the end of this year.

STUDY PERMIT

Hon. Percy E. Downe: Minister, in my first question to you I asked if a criminal conviction background check is conducted for all applicants for a study permit in Canada. Obviously, the answer is no.

In the case I mentioned earlier in which an international student sexually assaulted a young woman, he pleaded guilty and received a conditional discharge rather than a criminal conviction. Thus, he would not have to leave Canada before completing his studies at the University of Prince Edward Island.

Since this was not the first case involving someone on a study permit who committed a sexual assault but didn't receive a criminal conviction, Islanders are wondering if the threat of deportation and therefore having to leave their studies is being used as a "get out of jail free card."

The woman has paid a high price for the sexual assault. She quit her job, suffers panic attacks and is fearful of being in stores and near strangers, while the international student gets to finish his degree.

Minister, for the safety of all Canadians, why is it not mandatory that all applicants for study permits — rather than merely the ones who mention a criminal record on their applications — be required to pass a criminal background check prior to the study permit being issued?

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: First of all, the experience this woman has had is completely unacceptable. Sexual violence, particularly against women, is an absolute scourge on our society. Frankly, I think that, as men, we need to do whatever we can to encourage men and boys not to be bystanders and witness the kind of behaviour that allows people to transform into these perpetrators of sexual violence.

There should be a criminal record check. I need to dig into the specifics of this individual case. I'm reticent to comment about it, not being aware of the application process of this particular individual.

When it comes to decisions that are taken by the court, senator, I think you will appreciate that they are completely independent of what the government would do. From my perspective, serious criminality is justification to have a temporary resident — under whichever stream they may have used to enter Canada — deported from Canada. In my view, it's enough to prevent them from arriving in the first place.

To the extent that you would like to follow up with our team to have us dig more deeply into the individual facts of this case, perhaps that is something we can take a look at.

With respect to serious criminality, that is certainly grounds for being denied entry to Canada. I don't have before me the specific facts on the file of this individual case. What is most important is that we believe and support survivors of sexualized violence and ensure we continue to put tools in place to prevent this kind of thing from ever happening.

PASSPORT SERVICES

Hon. Leo Housakos: Minister, the delays, long lineups and shockingly poor service that Canadians are currently subjected to while simply trying to obtain or renew a passport are completely unacceptable. Just this morning, I went to Galeries St-Laurent, my local mall that houses the Canadian passport bureau. There was a lineup of Canadian taxpayers for blocks and blocks. They were there with their lawn chairs and umbrellas, waiting hours on end to fill out passport applications and then having to wait for months before they receive their passports. Anyone watching the scene would not believe they were in Canada; they would think they were in some banana republic.

Two weeks ago, your colleague Minister Gould blamed your department for this mess by not anticipating that the demand for passports would be high. She told the House committee:

> One thing that's a bit of a challenge for us is that Service Canada doesn't do the forecasting. IRCC does the forecasting, and the original forecast for this year was for about 2.4 million passports, which gets us into the ballpark of where things were prepandemic.

Minister, do you accept this criticism from your cabinet colleague that your forecast for the demand for passports was completely inadequate —

The Hon. the Speaker: Thank you, senator. Your time has expired.

Senator Housakos: — or was Minister Gould throwing you under the bus for your mismanagement?

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: Minister Gould is a dear friend of mine and one of the most competent members of any party in the House of Commons. I don't take her comments as a personal criticism.

We work together to advance policies that can simplify the process for passport renewal. We also work together to ensure that one another's departments — and, in fact, this is true across cabinet — have the necessary resources to provide the kind of service that Canadians quite rightly expect.

I think you'll appreciate, senator, that we are living through exceptional times. As the world opens up more or less simultaneously and there is a pent-up demand for travel, there are challenges in predicting with certainty the exact number of people who will be seeking to renew their passports at a given point in time.

More than 500 new staff have been added. The wickets are now all open. For what it's worth, I had to renew my children's passports — one new issuance and one renewal — and I did this the same way that everyone else does. It was a bit frustrating, but at the end of the day, we were served professionally by competent civil servants who are working to ensure that as many passports as possible can be issued. As we see demand stabilize now that capacity has been ramped up, I expect that over time you will see an improved quality of service — like you're seeing across different sectors of the economy as the world opens up from COVID-19 restrictions.

HIGH-POTENTIAL TECHNICAL TALENT VISA

Hon. Colin Deacon: Thank you, Minister Fraser, for being with us today.

Following on from Senator Gerba, you know that there is a major labour and talent shortage right across our economy. As a result, I want to ask about attracting and fast-tracking more skilled talent for our innovation sector.

Last week, the United Kingdom launched its High Potential Individual visa stream for global top talent to come to the U.K. Distinct from Canada's Global Talent Stream, individuals do not require a job offer, and eligible individuals would have the flexibility to work or switch jobs or employers. Additionally, they could extend their stay and obtain permanent residency within the visa category.

I have two questions. Have you looked into the possibility of developing a similar high-potential tech talent visa program in Canada, as suggested by organizations like the Council of Canadian Innovators? And in what ways might the start-up visa program be modified to more successfully attract entrepreneurial tech talent to Canada? Thank you.

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: Thank you very much. Let's put this in the appropriate economic context. Our economy is firing on all cylinders. About 115% of the jobs lost during the pandemic have now come back; GDP is ahead of prepandemic levels; and the unemployment rate is at the lowest level — forget the pandemic — ever recorded in Canada. Despite these successes, we have hundreds of thousands of job vacancies. We need to focus on growth as we come out of this pandemic to ensure that our economy can provide the services we need.

• (1620)

On the first question, right now my starting point is that the Global Talent Stream is a very good program. To the extent that we can tinker with it to take advantage of the existing opportunities in the economy to attract the world's talent, all of whom seem to be thinking about what their next move might be right now, we should do so. We don't have a big announcement to make in the short term, but to the extent that we want to have a follow-up conversation, please know I'm always very interested.

Regarding your second question on the start-up visa, we need to start asking ourselves this: Should we be dedicating resources to both the incubator and the angel stream? Should we be expanding the numbers in what is potentially a modest program by comparison to other streams but also taking a look at the eligibility criteria under the start-up visa to see if we should broaden the scope to expand access for high-growth firms that might not be in the fairly narrowly defined sector that has access today? That will be part of the consultation I will be doing over the summer in advance of next year's immigration levels plan. I believe the Start-up Visa Program has immense potential to attract people to Canada who will help to create wealth and grow our economy, and do it in a way that leads to more Canadians working for those businesses rather than taking the approach some other countries have taken, where you can more or less buy your way into a legal status in a particular country.

[Senator Deacon (Nova Scotia)]

AFGHAN REFUGEES

Hon. Patricia Bovey: Thank you for being with us, minister. My question from Senator Klyne regards the evacuation of interpreters who worked for the Canadian Armed Forces prior to the Taliban seizing control of Afghanistan this past summer.

Canada has faced significant criticism for how it handled the evacuation of those interpreters during the crisis. There is confusion about the process used to determine which employees were evacuated, ongoing concerns for the well-being of those left behind and worries that Canada may have difficulty enlisting the services of interpreters the next time we're on foreign soil.

Do you share those concerns? What process did your department follow to triage, prioritize and expedite the extraction of Afghan citizens who risked their lives for our Armed Forces?

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: I want to be careful here because I have personal knowledge about some of the things we discussed today. For some of them, I came in after the fact. Nevertheless, I am responsible for the department.

This is a huge opportunity for me to say thank you to all of those who were involved with the evacuation. As a result of the efforts on the ground, thousands of people have been given a second lease on life in Canada. In the middle of a war zone, as you can appreciate, there is absolute chaos. When you're dealing with a list of terrorist entities seizing control of Kabul at a time when hundreds of thousands of people were seeking to leave, potentially millions, having a rigid process with referral partners and proper screening — as we would through essentially a managed UNHCR initiative — was not possible. Decisions were taken at the time to try to identify anyone who had a connection to Canada to get them on board planes that had limited access to the strip in Kabul to get them out.

Since then, of course, we have been able to put in a more reliable process than you can implement in response to an emergency of that nature to ensure that we continue to see people arrive. We are seeing more people arrive now, with more than 15,500 in Canada and more arriving every week.

The job that the members of my team have done — some of whom are still working with me; some of whom have moved on to other things, the previous minister as well as the department — was nothing short of heroic despite some imperfections along the way. There are no perfect responses in a war zone. However, as a result of the actions of a few Canadians who tried hard to evacuate some of the world's most vulnerable people in those moments, there are thousands of people who made it to Canada.

[*Translation*]

BORDER CROSSINGS AT ROXHAM ROAD

Hon. Jean-Guy Dagenais: Minister, just this morning, the *Journal de Montréal* reported that an individual accused of sexually assaulting a 14-year-old girl in Georgia fled the United States and has been living in Canada since 2018. He entered Canada via the infamous Roxham Road and claimed refugee status. Four years later, this criminal is still taking advantage of our system and is fighting in court, at our expense, to avoid being sent back to the United States.

Minister, how do you explain how this man is still in Canada after four years of legal battles? Also, can you tell us how many known criminals have taken advantage of Roxham Road to hide in Canada and how many have been deported?

[*English*]

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: That is a question that involves specific details of an individual going through a process. Realistically, we have processes in place to ensure we can do a proper screening when a person makes an asylum claim.

It's not lost on me — nor is it lost on the government — that we need to continue to advance negotiations with the United States to modernize the Safe Third Country Agreement. The challenge of irregular migration is one that impacts countries all over the world. Canada is unique in the fact that we're surrounded by three oceans and have the United States to our south. It is not as great a problem for us as it is for many others. But when we have an individual who seeks to enter Canada contrary to the rules, makes what could potentially be an asylum claim without having the grounds to justify one, particularly when fleeing the laws of another jurisdiction, that's why we have extradition treaties. When we find someone who is trying to escape justice and makes a false claim for asylum, they will be subject to those extradition treaties.

This is a particularly egregious example that you have just raised. Again, without all of the facts before me, it serves as a justification for me to continue my work to help modernize the Safe Third Country Agreement so we have a better understanding with the United States about how to manage the longest undefended border anywhere in the world.

COST IMPLICATIONS OF BILL C-13

Hon. Elizabeth Marshall: Welcome, minister.

Minister, parliamentarians depend on the work of the Parliamentary Budget Officer. Yet, according to the Parliamentary Budget Officer, your department, along with Treasury Board Secretariat and Canadian Heritage, wrongfully refused to disclose to the Parliamentary Budget Officer how $16 million for initial implementation costs for Bill C-13 would be spent. This funding was announced in December. By now you would — or at least should — know how you are going to spend it.

You also refused to provide to the Parliamentary Budget Officer information concerning the ongoing tasks and costs associated with the bill. Yesterday, Mr. Giroux told the Senate's Official Languages Committee that it's the first time as Parliamentary Budget Officer that he has gotten such a refusal from three departments.

Minister, Mr. Giroux also told the Senate committee that Canadian Heritage has since provided him with some of that information. Will you instruct your own officials to provide all information on Bill C-13 to the Parliamentary Budget Officer? If not, why not?

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: Thank you very much, senator. I have great respect for officers of Parliament and for the need to operate in a context of free and proactive disclosure of information. For what it's worth, I spent some time working for a human rights organization in South Africa to promote those very values.

With respect to Bill C-13, some of the challenges that we deal with in terms of how money will be spent are tied to the fact that the bill hasn't been passed yet. To the extent that there are things that could shift before the final version of the bill is in place, of course, that would impact the decisions that we would take that are germane to what the PBO is looking for.

I would be happy to get back to you as soon as I'm able to do so with whatever outstanding information there may be. We'll look forward to continuing our engagement with the PBO to make sure we're operating in an environment that promotes the disclosure of information and transparency in government spending. I think that's a very important principle in our democracy.

INTERNATIONAL STUDENTS OVERCOMING WAR

Hon. Peter M. Boehm: Thank you, minister, for joining us today.

I want to ask you about an initiative undertaken by students at Wilfrid Laurier University, one of my alma maters. It's called the International Students Overcoming War initiative. They have added, through a referendum, an $8 levy to their tuition fees so they can fund the placement of students from war-torn countries and regions at the university. There are some who are graduating. They have also come to Ottawa and met with your parliamentary secretary, I believe, and I think with your staff.

So far, 23 students have gone through this program. They have been very successful. Whether they go on to the permanent residency path or return to their countries and make contributions, it has been a success.

Is there something the government can learn from this particular initiative, which is privately done but at the initiative of our young leaders?

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: Thank you for the inspiring question. Congratulations to all the students involved.

• (1630)

It reminds me of when I was an undergraduate student signing up in my first year to volunteer for the World University Service of Canada, or WUSC, an organization that seeks to bring refugees to Canada for the purpose of studying.

Are there lessons we can learn? Yes, absolutely. No one has a monopoly on good ideas, the government included. To the extent that we can understand how to support some of the world's most vulnerable who also form part of the cohort of international students who make some of the greatest social and economic contributions to our communities, I think we can continue to do this.

One of the things I'm reluctant to do, though, is to find a good idea and have the government take it over. When it comes to refugee resettlement, private resettlement in Canada is actually the envy of many countries around the world when I engage with them on a bilateral basis. When people have a built-in network of supporters who have put energy, time and, sometimes, funds into welcoming people into their communities, it actually results in them being supported well after they arrive.

To the extent that the students at one of your alma maters want to see what we can do to help spread this kind of generosity, please note this is right up my alley. Supporting some of the world's most vulnerable and leveraging our education system to do it seems like a positive initiative to me, and I want to reiterate my congratulations for this innovation. The positive social development space is deeply encouraging.

[*Translation*]

IMMIGRANT ENTREPRENEURS

Hon. Amina Gerba: Minister, the immigrant entrepreneur program requires investments — for example, purchasing a business — before applicants even know whether their work permit application has been approved. However, investing in Canada does not guarantee that your immigration application will be approved. Minister, your website states that immigrants are selected on the basis of their potential contribution to the country's economy. Can you tell us what measures your department is putting in place to increase the number of immigrant entrepreneurs who could contribute to our country's prosperity?

[*English*]

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: Thank you very much. This is an important question. For those who may not be aware, the quote, I believe, given the description, would have been pulled from a description of how our Express Entry system operates in Canada.

The Express Entry system scores people based on a number of factors: their education, work history, age and language competencies. What we see is that people who have a suite of skills have a higher score and are more likely to be invited to apply to come to Canada as a permanent resident.

There are some changes we can make to the system to attract workers who will make an even bigger contribution, not solely based on their scores but also by matching them with the regional needs or sector-by-sector needs of the economy. Those are the flexibilities I discussed in Bill C-19 that were recently adopted by the House of Commons.

In addition, though — and this is important, building on my answer to Senator Deacon's question earlier — with respect to the Start-up Visa Program, we have an opportunity for growth, in my opinion. I want to be careful not to allow people to have a "golden passport" where they make an investment and can become Canadian. I don't think that's reasonable. However, if we can look at the rules to determine who is coming to set up a business that's going to employ people in Canada and that will have a lasting impact on our communities, then we should examin how we can make revisions to the program to achieve those ends while still promoting high-growth sectors, such as the tech and innovation space.

It's not easy to nail down the specifics of a policy that will have all those outcomes, but we will do that through consultation and collaboration with the sectors that have the greatest opportunity to use those streams to bring people here to start businesses that will employ Canadians.

[*Translation*]

BORDER CROSSINGS AT ROXHAM ROAD

Hon. Jean-Guy Dagenais: I want to come back to the issue of Roxham Road. I would like an update on the number of people who have illegally entered Canada through this "hole" in our border, which I would describe as a one-way breach from the United States. How many people have entered Canada via Roxham Road? How many people have been deported? How much has all of this cost us?

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: Before I begin, it is essential to acknowledge that Canada has both domestic and international obligations. The language we use is very important.

[*English*]

I do find it frustrating when I see a number of my colleagues describe people as being illegal. It's a dangerous use of words, particularly when you recognize that our domestic and international laws provide an opportunity for people who are fleeing extremely vulnerable circumstances to make a claim for asylum within our body of laws. That doesn't mean everyone does it, but I think labelling everyone who is seeking asylum as "an illegal" is a dangerous use of words.

That said, for people who do cross in an irregular fashion, including at Roxham Road, for example, it's important that we have a system to deal with it, that we recognize that migration is a social fact and that it's not up to us as to whether it will happen but how we manage it.

If we were simply to close Roxham Road tomorrow, for example —

[*Translation*]

— that is not a solution. It simply moves the problem from one place to another. That is unacceptable.

[*English*]

What we need is to have a functioning asylum system where the rules are clear and that is properly funded, including by a $1.3 billion investment in the recent federal budget, to process people in a fair and timely way, so they understand the result of their claim, and so Canadians will have faith that the process has integrity.

With respect to the specific numbers, I don't have them in front of me. If you have a specific request, I would invite the honourable senator to follow up with my office.

IRANIAN SOCCER TEAM VISA APPLICATIONS

Hon. Rose-May Poirier: Thank you, minister, for being here today.

Minister, the families of those who were on board Ukraine International Airlines Flight 752 were understandably shocked when they learned of a so-called friendly soccer game between Canada and Iran originally planned to take place earlier this month. The families continue to seek justice for their loved ones, and your government hasn't given them much support over the past two and a half years. On May 17, when the Prime Minister was asked by a reporter why his government granted visas for the Iran team to enter Canada, he didn't answer the question but put the blame on Canada Soccer, an organization which does not grant visas. Immigration, Refugees and Citizenship Canada has that power.

Minister, could you confirm that your department processed visas and work permits for the Iranian soccer team and their delegation to enter Canada? If so, why, and how many visas and work permits did you approve?

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: Your Honour, with respect to the honourable senator's question, I expect that members of the Senate will appreciate that when it comes to specific visa applications, I'm not at liberty to comment.

That said, the families of the victims of PS752 have suffered an egregious injustice. We've advanced certain measures, including from an immigration perspective but not exclusively so, to see if we can better support those families. I do agree with the Prime Minister that it was a mistake to invite the Iranian soccer team to take part in that match.

Thankfully, better judgment prevailed, and at the end of the day, the game did not happen. There was a request for an additional soccer team to come and fill the space. That game didn't happen either, not as a result of anything to do with immigration but, I understand, labour negotiations between the athletes and the organization.

With respect, there was no special effort made on my part regarding the particular soccer match that the honourable senator has referred to.

CANADA-UKRAINE AUTHORIZATION FOR EMERGENCY TRAVEL

Hon. Donna Dasko: Thank you, minister, for being here. My question today is about Ukraine and the government's efforts to assist Ukrainians in their terrible situation.

Between March 17 and June 8, your department received approximately 296,000 applications under the Canada-Ukraine authorization for emergency travel program, of which approximately 132,000 had been approved as of June 8. That would mean that fewer than half of the applications during that time period have been approved.

I would like to hear from you how you might speed up this process, what efforts are being made, and what your department is doing to deal with these applications. Thank you.

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: Thank you very much. With enormous respect, this program is something I'm incredibly proud of. This is a program that has now seen, together with other measures we put in place to expedite existing applications, well in excess of 30,000 Ukrainians make their way to Canada this year.

• (1640)

For a significant period of time, we were actually processing people on the two-week standard we had broadcast. There are some exceptions to that, of course, based on the individual case file, but there is not a big challenge in terms of processing these cases in an expedited way. The large delta that you see between approvals and applications is more a factor of the continued arrival of new applications in large numbers.

Something else that I'm watching very closely is the delta between approvals and arrivals. I visited the region — of course, not to Ukraine before our embassy reopened, but to Poland, as well as certain other European nations. We have heard that there are a significant number of people who are taking out, more or less, an insurance policy because they don't want to go very far from Ukraine. They want to return home as soon as it's safe to do so.

We've put everything into the system that we can to expedite the processing of these applications and, frankly, it's working. I think this policy is an enormous success and may actually serve as the basis for temporary protection models in different circumstances into the future.

[*Translation*]

QUEBEC'S JURISDICTION ON IMMIGRATION

Hon. Clément Gignac: Thank you, minister, for being here with us. Under the terms of the Canada-Quebec Accord signed in 1991, Quebec has more authority over immigration than any other province and is responsible for selecting skilled workers. Still, given the decline of French in the Montreal area, where nearly 85% of immigrants choose to settle when they come to Quebec, the province recently asked to fully repatriate all immigration powers. The Premier of Quebec even spoke of the risk of Quebec becoming another Louisiana in North America. I won't ask you to comment on those remarks. However, I would like you to explain the reasons and motives behind your reluctance to grant more powers to Quebec so that it can control all the tools needed to protect the French language.

Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship: I believe it is essential to protect and promote the French language and culture. To get results, it is essential to increase the number of francophone newcomers who settle in Quebec and outside Quebec.

As for the Canada-Quebec Accord, it is important to understand that it already gives Quebec the authority to select the most skilled people from a linguistic and professional perspective. The federal government has invested $600 million to support the institutions. Under the Canada-Quebec Accord, Quebec can welcome 28% of the total for the country. Today, it receives just 13%. The difference is 66,000 people per year. That is a huge number.

I believe that we have an opportunity to improve the situation with the help of existing tools. I have a good relationship with my Quebec counterpart. If he has any suggestions, he can get in touch with me.

[*English*]

The Hon. the Speaker: Honourable senators, the time for Question Period has expired. I'm certain all colleagues will want to join me in thanking Minister Fraser for being with us today.

Thank you, minister. We look forward to seeing you again in the future.

Mr. Fraser: Thank you, everyone. See you next time.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

The Hon. the Speaker: Pursuant to the order of Thursday, June 9, I leave the chair for the Senate to receive Mr. Philippe Dufresne respecting his nomination as Privacy Commissioner. The Honourable Senator Ringuette will chair the committee. To facilitate appropriate distancing, she will preside the committee from the Speaker's chair.

[*Translation*]

PRIVACY COMMISSIONER

PHILIPPE DUFRESNE RECEIVED IN COMMITTEE OF THE WHOLE

On the Order:

> The Senate in Committee of the Whole in order to receive Mr. Philippe Dufresne respecting his appointment as Privacy Commissioner.

(The sitting of the Senate was suspended and put into Committee of the Whole, the Honourable Pierrette Ringuette in the chair.)

The Chair: Honourable senators, the Senate is resolved into a Committee of the Whole to receive Mr. Philippe Dufresne respecting his appointment as Privacy Commissioner.

Honourable senators, in a Committee of the Whole senators shall address the chair but need not stand. Under the rules the speaking time is 10 minutes, including questions and answers, but, as ordered, if a senator does not use all of his or her time, the balance can be yielded to another senator. The committee will receive Mr. Philippe Dufresne, Law Clerk and Parliamentary Counsel of the House of Commons and I would now invite him to join us.

(Pursuant to the Order of the Senate, Philippe Dufresne was escorted to a seat in the Senate chamber.)

The Chair: Mr. Dufresne, welcome to the Senate. I would ask you to make your opening remarks of at most five minutes.

[*English*]

Philippe Dufresne, nominee for the position of Privacy Commissioner: Honourable senators, it is a great honour and privilege for me to appear before you today to discuss my qualifications and competencies to perform the important role of Privacy Commissioner of Canada.

I take this opportunity to thank you for all the work you do as parliamentarians in legislating, deliberating and holding the government to account.

I would start by saying that my professional life has been dedicated to the strengthening of Canada's public institutions and to the protection and promotion of the fundamental rights of Canadians.

[*Translation*]

I have done this for 15 years in the context of human rights at the Canadian Human Rights Commission. I have done it for seven years in the area of constitutional and administrative law as Law Clerk and Parliamentary Counsel of the House of Commons and, if appointed, I would continue do so as Privacy Commissioner of Canada.

Prior to my appointment as Law Clerk of the House in 2015, I was the Canadian Human Rights Commission's Senior General Counsel, responsible for the Commission's legal and operational activities pursuant to the Canadian Human Rights Act, the Employment Equity Act, as well as the Access to Information and Privacy Acts.

[*English*]

I was lead counsel for the Commission in the landmark First Nations child welfare case before the Canadian Human Rights Tribunal which led to the largest settlement of its kind in Canadian history. Prior to this, I was lead counsel in the *Canada (House of Commons) v. Vaid* case before the Supreme Court of Canada, which remains the leading case on parliamentary privilege in Canadian law today.

In addition to the *Vaid* case, I have appeared before the Supreme Court on 14 occasions in cases raising issues such as the separation of powers, the impartiality of tribunals, the accommodation of persons with disabilities, freedom of expression and the balancing of national security and human rights.

My experience at the Commission has a number of direct correlations with the role of Privacy Commissioner. It involved the promotion and protection of fundamental rights and the investigation of complaints in an expeditious and procedurally fair manner. It required the appropriate balancing of fundamental rights with public-interest considerations and the ability to explain complex concepts in a plain-language and accessible manner. It also involved working with the public and private sectors to find constructive solutions, building a culture of rights, considering international norms and comparators and working with provincial counterparts.

[*Translation*]

In my current role as the Law Clerk of the House, I am the Chief Legal Officer of the House and lead the office responsible for the provision of legal and legislative services to the House and its members. I have successfully defended the House of Commons' privileges in the *Boulerice v. Board of Internal Economy* case, and led the legal team representing the Speaker of the House of Commons in the context of a judicial review application brought last year with respect to the power of this House to compel the production of documents.

I have been tasked by multiple committees to interpret and apply privacy law principles, most recently in reviewing proposed redactions made to documents that were requested by committees in the conduct of their studies.

[*English*]

I've played a key role in the development of codes and policies to prevent harassment on the Hill and to ensure an inclusive and safe environment for members of Parliament and staff. I was proud to be the House Administration's diversity and inclusion champion for the last five years.

More recently, I had the pleasure and privilege of appearing with my colleague the Law Clerk and Parliamentary Counsel of the Senate in a joint appearance before the Special Joint Committee on the Declaration of Emergency.

Throughout my career, I've always placed the utmost importance on public service and on giving back to my community and my profession.

[*Translation*]

As such, I have served in various capacities of the Canadian Bar Association, including as president of the constitutional law section and Executive Board Member of the Quebec Branch. I have also served as President of the Canadian branch of the International Commission of Jurists, an institution that promotes judicial independence in Canada and internationally.

I believe in the importance of education and mentoring. I have been a part-time professor in law faculties and continue to serve as a judge in the Laskin bilingual administrative law mooting competition.

In all my roles, I have been guided by the values of balance, impartiality, fairness, excellence, the rule of law, the public interest and respect for the democratic and legislative processes. Those are the values that, if appointed, I propose to bring to the Office of the Privacy Commissioner of Canada.

• (1650)

[*English*]

For all these reasons, I believe that I would bring to the role of Privacy Commissioner a vast and unique array of experiences and knowledge, as well as the unwavering belief that Canadians' fundamental privacy rights require strong advocacy, protection, promotion and education on an ongoing basis. As Privacy Commissioner, my vision would be privacy as a fundamental right, privacy in support of the public interest and of Canada's innovation and competitiveness, privacy as an accelerator of Canadians' trust in their institutions and privacy in the digital economy.

[*Translation*]

In closing, I would like to take this opportunity to thank Daniel Therrien for his outstanding service and leadership these last eight years. I've been impressed with all of the great work done by the OPC team during his mandate and, if appointed to the position, I look forward to working with this dedicated group of committed professionals in protecting and promoting the privacy rights of Canadians. With that, I would be happy to answer your questions.

[*English*]

Senator Plett: Welcome, Mr. Dufresne, and congratulations on your nomination. I have a number of questions. I will be very concise with my questions. I ask that you be the same with your answers so I can get as many of them in as I can before our very capable and able chair cuts me off.

Could you briefly summarize for us the process by which you came to be here — I'll ask three questions here — before us today? What process was there? Did you apply for this position or were you asked to put your name forward? Why did you decide to seek this appointment, and who did you interview with and what testing did you undergo?

Mr. Dufresne: Thank you, senator, for the question. This, as I believe all Governor-in-Council appointments are, was a position advertised on the appointments website, alongside the others, with a list of the requirements and the functions of the positions. So I applied to the position of my own initiative because I saw that this was a position, one of the few, that could take me away from the position of Law Clerk of the House, which is a position I love. This was a position that I felt combined my career as a lawyer, as a promoter and protector of fundamental rights and my role as an adviser to the House, and so I thought that my skills would be of use in this important role. I also saw that with the two laws up for modernization this was an important time for privacy, which I consider a fundamental value, and so I put my name forward.

In terms of the process, there was a screening process that led to my being invited to an interview with the representatives from various departments, the Prime Minister's Office and academia, and so there was extensive questioning in terms of that process. Once I reached the subsequent stage, there was psychometric assessment following a discussion with the minister and then the decision by cabinet.

Senator Plett: Mr. Dufresne, as you well know, the unprecedented use of the Emergencies Act by the Trudeau government earlier this year is being studied by a special joint committee and by the Public Order Emergency Commission. What are your thoughts on the privacy implications of the use of the Emergencies Act, either through your experience as Law Clerk of the House of Commons or through your viewpoint as the incoming Privacy Commissioner? As a Privacy Commissioner, would you commit to conducting an analysis of the privacy implications of the invocation of the Emergencies Act or release publicly any analysis that might have already been done by the office?

Mr. Dufresne: Senator, there are processes for the review of the declaration of emergencies, and they are provided for in the act. They include the parliamentary review. They include the Rouleau commission of inquiry that was established, and so they have complementary purposes. I know that the Standing Committee on Procedure and House Affairs is also looking at those matters in terms of the invocation and so on.

In terms of privacy implications, if I am confirmed in my role I will look to matters that come before the commissioner in terms of complaints, and we'll deal with them on an individual basis.

Senator Plett: In 2015, the outgoing commissioner established four strategic privacy priorities. One of his objectives was:

> To help create an environment where individuals can use the Internet to explore their interests and develop as people without fear that their digital trace will lead to unfair treatment.

Do you share this objective, and how do you think this is achievable?

Mr. Dufresne: When I talk about my vision as Privacy Commissioner in terms of privacy as a fundamental right and privacy balancing public interest and generating trust, it means that I feel Canadians should have enough trust that, when they are participating in the digital economy and when they are using the internet, their privacy is protected — in other words, that they do not have to trade off their privacy rights in order to use what we all use and benefit from, which is the internet and the digital economy.

So in terms of privacy, my hope and what I will work towards, if confirmed, is to have a modernized set of laws, both private and public sector, that ensures privacy is protected in a way that supports innovation and the economy but in a way that ensures that Canadians, again, do not have to trade off these rights in order to participate as digital citizens.

Senator Plett: Another objective of the former Privacy Commissioner was:

> To promote respect for the privacy and integrity of the human body as the vessel of our most intimate personal information.

Would this also be one of your objectives, and if so, what are your thoughts on the actions of the federal government during the pandemic forcing Canadians to get vaccinated and to share the results? That's hardly private when they have to share the results.

Mr. Dufresne: In terms of the end of your question, in terms of the pandemic, former Privacy Commissioner Therrien, along with provincial counterparts, issued guidelines early on in terms of practices to ensure what was done was based on legal authority, ensure that it was proportional, ensure that it did not take more information than it needed and ensure that it did not last longer than needed. So I agree with those principles, and privacy protection has to do with the second element of my vision, the notion of public interest. Privacy should not be at the expense of the public interest or Canada's competitiveness. These things go hand in hand, and I see privacy as supporting that, but it has to be done in a way where privacy is front and centre and where we develop a culture of privacy by design so that whatever we do — whether it's protecting the health of Canadians, whether it's innovating — we ask how we can do this without harming the privacy of Canadians.

Senator Plett: I would like to get your view on privacy and the apps on our smartphones. I know that we all routinely — and I do — click "I agree" on a service agreement when downloading an app and do not fully understand what we are agreeing to. At least I don't, and I don't realize the privacy I may be giving up in exchange for using this app. I personally — and think a lot of us, perhaps all of us — have done this more than once, and so I would like to know your views on consent in those instances. Do you think this type of consent is essential, or is it meaningless? I'd like your view on that. I'm concerned about when I click things on my smartphone.

Mr. Dufresne: You're highlighting one of the very real issues, and it has been described by some experts as being a culture of "I agree," a culture of clicking without necessarily understanding. Oftentimes we use these apps and oftentimes we are pressed for time. We need the information. We're confronted with this, and we click on it but not agreeing. I don't often understand those clauses myself. If that's true and you have a non-legally trained Canadian looking at these clauses, it is not realistic to believe that they will have a meaningful understanding. So that's one of the elements that has to be looked at in terms of working with those clauses — making them more user-friendly — and there may be areas where consent is not required because there is a socially beneficial purpose and there's no practical way of getting consent, so these conditions have to be narrow. There may also be circumstances where the purpose is not justified or proportional and it should not be something that individuals can consent to. So we're moving away from that delegation to individuals to protect their privacy rights and ensuring that we can have a whole system that does that.

• (1700)

Senator Plett: I only have less than a minute left, but I will very quickly ask the question. Maybe you can get the answer in. The federal government forces Canadians to use the ArriveCAN app when entering our country. Do you think Canadians should have the right to refuse an app and instead be allowed to use paper forms?

Mr. Dufresne: I haven't considered this specific issue. I think there are some different privacy expectations when crossing borders, so that would be part of the consideration. However, I would say that with this or any type of governmental activity, it is important to have privacy by design. It is important to ask the question and design it to ensure that it does not have an undue impact on privacy beyond what is necessary for legitimate purposes.

Senator Plett: Thank you very much for your concise answers. That about exhausts my time.

Senator Jaffer: Thank you for agreeing to accept the nomination and also for applying. When I saw your qualifications I was very pleased, because I believe you understand Parliament, and you have worked on rights issues. I believe this is a good time for a person like you to understand what the rights of all Canadians are.

When it comes to the rights of all Canadians, what kind of lens or diversity training will you do with your staff so that when they look at privacy issues they will address issues faced by all Canadians?

Mr. Dufresne: Thank you, senator. This is something that is near and dear to my heart in terms of ensuring the proper lens. I am advocating for a privacy lens — privacy by design — looking at everything one does, whether it's the government or the private sector, and asking the question about impacts and then building it into the design so you're not doing it at the end once it's done and you're faced with concerns.

I think that's also very important in terms of diversity and inclusion. There can be links there with privacy as well. We can see some concerns if their algorithmic decision making leads to profiling or bias or these types of things.

In terms of the team — the staff — in my current role as House Law Clerk, I have been the diversity inclusion champion leading a group of committed employees from all sectors of the House at all levels, management or otherwise. When I was appointed champion, I told them that I wanted all of us to become ambassadors of inclusion so that whatever we did — whatever our role was — we would ask the question: What is the impact of this decision I'm making, this policy or this behaviour that I have? What impact does it have on diversity and inclusion? If it's not a good one, we should question that behaviour, and unless it's essential to have it, we should stop it. I will be adopting the same approach, if confirmed, in my new role.

Senator Jaffer: Thank you very much for your answer. Obviously, you will follow the same diversity and inclusion model that you had developed earlier on, so I'm not going to even ask you that. I'm assuming you will.

I don't know if you have had the chance to study some of the recommendations of the previous Privacy Commissioner, but one was on note taking for border security officials. He examined six complaints and he found it very inadequate. If you have not read this yet, I'm willing to wait for an answer. But especially with the rights lens that you will bring and your knowledge of rights, I would like to know if you are going to pursue making sure that border security officials' note taking is adequate, especially with the new legislation, Bill S-7, that the minister has introduced.

Mr. Dufresne: Bill S-7 is the object of discussions, including in terms of the standard being used. It was raised in terms of whether this could have an impact in terms of how it's used, and whether there are more unfavourable decisions vis-à-vis certain groups and certain individuals. So these are things we have to look for, and we have to make sure there is information about it so we can correct if any approach has discriminatory impact or negative privacy impacts.

I think we do have to have that lens to ensure that our practices are consistent both with human rights in terms of non-discrimination — which would not, strictly speaking, be my mandate but would animate what I do — and also from a privacy lens.

Senator Jaffer: Thank you very much.

Senator C. Deacon: Mr. Dufresne, welcome to the Senate. It's likely you will be overseeing the biggest revamp in privacy law in this country in several decades as well as an increase in the Privacy Commissioner's powers. All the while, the data economy has been growing exponentially. How Canada regulates the use of data will catalyze innovation, productivity growth and prosperity. Or not.

Clearly, the new Privacy Commissioner will have to play a balancing act, strengthening and protecting data rights — which you're eminently qualified to help with for sure — but all the while empowering innovative and globally competitive commercial activity.

In that light, could you describe your views on the extent to which it is important for privacy laws to enable innovation in our economy? How would you ensure that experience with rapidly evolving technologies, competition issues, various business models and global interoperability will be represented on your team?

I'm hoping to ask a second round, but we'll see.

Mr. Dufresne: Thank you for the question. This is core to my vision of my role as Privacy Commissioner if I'm confirmed. I indicated that there were three elements. One was privacy as a fundamental right, and the second was privacy in support of the public interest and Canada's innovation and competitiveness. So that's absolutely part of the vision. We need to have a system that doesn't sacrifice Canada's innovation, competitiveness and the ability for Canadian industry to succeed.

I believe that can be done. That can be done by having a regime that is principle-based — that respects privacy — but also mindful of the realities and challenges of Canadian industry. I believe that privacy will generate trust and will allow Canadians to feel that they can participate more in the digital economy, which in turn will be good for industry. I think it will be beneficial to have interoperable norms and rules that ensure there is a level playing field and that Canadian companies understand the roles and can be helped in that by my office — if it becomes my office — in terms of outreach, education and information.

In terms of the composition of the team, I have always — in all of my roles — valued diversity of views and diversity of perspectives. My perspective is one — it is from my background — and I have always wanted to surround myself with individuals with different backgrounds and different expertise so we can have the best advice around the table.

For my team at the House, I recruited individuals from the Senate, who are fantastic. I have recruited individuals from the Department of Justice. I have recruited individuals from the private sector. I have recruited individuals from the Library of Parliament — just to have these views.

That's for the internal team, which is very important. But I also believe outside links with stakeholders, links with industries, whether it's by having a formal structure like an advisory council or in an informal way, ensures that the channels of communication are open. Because there is value in the commissioner and the office sharing information, but we need to do that while understanding the challenges of industry. This is something that I feel I am able to do because I'm a human rights lawyer, but I'm also an employer and a leader of an organization. I have advised on complying with the laws, but I've had to comply with them myself. So I understand the challenges of industry where you have these competing pressures and priorities, and you want this to be done while meeting your obligations to your shareholders or parliamentarians or Canadians.

So these are things that are important to me. I will put in place the networks and the structures needed to —

Senator C. Deacon: Thank you. That's good to hear. Just in terms of consultation, the Government of Canada has had a history of communicating but not robustly consulting. So, hopefully, you'll be ambitiously establishing a new standard in that regard because of the transition that is going on.

• (1710)

Lastly, I want to have some idea specifically about how you'll be managing that compliance burden associated with implementing the new privacy legislation to ensure it doesn't stifle innovation, productivity growth and competitiveness.

Mr. Dufresne: There are a number of things there.

Obviously, the content of the legislation is going to be decided not by me, but by Parliament. The Office of the Privacy Commissioner of Canada will play a role in providing views and advice. Of course, there is a role for industry as well to provide views to Parliament, but also to the Office of the Privacy Commissioner of Canada in terms of that process.

I will work with the legislation that Parliament decides to adopt, and with the team, to ensure that it is as user-friendly as it can be for Canadians and for industry. I believe when we were talking about the consent clauses being difficult to understand and how it can be a burden on individuals, I think that that is true as well in terms of the burden on organizations to comply with legal frameworks. There are many obligations.

In my role at the House, I have had to oversee compliance with Bill C-65 on health and safety; compliance with pay equity, proactive pay equity regimes; compliance with proactive accessibility; proactive disclosure of financial information. These are all fundamentally important things to do, but they take work. They put burdens on organizations and leaders who are already overburdened.

Whatever the regulators can do to make it easier — to put the incentives in the right direction — is a positive step.

[*Translation*]

Senator Bellemare: Thank you for being with us, Mr. Dufresne. I know you have extensive experience with Canadian parliamentarians.

My question deals with a hypothetical situation. Suppose you were appointed to the position you are seeking, and suppose the government currently in office supported or introduced a bill that got a lot of criticism from individuals and organizations for failing to adequately protect privacy. What would you do if the committee tasked with studying such bills invited you to testify and participate in that study?

Mr. Dufresne: Thank you, senator. Certainly, in my role as Privacy Commissioner, I will always give my advice to any parliamentary committee that requests it. I believe that this is one of the important aspects of the Privacy Commissioner's role.

Thanks to my experience as Law Clerk of the House, I have had numerous opportunities to appear before parliamentary committees and provide advice in various legal areas. I will continue to do so as Privacy Commissioner with a view to providing the best and most balanced advice possible. That advice will be consistent with the values that I will convey, namely, recognizing privacy rights as fundamental rights, but also understanding the public interest and the need for laws that are practical, realistic and that can build public confidence.

In a situation where there was opposition, I would ask myself whether my office and I should consider that opposition justified. Obviously, I would listen to the differing views and provide the best advice I can, while being mindful of the weight that the Privacy Commissioner's representations can carry. I would do so with the responsibility that comes with that influence.

Senator Bellemare: I have a supplementary question.

In this scenario, would you publicly comment on a bill, on your own initiative, if you felt it violated the privacy of Canadians?

Mr. Dufresne: I think that's a situation that has to be assessed on a case-by-case basis. However, I will say that on the face of it, the mandate of the Privacy Commissioner is to protect and promote the privacy of Canadians. I think that's a very important consideration. Are there be any circumstances that would make it inappropriate to do so proactively? My first impression is that an officer of Parliament has a duty to comment on such matters, whether in an annual or special report. I would like to think that my office is and will remain a centre of excellence on privacy and that we would be invited to comment on privacy bills.

Senator Bellemare: Thank you, Mr. Dufresne.

Senator Gerba: I want to pick up on what my colleague, Senator Deacon, was asking. Mr. Dufresne, Shopify was once a small start-up, a snowboard retailer founded by a new Canadian. The company has transformed itself into a showcase for entrepreneurs around the world. It grew so quickly that it was the fastest Canadian company to reach $1 billion in annual sales worldwide. Of course we would like to have more companies like this. However, these kinds of companies are using personal data, which requires extra vigilance.

Mr. Dufresne, how do you think your office will be able to protect the personal information of Canadians without undermining the prosperity of innovative Canadian companies like Shopify?

Mr. Dufresne: Thank you for the question. I think that it is important to have this balance, and it is not a situation where we should sacrifice one for the other. We have to make privacy a fundamental right and do so in such a way as to encourage innovation and the industry. I would do so by ensuring, insofar as I can comment on legislation, that the perspective and realities of the industry are considered and are part of the analysis. It needs to be possible and realistic for the company, but not to the detriment of fundamental rights. It was the same thing with human rights. I believe it is possible to do this, and I believe that the Privacy Commissioner can play a guiding role and be an interlocutor for the industry. The Office of the Privacy Commissioner has a mandate to protect and promote.

You give the example of a smaller business entering the market. The Office of the Privacy Commissioner could perhaps have some templates and information. It can support the industries. With Bill C-11, there was mention of the approval of codes of practice by the Office of the Privacy Commissioner, audits and proactive verification. I believe that it is important to have these exchanges right from the start and to create this culture of privacy, but not to the detriment of the efficiency and proper operation of businesses.

Consequently, we will have a legal system equivalent to and compatible with international and provincial regimes. At that point, we are raising the bar for both privacy protection and innovation. That is something that has always been very important to me, whether in my role at the Human Rights Commission or at the House of Commons. Fundamental principles should not be protected to the detriment of the public interest, unless that is impossible. We must make every effort in that regard, namely provide incentives to move in the right direction, engage in communication, identify issues and work together to find solutions.

Senator Gerba: Thank you.

Senator Gignac: Thank you for being here, Mr. Dufresne. I'd like to congratulate you on your very impressive career.

Mr. Dufresne, the data economy is growing exponentially. The prestigious MIT estimates that data increases in volume by 40% every year. My question is along the same lines as the one asked by Senator Deacon. What do you think your role is in ensuring that Canadians see more benefit from the value of their data, while making sure they also control how that data will be used?

Mr. Dufresne: Thank you for the question. The third element of the vision I put forward is protection of privacy as an accelerator of Canadians' trust in the digital economy, among other things. I think there is a role to play there.

According to statistics from the Office of the Privacy Commissioner of Canada, as reported in the 2022-23 annual plan, surveys showed that only 38% of Canadians felt the industry respected their privacy rights. That is a worrisome statistic that accurately conveys the perceptions of those surveyed. The office's goal, which I agree with, is to raise that number significantly to about 90%. To help Canadians feel more confident in this respect, we need a strong legal regime grounded in good legislation and solid principles. We need legislation that is reasonable and balanced but that treats privacy as a basic right. Entities such as the Privacy Commissioner are crucial because they have the resources and the mandate to handle that protection and promotion role. It is important that Canadians know that when they participate in the industry, they have certain protections. They must also understand what they are consenting to and what their data will be used for, so that there is some incentive to participate in this economy. It becomes a place where you want to participate and do business.

• (1720)

When we talk about regimes that follow the rule of law, it benefits the industry for the same reason: The industry knows that it can rely on the regime and its principles. It requires good legislation, resources, an organization and good knowledge of the regime, which the Office of the Privacy Commissioner can undoubtedly promote and enhance. We also need incentives that go in the right direction, whether to encourage consumers to participate by reassuring them and providing them with better information, or to encourage the industry with clear and realistic standards, assisting them with information and dialogue in order to avoid a zero-sum game. Improving one does not mean taking away from the other. I think you have to improve both, and it is possible to do that.

Senator Gignac: Thank you, Mr. Dufresne.

[*English*]

Senator Downe: Congratulations on your nomination. You have a very impressive curriculum vitae, both academically and professionally. I would like to ask you a couple of questions on case studies, if you will, to get a sense of how you would interpret these situations.

My first question is — and you may have seen this in the media — there have been reports about misconduct at the Canada Border Services Agency. During the last fiscal year, the CBSA deemed 92 such cases to be founded, some of which involve CBSA members with off-duty ties to organized crime, including drug smuggling.

As you may know, CBSA personnel are not required to undergo annual polygraph tests about their conduct outside of work. As Privacy Commissioner, will you be opposed to yearly mandatory testing to be required by the agency?

Mr. Dufresne: I would look at this, again, on the basis of the particular circumstances and the particular purpose of any given measure. Looking at this with a privacy lens, with privacy by design, you need to look at necessity and proportionality.

There would need to be the establishment of the purpose of this, the necessity, and the more intrusive the measure is — as in the case of what you're describing — the more the necessity for it would have to be high. I would not comment on a hypothetical situation at this date, but I would look at cases on the basis of those principles in terms of necessity and proportionality.

Senator Downe: I receive many complaints from Canadians about their dealings with the Canada Revenue Agency, and even though they are prepared to waive their privacy rights in order to speak publicly about the way they have been treated by the CRA, the agency seems to use the Privacy Act as a shield to avoid responsibility and accountability for their actions by stating that, because of the Privacy Act, they can't discuss an individual case. Then they usually continue on with the standard line about how they take all these concerns seriously and are working hard to rectify these matters. Of course, none of that is true, as they continue to act the very same way in the very next case.

Do you share the view that if an individual waives the right to privacy to discuss their concerns publicly, and to the media in particular, that the government should be required to also disclose information they have about the matter pertaining to that individual?

Mr. Dufresne: There are some elements in terms of whether information is in the public domain and the individual waiving it and putting it in the public domain, but we would have to see a specific case. I would hesitate to comment on a specific case until it came before my office for consideration.

Senator Downe: As you're probably aware, section 8(1) of the Privacy Act states:

> Personal information under the control of a government institution shall not, without the consent of the individual to whom it relates. . . .

— which I think are the key words —

> . . . be disclosed by the institution except in accordance with this section.

In other words, the individual can consent to the disclosure of personal information held by a federal institution. If they gave their consent, why would we allow agencies and departments to basically hide behind the Privacy Act as opposed to saying, in many cases, "We made a mistake and we're wrong," rather than putting the information out there?

Mr. Dufresne: Again, I would want to see what the argument is and the basis for the department's position on that and the grounds they are putting forward for refusing to disclose. There is often a lot of context around that, so I would hesitate to give a view without hearing both sides.

Senator Downe: Thank you very much.

[*Translation*]

Senator Dagenais: Congratulations on your nomination, Mr. Dufresne.

Judging from your credentials, it seems to me that you were destined for this job. The risk of privacy violations has increased significantly over the past five or ten years, and you and I both know that one thing fraudsters love to get their hands on is social insurance numbers. This piece of ID is obsolete in 2022, yet it remains essential to getting a job or a mortgage.

I am sure you have looked over the office's documents from 2014 to 2017. Let me just say that, in this era of facial and voice recognition and biometrics, Canada's nine-digit ID card looks pretty pathetic compared to what modern countries use.

I would like to hear about your vision and your approach to getting the government to pick up the pace on developing a new, more secure way for Canadians to prove their identity.

Mr. Dufresne: Thank you for the question.

In fact, that was the topic of discussions, especially in the House of Commons. The reality is that, like everything else, there is a great deal of potential in the area of digital identity. Indeed, the fact that the social insurance number is probably not the best way to identify a person was mentioned.

As to whether this can be done, I would suggest applying the privacy perspective. It is about determining the realities of this program, the risks involved, the implications and the impacts, because we do not want to solve a problem by creating another. There are risks to having everything that is digital being distributed even faster.

In my opinion, this is something that has potential and seems intuitive to me as a solution for the future. That is why I think we have to be careful about how we do this by analyzing all the implications and incorporating the concept of privacy in its very design.

Senator Dagenais: In his final report, your predecessor projected a significant increase in the number of applications and complaints over the coming years, especially because of immigration and refugee cases.

Should the budget for the Office of the Privacy Commissioner be increased accordingly? We see that its budget is more or less the same for the coming years. Also, do you believe that some files might be set aside if the government does not review your office's funding?

Mr. Dufresne: If I am appointed, I will obviously have more details on this matter. What I have seen to date is that Mr. Therrien has already submitted a request to Treasury Board Secretariat and the office is awaiting a decision on additional resources due to Privacy Act extension order no. 3 on immigration.

I will wait for the response to this request. If there are no additional resources, it has been suggested that we make strategic use of the commissioner's resources to focus on certain files, and that is something I did when I was at the Canadian Human Rights Commission. I adopted a strategic approach to litigation to devote more resources to those files that had a greater impact, either because of their nature or the number of Canadians involved.

With respect to former Bill C-11, one of the criticisms conveyed was that the Privacy Commissioner was required to verify the codes of practice without being allowed to choose which ones.

All of this will have to be examined. There is also the possible modernization of the Privacy Act, which I hope will occur soon. According to Mr. Therrien, this could double the resources of the commissioner's office and make it possible to create new structures, particularly for making decisions on orders.

These are challenges that I look forward to addressing if I am appointed. I did just that at the Canadian Human Rights Commission and in my role at the Office of the Law Clerk. I increased the office's resources in order to meet new legal obligations, and I hope to be successful in doing so.

• (1730)

Senator Dagenais: Thank you very much.

Senator Martin: Welcome and congratulations on your nomination. Mr. Dufresne, I know you are aware of the report that was recently released regarding the Tim Hortons app. The report found that Tim Hortons collected and used a large amount of geolocation data for inappropriate purposes, and that it did not obtain meaningful and adequate consent from app users in the collection and use of that data.

Mr. Dufresne, you will be responsible for monitoring the company's compliance regarding its commitments to delete this geolocation data and for establishing a privacy management program. The parent company of Tim Hortons also owns other restaurants.

Are you going to ensure that all of those restaurants' apps are in compliance with the law? How will you monitor compliance, and how many other businesses do you think are in the same situation as Tim Hortons?

Mr. Dufresne: Thank you for the question. I can't speak to the last part of your question about how many other companies are in a similar situation, but what I can say about Tim Hortons and the report released by the Office of the Privacy Commissioner, at both the federal and provincial levels, is that we observed a breach of the law. This breach was conditionally resolved because the Tim Hortons chain agreed to delete the data and improve its privacy accountability mechanisms.

Obviously if I am confirmed in this role, I will be in a position to follow up and ensure that these commitments are fulfilled. That brings us back to some of the points we've discussed today, with respect to the importance of having a legitimate reason to collect personal information from Canadians.

In this case, the company tracked Canadians' locations and collected much more geolocation data than would be needed for business purposes. There were concerns about whether valid consent was given. It was not made clear to users that the geolocation data would be collected even when the app was closed. The contract and its clauses were also far too permissive with regard to how this information could be used.

Once again, it is a matter of accountability or of implementing accountability mechanisms to ensure privacy. This is an example of how we can make improvements and ensure that privacy is protected in the app design process. We want it to become a reflex, so that people to have the tools they need to say, "This might be a good idea, but let's make sure that it complies with sound privacy principles."

Senator Martin: Thank you.

[*English*]

In February, your predecessor, Mr. Therrien, let it be known that his office was informed — not consulted, but informed — by the Public Health Agency of Canada about its collection and use of the mobility data of 33 million Canadians during the COVID-19 pandemic without their consent. Mr. Therrien also said that his office proposed to examine the technical means used to depersonalize that data and to offer advice, but the government declined and said it would rely upon other experts instead.

Mr. Dufresne, does this recent incident of the Trudeau government sidelining and turning down advice from the Privacy Commissioner give you any concern as you take up your new responsibilities?

Mr. Dufresne: That issue was studied by the Ethics Committee of the House of Commons, which issued a report and a number of recommendations. I think what came through there in testimony was that there were exchanges and discussions with the commissioner and the government, and the government decided to use its experts in terms of looking at how and whether the information was de-identified, and whether safeguards were in place.

That situation led to some concerns in terms of the sufficiency of that de-identification, and there is currently a complaint that is with the commissioner's office. So I won't comment on that beyond saying that it has been looked at and that it highlights that, in many cases, having the commissioner look at cases will be helpful.

Senator Wells: Congratulations on your nomination, Mr. Dufresne.

As you're likely aware, the government has proposed through Bill S-7, which amends the Customs Act and the Preclearance Act, 2016 to introduce a new and lower legal threshold for the examination of personal digital devices by the CBSA and U.S. pre-clearance officers. The proposed legal threshold is called "reasonable general concern"; if an officer has a reasonable general concern about a particular traveller, their digital device could be fully examined off-site without restriction and without cause.

As you know, a personal digital device can contain anything from personal health records, correspondence, banking information — everything, including one's internet footprint and search history.

The bill has now been amended in our National Security and Defence Committee to raise the threshold standard before a personal digital device can be examined from "reasonable general concern" to "reasonable grounds to suspect." As you know, "reasonable grounds to suspect" is already well defined in Canadian law; it is unambiguous. The committee believed that the low bar of "reasonable general concern" should not be grounds for a search for all that you hold private and personal.

So my question to you, Mr. Dufresne, is the following: What is your view of the government's initial "reasonable general concern" standard compared to the amended and well-established, court-tested "reasonable grounds to suspect?"

Mr. Dufresne: Thank you for the question.

This is something that has been raised. A number of interlocutors have raised concerns about the novel standard of "reasonable general concern," which came after the Alberta Court of Appeal in *Canfield* struck down the act and found that there needed to be a standard and that it had to be up to Parliament.

In testimony before the Ethics Committee, Commissioner Therrien expressed concerns about that standard, as did the Canadian Civil Liberties Association and Senator Paula Simons. The concerns were that "reasonable general concern" was too vague, that it was not a known legal standard, that it was not objective enough and that it could lead to profiling in the sense that such types of subjectivity could be used disproportionately against others.

Commissioner Therrien indicated in his testimony that he had not seen justification or evidence from the government for that standard and he would wait to see it.

So I think it would be up to the government to explain why.

Senator Wells: And what is your view?

Mr. Dufresne: My view is that "reasonable grounds to suspect" is a well-known standard and an objective one. So it is something that would have a greater chance of being upheld in the absence of evidence and justification, which the government may have for their standard but I haven't seen.

Senator Wells: Thank you for that.

I have one quick question as a follow-up: What's your view on the government's increasing interest in collecting personal and private data of Canadians through the collection and stripping of metadata and the required downloading of government apps?

Mr. Dufresne: For any initiative being taken, my view would be to look at it with a privacy lens. What is the purpose? Why is the information being sought? What will be done with it? Is it legitimate? Is there proportionality and necessity? Do the users have knowledge that the information is being used?

Senator Wells: I have one final question. If you were successful in becoming the Privacy Commissioner, would you take it upon yourself to make public statements about this, or would you wait until there is a referral to your office?

Mr. Dufresne: It would be a case-by-case consideration in terms of whether it is a statement, position, report, proactive audit or a commission-initiated complaint. The commissioner has a number of tools, and they have to be used appropriately. So it would really depend upon the circumstances.

Senator Wells: Thank you, Mr. Dufresne.

• (1740)

Senator Loffreda: Mr. Dufresne, welcome to the Senate of Canada and congratulations on your nomination as Canada's next Privacy Commissioner. I'm very impressed by your biography and curriculum vitae, so congratulations.

I would like to continue on the consultation with our business community. As you know, wealth is most often — I won't say always — created by entrepreneurs and business. You mentioned that privacy is a fundamental value and trust is extremely important in business, as you know.

Your predecessor, Mr. Therrien, addressed the need for Canada's privacy laws to be interoperable with laws internationally, and that this would be in the interest of Canadian businesses. Do you share this point of view, and would you consult with entrepreneurs to seek their advice on this matter? Also, would you consult with your international counterparts so that we could share best practices? What is your view on that? Do you agree, and how would you go about doing it?

Mr. Dufresne: Thank you, senator. In terms of the overarching question of consultation, I do agree. I think it's important for the commissioner. If I'm the commissioner, I will be consulting with counterparts, whether in the provinces or internationally, to identify the best practices, what works, what doesn't work and what elements Canada should incorporate or not. Again, it's not ultimately going to be my decision, but I appreciate that I will have a voice in that and I will use it to advise Parliament to the best of my abilities by looking at the General Data Protection Regulation, looking at the provinces, looking at the different regimes that exist and elsewhere, having information about that and having discussions within industry to ask what the concerns are. But, at first glance, the concept of interoperability, ensuring that the federal act is consistent in principle and application with what the best practices internationally are and with what the best practices provincially are, is a good idea.

There is an element as well in terms of public and private. We have the Privacy Act and we have the Personal Information Protection and Electronic Documents Act, or PIPEDA. There are more and more private-public partnerships between the government and private industry, so it's important that the principles be consistent between those two. Those are things, from my standpoint, that are good for industry, but I would welcome industry telling me otherwise and I would listen to their views.

Senator Loffreda: Thank you.

Senator Pate: Thank you, welcome and congratulations on your nomination. Keeping in mind the overall mission of the office to protect and promote the privacy rights of individuals, the fact that compliance is described as one of the two core responsibilities of the office and the 2021 report that describes the various powers of the office as to ensure compliance, including summoning witnesses, administering oaths and compelling the production of evidence, how do you plan to ensure departmental accountability for lack of adherence to privacy measures, both in terms of the provision of information and, as other senators have pointed out, hiding behind those measures? Most particularly, I'm curious because, unlike your predecessors, the ability to pursue legal action before federal courts where appropriate has tended not to be utilized. Would you hesitate to use that function?

Mr. Dufresne: I feel that all the tools available to the commissioner should be looked at and should be used when appropriate. I am a firm believer in education, promotion, outreach, resolution and finding solutions at the front end, but I am also a believer in the compliance aspect. It's promotion and protection. That was my experience at the Human Rights Commission as well. There is a similar duality, where much is done to work collaboratively. There are some cases where it will be necessary either because there is no agreement or because there is no clarity, perhaps, in the legal regime and it's necessary to have a court decision to lead the way. In these appropriate cases, I would absolutely resort to that.

There have been calls, including by the Privacy Commissioner, to give the commissioner order-making powers and the power to either recommend or impose sanctions. I think these are all elements that would strengthen the protection function, make it more timely and help resolve cases. Again, not to say that these should be used often, but the existence of those powers will be good in strengthening the regime and in providing rights earlier and more quickly for Canadians.

Senator Pate: Thank you.

Senator Woo: Welcome, Mr. Dufresne. I'd like to ask you about the intersection of privacy policy and competition policy and your views on cooperation between the offices of the Privacy Commissioner and the Competition Commissioner. What do you see as the appropriate level of collaboration between the two offices, particularly given that there have been some prohibitions on cooperation between the two offices currently under the act? Do you foresee an increasing need for enforcement powers given the growing power and the growing importance of data in our economy?

Mr. Dufresne: Thank you for the question. I have not looked at the details of the intersection between competition and privacy, but I would say that anywhere that there are gaps in terms of legal framework is something that should be dealt with and resolved. There should be no areas that fall between the regulatory regimes and, where appropriate, it is beneficial for the regulating entities, whether it be the Privacy Commissioner, Competition Commissioner, Information Commissioner or others to have these exchanges. There may well be areas where information is confidential and where that sharing of information is not appropriate, but we should ensure that it is by decision and not because the area has simply not been dealt with.

Senator Woo: In principle, would you support the sharing of information from the Privacy Commissioner's office with the Competition Commissioner? The opposite is allowed currently, but not from the Privacy Commissioner's office to the Competition Commissioner's office.

Mr. Dufresne: This is a proposal that I would want to reflect on and hear views on. I have not seen the argument in favour or against, so before giving my view on that I would need to turn my mind to it.

The Chair: Honourable senators, the committee has been sitting for 65 minutes. In conformity with the order of the Senate of June 9, 2022, I am obliged to interrupt proceedings so that the committee can report to the Senate.

Mr. Dufresne, on behalf of all senators, thank you for joining us today.

Hon. Senators: Hear, hear!

The Chair: Honourable senators, is it agreed that I report to the Senate that the witness has been heard?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, the sitting of the Senate is resumed.

• (1750)

[*Translation*]

REPORT OF THE COMMITTEE OF THE WHOLE

Hon. Pierrette Ringuette: Honourable senators, the Committee of the Whole, authorized by the Senate to hear from Mr. Philippe Dufresne respecting his appointment as Privacy Commissioner, reports that it has heard from the said witness.

[*English*]

BUDGET IMPLEMENTATION BILL, 2022, NO. 1

SECOND READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Moncion, seconded by the Honourable Senator Pate, for the second reading of Bill C-19, An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures.

Hon. Lucie Moncion: As I said, the pleasure will last longer.

I will go back to the improvements to the bill.

Part 1 of Bill C-19 expands the eligibility criteria for impairment in mental functions as well as the essential therapy category of the Disability Tax Credit. This is something I said just before we stopped, so I'm just repeating this portion before I move on.

An amendment adopted unanimously makes it so that those who are diagnosed with Type 1 diabetes automatically would qualify for the Canada disability benefit. This is a great improvement to the bill, and I'm grateful it was supported by all parties in the House of Commons.

Next is the taxation of wine. Listening to the concerns of stakeholders, the other place adopted an amendment that would ensure that honey, wine and ciders are exempt from the excise tax and that the repeal of the excise tax exemption applies after June 29, 2022.

The next amendment concerns a measure in Part 1 that would allow registered charities to enter into charitable partnerships with organizations that are not qualified donees. That measure is a direct response to Bill S-216, the effective and accountable charities act, which is another piece of legislation sponsored by our colleague Senator Omidvar. To truly respect the intent of this bill and put an end to the direction and control regime, an amendment that was unanimously adopted removes the reference to the prescribed conditions and deletes the section entitled "qualifying disbursement." These amendments, although very technical, were of paramount concern to the stakeholders who appeared before the Finance Committee of the House of Commons.

Now we're going to look at the Senate's contribution to the bill.

[*Translation*]

I would like to take this opportunity to acknowledge the Senate's accomplishments and some of our colleagues' interventions on Bill C-19. I am proud that the work of the upper chamber and that of my colleagues is a source of inspiration for government bills. It is not a first, but this budget bill contains many measures that were developed primarily by senators.

As I mentioned, I am thinking in particular of Senator Omidvar's two bills, Bill S-216, the Effective and Accountable Charities Act, and Bill S-217, the Frozen Assets Repurposing Act.

I would also like to highlight the proposed amendments to the Parliament of Canada Act, which demonstrate the government's commitment to supporting a transition to a more independent and less partisan Senate.

[*English*]

Also, the budget implementation act corrects a drafting error in the Old Age Security Act that was raised during our discussions on Bill C-12. Senator Quinn and our Canadian Senators Group colleagues played an important role in making this happen. The amendment makes it clear that the one-time payment made in August 2021 to seniors aged 75 and older is exempt from the Guaranteed Income Supplement income test.

Lastly, the amendments to the Competition Act are implementing the work of our dearly esteemed and former colleague Senator Wetston. I note that the last amendment to the Competition Act occurred in 2009, and it was part of Bill C-10, that year's Budget Implementation Act. In the context of the

ever-evolving advancements in technology, more particularly the emergence of digital platforms, in October 2021, Senator Wetston invited Canadians to participate in a consultation in the attempt to find a path forward for a competition law in Canada.

Based on these consultations, Senator Wetston tried to identify potential amendments to the law based on areas of substantial consensus.

Division 15 of Part 5 is greatly inspired by his work, and I am grateful that his important legacy is being recognized by this government.

The proposed amendments are also the product of an ongoing policy dialogue with stakeholders in the Competition Bureau and, in part, informed by the testimonies made by stakeholders in the Standing Committee on Industry and Technology.

[*Translation*]

The Competition Act plays an essential role in protecting consumers and promoting fair, dynamic markets. As I said, the act has not been modified in any significant way since 2009, which gives us reason to wonder how well suited it is to today's economy.

That is why the government decided on a two-stage approach to modernizing it. The targeted amendments proposed in Bill C-19 are the first stage and will enable Canada to align itself with international best practices and produce immediate, tangible benefits for consumers and businesses. The government will then conduct a review that will lead to further reforms and even more transformative change.

For consumers, a competitive market means more choice at lower prices. That's why the government wants to make more practices subject to Competition Bureau review, which will discourage anti-competitive and deceptive practices. The amendments clarify practices that harm consumers, such as drip pricing.

For workers, a competitive market stimulates the economy and creates well-paid jobs. When employers have to compete on salary and working conditions, workers benefit. These amendments will explicitly criminalize agreements between employers.

As for businesses, they benefit from free and fair competition that allows innovation and drive to flourish. Bill C-19 fosters such an environment by improving access to justice for businesses through the Competition Tribunal for abuse of dominance cases and by expanding the bureau's powers and the scope of activities subject to review through additional proportionate penalties.

In general, the government's proposed amendments will enhance the Competition Bureau's investigative powers, criminalize wage fixing and related agreements, increase maximum fines and administrative monetary penalties, clarify that incomplete price disclosure is a false or misleading representation, expand the definition of business practices that may constitute abuse of dominance, allow private access to the Competition Tribunal to remedy an abuse of dominance, and improve the effectiveness of merger notification requirements and other provisions.

Even with a budget implementation bill, our work can make a difference. I would like to thank all the senators who contributed to its development.

In closing, honourable senators, these are just a few of the important measures included in Bill C-19. They will help implement many of the commitments that the government made in Budget 2022 to grow Canada's economy and make life more affordable for Canadians.

I hope my honourable colleagues will join me in supporting this bill.

Thank you for your attention.

Some Hon. Senators: Hear, hear.

Hon. Éric Forest: Would the senator agree to answer a question?

Senator Moncion: Yes.

Senator Forest: Bill C-19 would provide $750 million in funding for public transit and housing. Do you have some idea of how the money will be divided between the two?

As far as housing is concerned, there is an unbelievable shortage in every category, but especially for single people and families. Was this bill drafted with the intention of addressing this issue and, more specifically, the intention of providing larger homes for families and smaller homes for seniors?

My past profession brings me to clarify something. I would like the Hansard to be corrected to reflect that it was the Union des municipalités du Québec that wrote us a letter, not the Fédération québécoise des municipalités.

Senator Moncion: Thank you for the question. As for the $750 million in funding, the first condition attached to this transfer to the provinces is that the funding has to be matched. In other words, the provinces also have to chip in $750 million.

The division between public transit and housing will be made based on the financial losses associated with public transit, with the remainder going to housing. We expect that the bulk of the money will go toward housing.

• (1800)

There is also a responsibility at the municipal level, as municipalities are being asked to work with local stakeholders, the provincial government and the federal government to address demand for affordable housing in the different categories that you mentioned. I will correct the acronyms of the different groups in the speech. Thank you for your question.

Senator Forest: Municipalities are very important because they initiate the projects, especially social housing projects, with community housing associations. With CMHC, there used to be a municipal contribution of 20% to 25%. In recent years, and we will see the impact of all of this, the municipalities' participation has increased and is now above 45%. That's why they aren't building housing anymore. Do you think that the municipalities' financial participation will be brought back down to 25%?

Senator Moncion: Thank you for the question. I can check, Senator Forest. What I can tell you is that that information was not in the bill, but your question could be put to the government for clarification. I am certain that someone from my office is listening and could potentially provide you with an answer.

[*English*]

The Hon. the Speaker: Honourable senators, it is now six o'clock. Pursuant to rule 3-3(1), I'm obliged to leave the chair until eight o'clock unless there is leave that the sitting continue. If you wish the sitting to be suspended, please say "suspend."

An Hon. Senator: Suspend.

The Hon. the Speaker: I hear a "suspend." The sitting is suspended until 8 p.m.

(The sitting of the Senate was suspended.)

(The sitting of the Senate was resumed.)

• (2000)

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Moncion, seconded by the Honourable Senator Pate, for the second reading of Bill C-19, An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures.

Hon. Paula Simons: Honourable senators, I rise today to speak to Bill C-19, the budget implementation act, but specifically to one small section, one that adds a new crime to the Criminal Code. Bill C-19 creates a new offence to prohibit the communication of statements, other than in private conversation, that willfully promote anti-Semitism "by condoning, denying or downplaying the Holocaust." This new crime would be punishable by up to two years in prison.

I should explain that the Holocaust loomed large in my childhood imagination, growing up in Edmonton in the 1970s. My father's family was one of the very few in Alberta who succeeded in sponsoring some relatives who were able to escape Nazi-occupied Austria in 1938, just weeks before Kristallnacht.

Mackenzie King was a polite anti-Semite and his government's attitude towards Jewish refugees was "none is too many," yet my father's mother's cousin Luba was somehow able to win the support of her MP from Vegreville, who, according to family lore, fought for a special order-in-council for visas to allow my grandmother's first cousin Rosa, her husband Hans and their small children, George and Helen, to escape Vienna just in the nick of time.

That was little short of a miracle at a time when Canada had pretty much barred the door to desperate Jews. Most European Jews were not so lucky. In September 1941, the Nazis occupied the area around Poltava, in today's Ukraine, where my grandmother's family had come from. By November of that year, every single Jewish resident of the once-thriving Jewish community had been executed. The Nazis didn't even wait to send them off to concentration camps; they simply shot them all.

On the other side of my family, my mother's family were ethnic Germans living in that same part of the Soviet Union we now call Ukraine. When the Nazis invaded, my mother's father and uncles were forced into the German army. My grandfather perished on the Russian front. But one of my great-uncles — tall, blond, courtly and educated — ended up recruited into the elite Waffen-SS. He spent the rest of his life trying to atone for that.

The war was something we talked about a lot when I was growing up, but I can pinpoint the moment when the Holocaust became more real for me. I was 8 years old and in Grade 3. That year, I had a Jewish teacher who decided, in a well-meaning way, that I might enjoy the little fairytales written by Anne Frank, stories she wrote while hidden away in her Secret Annex sanctuary. I don't think my teacher meant for me to read Anne Frank's diary itself, but I tracked it down and read it anyway, transfixed. I wasn't too young to read the words, but I was far too young for the horror of its message. My 8-year-old self spent the next few weeks searching my parents' house looking for places where we could hide when the Nazis came for my family. Would the basement cedar closet do? No, too small. The furnace room? Too obvious. The attic crawl space? Just maybe.

As I got older, I became a bit obsessed with the Holocaust. I used my Scholastic Reading Club form to order every book I could get, from *When Hitler Stole Pink Rabbit* to William L. Shirer's *The Rise and Fall of Adolph Hitler*.

I knew the German people hadn't been monsters, that they'd been ordinary people like my own beloved aunts and uncles. Yet, millions of ordinary Germans had been corrupted, seduced and intoxicated by the toxic lure of anti-Semitism to the point where they were willing to look the other way or even enthusiastically participate as their Jewish friends and neighbours and relations were rounded up, arrested and massacred.

I looked a lot like Anne Frank. At the age of 8 I had to ask myself: Would the day ever come that my nice ordinary Canadian neighbours might turn on me and people who looked like me? I had dark, curly hair; thick glasses and a prominent nose. Was that all it would take for someone to want to kill me, to see me as subhuman?

Let me be very clear. There is no good-faith way to debate or question the reality of the Holocaust, one of the best-documented, well-researched atrocities in modern history. Anyone who questions or denies or diminishes its full horrors is not engaging in authentic, intellectual debate; they are spreading

hate. Holocaust deniers are hatemongers. There is no way to question the reality of the Holocaust that is not, by definition, anti-Semitic.

Downplaying the Shoah is every bit as morally vile. When people who oppose masking rules pin yellow stars to their chests or dare to compare vaccine mandates to the Nazi war crimes prosecuted at Nuremberg, their facile appropriation of the horror of the Holocaust dishonours the memory of all those who died and all who survived.

Yet, my friends, today I rise in this chamber to oppose Bill C-19's efforts to criminalize the denial or downplaying of the Holocaust.

Attaching criminal sanctions to such statements and actions won't reduce anti-Semitism. It will, however, give neo-Nazis and racists a platform to play the martyr, to wrap themselves in the rhetoric of free speech and to claim the public spotlight as faux defenders of intellectual freedom. Is this funny? I don't think this is funny. Maybe you could stop laughing. How do I know this will not work?

Forty years ago, Alberta was convulsed in a political and legal debate over Holocaust denialism and the trials of Jim Keegstra. Keegstra had been a high school social studies teacher in the Town of Eckville. He taught his students that the Holocaust was a hoax, faked by an international Jewish conspiracy to control the world and the global economy. He taught this horrific hate for years without being stopped by any principal or school trustee until one heroic mom, Susan Maddox, fought to have Keegstra fired. He was finally fired in 1982. Two years later he lost his teaching licence.

So far, so good, you might think. But in 1984, Jim Keegstra was also charged criminally with the willful promotion of hatred. That case, fought all the way to the Supreme Court twice — there and back again — finally concluded in 1996 with a conviction and a sentence of 200 hours of community service — a pyrrhic victory at best.

The landmark legal precedent in the Keegstra case established the constitutionality of Canada's hate speech legislation. And, alas, that probably means that Bill C-19's Holocaust denial provisions are also perfectly constitutional. Yet, far from silencing Keegstra, those 12 years of appeals and retrials gave him a bully pulpit to posture as a false defender of civil liberties and to amplify his conspiracy theories. He basked in national notoriety.

• (2010)

In 1987, he was catapulted from being a village schoolteacher to the leader of the federal Social Credit Party. Meanwhile, Keegstra's lawyer, a fellow Holocaust denier named Doug Christie, used the profile he gained while defending Keegstra to become the founder and leader of the Western Canada Concept party. And all the while Keegstra and Christie were gleefully making headlines and spreading lies, anti-Semitic hate crimes in Alberta actually spiked.

The morals of my story? First, we don't need this new law. As the Keegstra case amply demonstrates, denying the Holocaust is already a hate crime; this is redundant. Second, and more importantly, prosecutions of this type often have ugly, unintended consequences.

This stealth addition of a Criminal Code amendment to a budget bill could well open the door for hundreds of new hate-mongers and bigots to claim victimization, to strut and fret their hour upon the stage, spreading their bile via every social media channel, in ways Keegstra could never have imagined or dreamed of. He had a small captive audience of Eckville schoolchildren. Today, anti-Semites and Holocaust deniers spray their bile to hundreds of thousands of people with the click of a keyboard.

I have spent my whole life as an advocate for free speech and civil liberties. I learned that from my father of blessed memory, from my uncle of blessed memory, from my grandfather of blessed memory, all passionate Jewish civil libertarians who taught me early to not trust in the power of the state as protection.

I do not believe we can fight hate by criminalizing speech, however vile or deluded. Nor by silencing it, even if we could. Driving hate underground to curdle and fester doesn't help.

Once we start to criminalize speech, to police what is true and what is false, once we use the Criminal Code and the criminal courts to silence the nasty political fringe, we start down a path that leads precisely where we do not wish to go. And the decision to slip this new crime into the budget act, where it cannot be properly debated and voted on independently, will only convince the paranoid and the conspiracy-prone that they are correct. This strategy plays right into the hands of the far-right thought scammers and grifters.

I have no doubt that the government is well intentioned in its Bill C-19 efforts. Many in the Jewish community have advocated for this very change. Many in the Jewish community will disagree with me vehemently, and, if I know my Jewish community, they won't be shy to tell me so.

But my father had a line he liked to use, half-jokingly and half not — "Is it good for the Yidden?" he would ask. "Is it good for the Jews?" This bill will not be good for the Jews, nor for Canada. Nothing good comes from this.

Instead of criminalizing lies, instead of criminalizing speech, let us fight back with truth. Let's be sure we tell the real stories of the Holocaust and of the rise of Hitler, over and over. Let's record and remember and reamplify the stories of the survivors, before they themselves are overtaken by time and no longer with us to bear witness.

Especially now, with hate crimes of all kinds multiplying, with social media platforms aerosolizing hate, racism and anti-Semitism, with hate-mongers and neo-Nazis marching proudly through our streets, with mainstream Canadian parliamentarians embracing and spreading conspiracy theories and classic anti-Semitic tropes, with a new Abacus Data poll showing that one third of Canadians believe in some version of the anti-Semitic great replacement theory, we must call out lies and champion truth.

But instead of arresting and charging every online hate-monger and troll — a next-to-impossible task — we should focus instead on making the big tech platforms more transparent and more accountable for the way their algorithms privilege and promote incendiary hateful speech.

Indulge me with one last story. In 2019, Library and Archives Canada acquired an extraordinary book for its collection. Compiled by German intelligence in 1942, the slim volume details how and where to find the Jews of North America. While it begins with American data, the final section of the book contains detailed demographic data for Canadian Jews.

Pasted onto the inside front cover? A bookplate reading, "Ex Libris Adolf Hitler." Yes, we now own Hitler's personal guide to hunting the Jews of Canada. It contains reports on the populations, mother tongues and national origins of the Jews of Canada. It starts with Montreal, Toronto and Winnipeg, the cities with the largest Jewish populations at the time.

But the book also notes, precisely, that there were 1,622 Jews in Calgary, and 1,057 in Edmonton. Among those Jews so carefully counted in Edmonton? My own father, my aunties, my uncles and my grandparents.

Just think of it: Hitler had every single member of my Jewish-Canadian *mishpachah* enumerated. My own family, living their quiet Canadian lives. Every single Canadian Jew located, counted and described.

When I held that book — Hitler's book — a book that the architect of the Shoah likely held in his own two hands, I felt a literal chill — I was holding a concrete testament to Nazi plans to bring the Holocaust to Canada.

The Holocaust wasn't just something that happened "there" to "them." It could have happened right here. And the hate and the evil that engendered the Holocaust? They're not gone. They are all around us once more.

I used to laugh at the memory of my 8-year-old self, the one who tried to hide from imaginary Nazis in her mother's closet. But when I see anti-vaxxers sporting their mocking yellow stars, when I see people marching down the streets in our capital waving swastikas, when I read the emails in my inbox spewing anti-Semitic rhetoric, I'm not laughing anymore.

But criminalizing Holocaust denial or Holocaust downplaying, whatever that might be, is not the answer. This bill is dangerous. This bill is misguided. It aids and abets those who would divide and destroy us. And for the sake of the Canada I love, the country that gave my family sanctuary and peace, I cannot and will not support it.

Some Hon. Senators: Hear, hear.

[*Translation*]

Hon. Julie Miville-Dechêne: Senator Simons, first, thank you for this speech. I'm not going to ask you questions about the Holocaust or your views on it. I believe that, as a Jewish person, you are in the best position to talk about the Holocaust, since you know about it through your family. You have certainly taken a critical look at it.

Having said that, you expanded on your comments by saying that the web is full of hate speech, and that is true. We are faced with an incredibly difficult societal problem that clearly can't be solved with criminalization. We are faced with the web, where there is a tremendous amount of prejudice against youth, women and vulnerable people. When young people take their own lives because of the hate they see and hear on the internet, we have to wonder about freedom of expression, which I believe in, as do you. We were both journalists at one time, but we can no longer react to this issue, because it is difficult to respond individually.

My question is as follows: What are we doing to combat the hate circulating on the internet, not specifically about the Holocaust? We can't say that we're going respond in such and such way and that it will be met with the truth.

[*English*]

The Hon. the Speaker pro tempore: Senator Simons, your time has expired. Are you asking for more time from the chamber to answer the question?

Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: Agreed to for five minutes.

[*Translation*]

Senator Simons: Thank you, Your Honour. That is a good question. It's the real question, the question that is central to this debate. I would like to answer in French, but that is a little harder for me.

[*English*]

I was just having dinner with Taylor Owen, who co-authored a report with Madam Justice Beverley McLachlin that came out just last month that looked at this question of how we deal with online harms. Their argument is that you cannot deal with each individual act of hate speech or each individual harmful act. You must turn to the platforms themselves.

We had a very interesting conversation at dinner this evening about what they have been doing in Britain and what they have been doing in the EU to try to compel the platforms, such as Facebook and Twitter, to be more transparent and more accountable and to do a kind of risk assessment so that they can look at the great volumes of complaints.

I think that is where we have to begin, by asking those giant tech platforms to be more accountable, not just for what they allow to be posted, but for what their algorithms choose to put to the top of the page. Because when something provokes a strong response, YouTube, Facebook, Google, that's what boosts their metrics. So stuff that is often the most hateful and the most incendiary is the stuff that gets fed to the most number of people.

• (2020)

I don't think that it is useful to criminalize the vile, hateful stupidity of each individual Canadian. We have to go to the source of the poison in the well. That is probably a bad metaphor because that was always the canard against the Jews, namely, that they were poisoning the well. Perhaps that's why it came to my mind so flippantly. In truth, until we as a society are willing to confront what we are doing, not much will change.

Honourable senators, how is it possible that, in Canada, in 2022, we have mainstream politicians trafficking in the tropes of anti-Semitism? What are we doing to call it out? What are we doing to say, "I read *The Rise and Fall of Adolf Hitler* when I was 10 years old. I know how this story goes." It is incumbent on each and every one of us in this chamber to ask ourselves whom we are supporting. To whom are we donating? What causes are we countenancing? What are we going to do to make sure that our capital and our country are not overrun by people whose intentions are nothing but evil?

Hon. Rosa Galvez: Would the honourable senator accept a question?

Senator Simons: Yes.

Senator Galvez: I see a lot of parallels with what you are saying and the issue of diffusion pollution and source pollution. I am also for tackling the source instead of dealing with the upstream consequences.

Time is passing from the issue with the Jewish people and the world. There will soon be fewer people who have lived that experience. As you have said, how can we keep this memory alive so we don't ever forget?

Senator Simons: There are provisions in this same budget to provide more funding for facilities, for museums and such that recognize the history of the Holocaust. We don't have a lot of time left to get oral histories from the survivors and to capture their memories on video and audio.

As horrible as the Holocaust was, in time, it will retreat into history. Unfortunately, anti-Semitism has not been forgotten. During the last two years of COVID, in particular, it has accelerated and it has come back — not from the dead, but like a zombie. Holocaust denialism is as real now as it was 50 years ago. It is absolutely essential, first, that we record and remember those who suffered while they are still here to bear witness. Even the survivors who are left were mostly children at the time.

With every other horror in the world — and, goodness knows, there have been plenty of other horrors and other genocides — and with every year that we slip further and further away, what worries me is not just that we will forget the Holocaust but that we will forget the lessons of the rise of Hitler. We see strong men in countries around the world engaging in behaviours that would have looked very familiar in 1934 and 1935. As much as we have to remember the victims of the Holocaust, we also have to remember that we are all the descendants of the world left in the wake of the Holocaust. If we can't learn those lessons from history, the consequences for future generations will be extremely problematic.

Hon. Ratna Omidvar: Honourable senators, I rise today to speak on the budget implementation act, and I will focus my remarks on areas that I have directly interacted with.

Before I go there, I want to thank a few outstanding female parliamentarians in this chamber and on the Hill. At the top of my list is Senator Moncion. This is not the first time she has sponsored a complicated budget implementation act with many moving parts. She has done that with her thoroughness, her grace and her elegance and brought us up to the point today.

I also want to thank Senator Marshall, who has always helped us understand different money matters, whether they are the BIA or the budget or the different supply bills. I continue to listen to her with great attention.

Finally, I want to thank another woman, again on matters of finance. It's not an accident that I am thanking women on matters of finance. This is the Honourable Minister Chrystia Freeland, Minister of Finance, who has embraced proposals that may not be part of the government platform but come from private impulses either in the House or in the Senate. I really hope that there will be a time when I will want to thank the more than a few good men on the Hill on the same item.

The BIA includes four measures that first found life either in the Senate or in Commons public bills. They include Bill C-241 by Conservative MP Chris Lewis, which sought to amend the Income Tax Act for travel expenses for tradespersons. We have heard Senator Moncion comment on this.

The second is Bill C-250 by Conservative MP Kevin Waugh, who would amend the Criminal Code to provide a prohibition on the promotion of anti-Semitism. We have just heard Senator Simons on this.

The third and fourth measures reflect proposals that I tabled here in the Senate which were debated, studied and approved by this chamber.

I also want to thank Senator Wetston and his contribution to the BIA in terms of the Canadian Competition Act, which has already been noted. I think this is proof that some good ideas — I would say "not all good ideas" after having heard from Senator Simons, but some good ideas — no matter from which party or corner of the Senate or the Hill they emanate from, can and do find a home in government legislation. It requires hard work, the patience of Job and a good measure of good luck. Above all, it demonstrates yet again that good ideas have long legs.

I would like now to turn to the two measures in Bill C-19 that are voiced on the two bills now included in different ways in the BIA: Bill S-217, the Frozen Assets Repurposing Act; and Bill S-216, the Effective and Accountable Charities Act.

Let me start with Bill S-217, the Frozen Assets Repurposing Act. I want to remind myself and all others who are listening in that this gem of an idea did not come from me. It came from civil society, the World Refugee & Migration Council. They have been integral as thought leaders and influencers in this important initiative.

I welcome the measures that the government has put forward in this bill. They are very similar to Bill S-217. Therefore, I have decided that my bill will not move forward once their bill becomes law because the government's proposal follows the principle of my bill, which is to repurpose already sanctioned assets held in Canada to benefit the victims of the criminal activities, whether these victims are individuals, communities or nation states.

However, there are a few differences that I believe deserve to be highlighted. The BIA, the government's proposal, not only covers corrupt individuals, as I proposed, but also extends to entities such as corporate entities. I support this improvement in the bill as it casts a wider net to catch those who are aiding and abetting corrupt regimes. It also includes a measure to include crypto-currencies as assets, which I had not thought about. In this way, the government has actually improved on the proposal that we sent to them.

Another principle of the bill was transparency and accountability. Here, the government's proposal takes a slightly different route. One of the key components of my proposal was the use of the courts to determine if the assets could or should be repurposed, how they should be repurposed and to what accountability. This was designed to ensure due process for everyone involved, including the corrupt official.

In the government's version of this proposal, the courts will be involved, but their participation will be limited to the verification and ownership of the assets. They will not be tasked with redistribution of the assets to the victims. Once the courts have completed their investigation and made a decision, the assets will be liquidated and paid into the government for redistribution. The government will then be responsible and accountable to the victims and to Canadians.

Colleagues, I believe this is one area that needs a bit of further thought by think tanks, by stakeholders and by government. The government must repurpose the assets in an open, transparent and accountable way and take — as much as they can — politics out of this equation.

• (2030)

Big questions need to be asked, such as: Who should receive the assets? Should it be the countries of origin or a country that is seeking restitution, such as Ukraine? Or would it be individual victims as opposed to communities or nation states? How would the assets be distributed? What accountability mechanisms are needed? These are important questions that need to be answered, because the government surely does not want to be accused of inappropriate distribution of funds or, worse, appropriation of funds for their own use. Although I'm sure it won't go that far.

The last difference I would like to highlight is actually a bigger reason for concern. The budget implementation act, or BIA, does not include a public registry which would list the individual entity or the assets they held in Canada. Instead, the information would remain under lock and key. I know that the government is moving forward with a beneficial ownership registry in 2023, which may alleviate some of our concerns. However, I fear this may not be enough. Indications, at this stage, are that the registry will cover only federally regulated businesses, and this would likely create a loophole as entities that incorporate provincially would not be included. We should keep this in mind when their proposal for a beneficial ownership registry comes our way.

Finally, on this point, we learned recently from the RCMP that over $123 million in assets in Canada has been effectively frozen in the last six months alone. That does not cover all the assets frozen under the Special Economic Measures Act or the Justice for Victims of Corrupt Foreign Officials Act, also known as Sergei Magnitsky Law. It just covers a small slice of them. I've always been challenged when people have asked me how much money there is. Now, we know. It is not billions of dollars, but it is not chump change either.

We also know that the concept I have tabled is not new. Switzerland has been repurposing assets for the last 10 years and has repurposed roughly US$22 billion worth of assets. France brought into force a similar law a few years ago, and neither of them has been accused of breaking international law.

Let me now shift to Bill S-216, a bill that was debated, studied, approved and sent to the House of Commons and whose aim is to enable accountable and empowered relationships between charities and non-charities. In the BIA, the government went so far as to say their amendment reflected the spirit of Bill S-216, the proposal that I tabled.

I would like to, again, remind colleagues that it was the charitable sector — and by that I mean the many charities spread across our nation in every corner, in every sector — that was squarely behind the efforts of Bill S-216. They included Imagine Canada, Canada's umbrella group of charities; Cooperation Canada, which deals with international development; the Canadian Centre for Christian Charities; and the United Way Centraide Canada, as well as 42 of Canada's top charity lawyers who, in two open letters, all called for a change to this law. I want to say, again, that I was simply the parliamentary instrument to move their ideas forward. They worked, advised and pushed parliamentarians to take note of this issue. I tip my hat to them.

The government's proposal adopts the principle of my bill, which is to enable charities to work in an empowered, yet fully accountable manner, with non-charities. However, once again — and it is their right to do this — the government used a different route, and this different route had, frankly, a bit of a rocky start. It was surprising to us that the government's original language in the BIA was more prescriptive than the current law. It put into

law a number of prescriptions, as opposed to leaving them as guidance, that the charity must fulfill when working with a non-charity. This was problematic in many ways.

As I have mentioned before, charities want and need to have strong accountability measures. However, the government, in its original version of the amendment in the BIA, provided a list of prescriptions that had to be met no matter the size, scope, type or purpose of the charity's partnership with a non-charity. This was problematic because not all partnerships are the same, and not all accountability measures fit those partnerships. We heard from the ground that this prescriptive way would make it riskier for charities to work with non-charities, and no responsible director on the board of a charity would authorize their charity to take the risk of going down a path which could result in the delisting of their charitable status.

After much mobilization in April and May by the sector and through my collaboration with the Minister of Finance's office, with Conservative MP Philip Lawrence, who sponsored Bill S-216 in the House of Commons, and NDP MP Daniel Blaikie, the House of Commons Finance Committee unanimously amended the BIA to get rid of these prescriptions. Instead, the accountability measures will be determined in consultations and in guidance. This will better fit the size and the complexity of the sector as it goes forward.

Once again, I thank the government for being open to and flexible in listening to this last-minute hurrah that we had to engage in and for being prepared to change and adapt their response. I want to commend the government for keeping their lines of communication open.

However, as always, there is no complete path to perfection, colleagues. There is a new amendment, which has given rise to some concern. It is the new anti-directing rule. Directed gifts are fairly common, but the new amendment will put a stop to this. For example, there are a lot of Canadians and organizations who want to help fund aid efforts for the situation in Ukraine. As drafted in this amendment, it is conceivable that all donations given to the Red Cross that are directed by donors to efforts in Ukraine could be grounds for the loss of charitable status, because those are directed gifts. A directed gift is when I give money to a charity, and I direct the charity to give money to *x*,*y* and *z* somewhere else.

I have, however, in further conversations with the Minister of Finance's office, been assured that the government will take a soft approach to this amendment, that it will be applied in a reasonable way by the CRA and that it would not limit the creation and participation of Canadian charities in pooled funds. I believe and I sincerely hope that the government will follow through on this promise, but the sector and I will continue to work with the government and monitor the progress to ensure that it follows through with the amendments or else someone in this chamber, likely me, will table an amendment at some time in the future.

In conclusion, I support these measures in the BIA. I'm encouraged that the government has recognized individual actions by parliamentarians. Good ideas, a lot of hard work and persistence, and, above all, the voice and leadership of civil society can move issues that we care about a long way. Thank you, colleagues.

Hon. Brent Cotter: Would Senator Omidvar take a short question?

Senator Omidvar: In 30 seconds, absolutely, senator.

Senator Cotter: I was impressed by your presentation and I thought there was only one absence. In your list of women senators who are contributing to this, I thought there was one shortcoming, and I'm asking whether you would be open to adding the name Ratna Omidvar to that list?

Senator Omidvar: I am not in the same class as my colleagues Senator Marshall and Senator Moncion. I'm happy to take their lead. Thank you.

Some Hon. Senators: Yes, you are.

Hon. Rosemary Moodie: Honourable senators, I rise today to speak to the budget implementation act. A few weeks ago, I was honoured to be invited to give a keynote address at a conference led by Campaign 2000, a leading group in the fight against child poverty.

I remarked then that when I was first appointed to the Senate in December of 2018, I could have never imagined the societal upheavals that would follow soon after: the murder of George Floyd, the rising prominence and the reaction to the Black Lives Matter movement, climate emergencies becoming increasingly prevalent in Canada and around the globe, economic crises and, of course, the COVID-19 pandemic. Simply put, Canadian society, our views and priorities have changed so much in such a short amount of time.

Of course, COVID was the accelerator, forcing us to examine the gaps in our society we had ignored for so long. It reinforced for Canadians that an economy is about people and that, regardless of the stock market or the annual GDP, if Canadians are living in poverty, struggling to access services or unable to build a life for themselves and their families, then, colleagues, our economy is not working.

• (2040)

COVID taught us once more about the collective imperative of our economy and that it only truly works if it works for all Canadians. Our approach to public policy has not reflected this collective obligation for over half a century, and we are now living with the consequences of these decisions.

Lack of housing, inadequate and insufficient public services, food insecurity and so many other issues are rooted in an approach to public policy that has forgotten that our role as parliamentarians is to build our country, our society, on a vision of equality and of equity for all.

Lacking in some significant ways, Budget 2022 is, in my view, a timid step in the right direction for many Canadians. For many others, it falls short. I want to take some time this evening to discuss what this budget means for children and youth. There are some good things in the budget. One of the most important investments announced was $625 million over four years for child care infrastructure.

As I outlined last year, universal and affordable child care will have life-changing effects for millions of families, unleashing the economic potential of parents — mainly women — and ensuring more children have the early care and education that can set them on a path of a life of happiness, success and productivity.

The agreements with provinces and territories to lower costs are going to increase demand and address the need for physical space. This investment is needed and it is timely.

The budget also includes several other important commitments, including a $4 billion housing accelerator fund that would seek to build 100,000 homes in the next five years, a $25 million pilot project to make menstrual programs available to all who need them and $5.3 billion over five years for dental care. These new programs will directly impact millions of Canadians for the better. In this respect, the government is to be congratulated.

Nonetheless, I do feel that, in some important aspects, this budget fails to tackle some of the most pressing social issues and presents a vision for the future that is, in large part, timid and somewhat lacklustre.

Colleagues, despite all the good things that Budget 2022 does, I believe that, overall, it has left children and youth behind at a time when they need our support the most. One in five children in Canada lives in poverty; for status First Nation children, it's one in two.

The increased cost of living has made it harder for more Canadians to make ends meet and has increased the struggle for those who barely got by before. Yet, the budget is short on providing increased income supports for families, whether through an increased Canada Child Benefit or any other supports.

One third of food bank users are children and one in eight families are food insecure. Yet, despite the admission that food insecurity will be increased due to the war in Ukraine, little has been done in the budget to address this pressing issue.

UNICEF Canada's most recent data indicates that only 55% of children and youth report a high level of child life satisfaction, while more than a quarter report feeling sad or hopeless for long periods of time. I have heard from many stakeholders in the pediatric medicine world that this budget offers little in the way of meaningful solutions to address youth mental health issues.

By applying a lens that focuses on children's needs and rights, it becomes evident that this budget contributes to a status quo that is not serving our children very well. Therefore, I would like to take a few minutes to discuss where bold and urgent action is needed to improve the status quo by sharing a few of the highlights from Canada's recent review by the UN Committee on the Rights of the Child.

The committee's concluding observations were published last week, painting a bleak picture of Canada's performance and outlining the ways that Canada must change if it respects the rights of children.

At the outset of its report, the committee called Canada's attention to issues surrounding the independent monitoring of rights: non-discrimination, the right to life, survival and development, abuse and neglect, children deprived of a family environment and the standard of living. They point to elements as fundamental as the right to life and survival and development as areas that require significant growth here in Canada. While this may not be surprising, it ought to be very disturbing for us.

Regarding independent monitoring, the committee urged Canada to establish a federal advocate for children similar to the one that I have championed in the past. This would be key to ensuring that all work at the federal level, including future budgets, is considered through a children's rights and well-being lens.

On discrimination in Canada, the committee was deeply concerned about:

> (a) The discrimination against children in marginalized and disadvantaged situations in the State party, such as the structural discrimination against children belonging to Indigenous groups and African-Canadian children, especially with regard to their access to education, health and adequate standards of living;
>
> (b) The apparent disparities in the treatment of children and their rights within the different regions and territories, especially with regards to children with disabilities, migrant children, children of ethnic minorities and others.

The committee went on to call for the end of structural discrimination in Canada. Budget 2022 does include some elements to continue tackling racial discrimination, but we would do well to hear this reminder of how grave these issues are. We would do well to understand that we are not doing enough in this area.

On the right to life, survival and development, the committee called on Canada to fully implement the Calls for Justice of the National Inquiry into Missing and Murdered Indigenous Women and Girls.

The committee also recommended Canada implement a national strategy on the prevention of violence against children, strengthen its preventative measures aimed at avoiding the removal of children from their families and revise its strategy to address water and sanitation issues on reserves.

Notably, regarding child poverty, the committee observed that Canada should:

> Ensure that all children and their families living in poverty receive adequate financial support and free, accessible services without discrimination . . .

These are some of the many areas where Canada would do well to improve. But the unfortunate truth is that we didn't need the UN to tell us about these issues because they are well known to us. This report was a reminder of a truth we know, a reminder that we need to be more ambitious in how we seek to ensure the rights of children are respected. So it makes me all the more disappointed with the budget and with its timidity.

The review by the UN Committee on the Rights of the Child concludes with a reminder that, in addition to our failures in a number of policy areas, we lack a comprehensive approach to ensuring the rights of our children and ensuring their well-being. Colleagues, this is an observation that should not surprise us. How do we get to our destination if we don't know where we're going? How do we build something better and stronger without a plan?

We will never get to that destination if we don't know where we're going and we will never build something stronger without that plan.

So what should we be doing?

First, Canada has not implemented comprehensive legislation on children's rights; this creates an important gap in our vision.

Second, we don't have a strategy. We lack a comprehensive approach to ensuring the rights of our children and for ensuring their well-being; a strategy to bring together the resources, ideas and energy currently being expended; a strategy that defines our targets and desired outcomes; a strategy that identifies the indicators that we would use to measure success and progress and that will help us to understand if we're advancing in our vision.

• (2050)

None of the necessary elements of success currently exist, and we need to change that. Colleagues, on many social issues, Budget 2022 will have a positive impact, although it fails to consider the many challenges facing our children and youth and their families. The status quo has left many behind, and it is time we identify a path toward progress.

I am looking forward to working with you all on this. *Meegwetch*, thank you.

The Hon. the Speaker: Are senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: It is moved by the Honourable Senator Moncion, seconded by the Honourable Senator Pate, that this bill be read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Hon. Yonah Martin (Deputy Leader of the Opposition): On division.

(Motion agreed to and bill read second time, on division.)

[*Translation*]

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

(On motion of Senator Moncion, bill referred to the Standing Senate Committee on National Finance.)

APPROPRIATION BILL NO. 2, 2022-23

SECOND READING

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate) , moved second reading of Bill C-24, An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2023.

She said: Honourable senators, I rise today in support of the appropriation bill for the Main Estimates 2022-23.

This appropriation bill would authorize payments to be made out of the Consolidated Revenue Fund for government programs and services. Through this bill, the government requests Parliament's approval of the planned spending proposals that are detailed in the Main Estimates 2022-23.

You will recall that the President of the Treasury Board presented the Main Estimates in the House of Commons on March 1, 2022.

These Main Estimates reflect the government's ongoing commitment to addressing Canadians' priorities, especially through investments in infrastructure, benefits for seniors and students, provincial transfers for health care and child care, and measures to reduce emissions and green our economy.

As you will see, the government is committed to maintaining economic support for individuals and businesses in order to help our economy recover from the COVID-19 pandemic.

[*English*]

The majority of expenditures in the Main Estimates are transfer payments made to other levels of government, other organizations and individuals. Transfer payments make up approximately 61% of expenditures, or $243.1 billion.

Significant changes in transfers to individuals are primarily related to elderly benefits, the payments for Old Age Security and the Guaranteed Income Supplement and assistance to students through the Canada Student Grants.

Through transfer payments, the government also provides significant financial support to provincial and territorial governments to assist them in the provision of programs and services, principally health care, as well as funding related to local infrastructure priorities, home care, mental health, early learning and child care.

The Main Estimates provide information on $397.6 billion in proposed spending for 126 organizations, including $190.3 billion in voted expenditures, and presented for information only, $207.3 billion in statutory expenditures. The voted amounts, I should also mention, represent maximum "up to" ceilings or estimates and, therefore, may not be fully spent during the year.

I want to remind colleagues that the actual expenditures will be included in the public accounts after the end of the fiscal year.

With respect to the statutory budgetary spending, it's $7 billion higher in these Main Estimates than it was in the Main Estimates for 2021-22. Some of the significant changes in statutory spending are due to increases in major transfer payments, most notably elderly benefits, which increased by $5.9 billion; the Canada Health Transfer, which increased by $2.1 billion; and fiscal equalization, which was up $1 billion over last year.

Also affecting statutory spending is an increase in Canada Student Grants of $1.5 billion, an increase in climate action incentive payments of $1.2 billion and a winding down of benefit payments to individuals under the Canada Recovery Benefits Act, which accounts for a decrease of $9.9 billion over last year.

[*Translation*]

Let me now review the overall planned spending for each government agency.

Honourable senators, of the 126 departments and agencies presenting funding requirements, 10 of them are seeking more than $5 billion in voted budgetary expenditures. They are the Department of Indigenous Services, which is requesting $39.5 billion; the Department of National Defence, which is requesting $24.3 billion; the Department of Employment and Social Development, which is requesting $11.4 billion; the Public Health Agency of Canada, which is requesting $8.4 billion; the Treasury Board of Canada Secretariat, which is requesting $7.8 billion; the Department of Foreign Affairs, Trade and Development, which is requesting $7.1 billion; the Office of Infrastructure of Canada, which is requesting $7.1 billion; the Department of Crown-Indigenous Relations and Northern Affairs, which is requesting $5.8 billion; the Department of Innovation, Science and Industry, which is requesting $5.5 billion; and the Department of Veterans Affairs, which is requesting $5.5 billion.

[*English*]

Colleagues, allow me to also highlight four organizations with the largest increases in voted expenditures. The first is a $26.1 billion increase for the Department of Indigenous Services Canada. As part of our country's ongoing journey toward reconciliation, the Government of Canada is committed to making the necessary investments to settle claims and support the infrastructure and services that are vital to Indigenous communities' physical, mental, social and economic health and well-being. The funding for the Department of Indigenous Services Canada includes an increase in funding for out-of-court settlements, an increase in funding for infrastructure in Indigenous communities and improvements for access to safe, clean drinking water in First Nations communities.

Honourable senators, while most Canadians have access to clean and reliable drinking water, many First Nation communities still face pressing water issues — something that has been further exacerbated by the COVID-19 pandemic. The legacy of colonial policies and consistent underfunding of water-related services and systems have affected overall quality of life, widened socio-economic gaps and reduced First Nations' participation in the economy. This needs to be corrected. Stronger and healthier communities with better community infrastructure lead to more prosperous communities.

• (2100)

That is why continued investments to lift all long-term drinking water advisories on reserves and to support daily operations and maintenance for water infrastructure on reserves are so important.

This funding will support First Nations in their work to provide reliable and secure access to clean water in their communities. It will also offer stable and long-term funding for the cost of operations and maintenance in an area that has been underfunded for far too long, yet is critical to ensuring the lasting impacts of these investments. The Government of Canada will continue to work in partnership with First Nations on long-term and sustainable solutions so that communities have access to safe drinking water for generations to come.

[*Translation*]

The second organization with the largest increase in voted expenditures is the Department of Employment and Social Development, with a $7.2-billion increase. That includes $5 billion in payments to the provinces and territories for the purpose of early learning and child care.

The Government of Canada has now signed agreements with every province and territory to deliver on its promise to build a Canada-wide affordable, inclusive, and high-quality early learning and child care system. This program is already making life more affordable for families. It is creating new jobs, getting parents back into the workforce, and growing the middle class while giving every child a real and fair chance at success.

More than half of Canada's provinces and territories have already seen reductions in child care fees and, by the end of 2022, average fees for regulated early learning and child care spaces will be cut in half across the country.

These agreements will improve access to early learning and child care programs and services and grow a strong and skilled workforce of early childhood educators, including through better wages and greater opportunities for professional development. They will also support a child care system that is inclusive of vulnerable children and children from diverse populations, including children with disabilities and children needing enhanced or individual supports.

Building a child care system that works for Canadians in every region of the country is a key part of the government's plan to make life more affordable for families while creating good jobs and growing the economy.

Through these signed agreements, the Government of Canada aims to create 250,000 new child care spaces across the country by March 2026 to give families affordable child care options, no matter where they live.

[*English*]

The third organization with the largest increase in voted expenditures is Infrastructure Canada, with a $2.5-billion increase. This funding will support targeted infrastructure programs such as those for affordable housing, green and inclusive buildings as well as wide-ranging programs such as the Investing in Canada Plan.

The Investing in Canada Plan is taking concrete action across five streams. First, it is building new urban transit networks and service extensions that will transform the way Canadians live, move and work. It is ensuring access to safe water, clean air and greener communities where Canadians can watch their children play and grow. It is providing adequate and affordable housing and child care, as well as cultural and recreational centres that will ensure Canada's communities continue to be great places to call home. It is providing safe, sustainable and efficient transportation systems that will bring global markets closer to Canada to help Canadian businesses compete, grow and create more middle-class jobs. And it is growing local economies, improving social inclusiveness and better safeguarding the health and environment of rural and northern communities.

[*Translation*]

The fourth organization with the largest increase in voted expenditures is the Department of Innovation, Science and Industry, with a $2.1-billion increase. This increase is almost entirely allocated to grants and contributions, in particular those to promote innovation, digital adoption and universal access to high-speed internet.

Honourable senators, Canadians' lives are moving more and more online. This is a challenge for communities without access to high-speed internet. These government investments will allow for increased access to education, health care, business opportunities and social connections. Communities will have the tools to more fully participate in social programs and economic opportunities, improving the health and well-being of their residents.

[*English*]

Turning now to the government's ongoing response to COVID-19, the planned spending for COVID-19 measures, including the Economic Response Plan, is $9.7 billion in 2022-23 — a decrease of $12.4 billion compared to the 2021-22 Main Estimates.

Funding for COVID-19-related measures includes a $3.3-billion increase for procurement and management of COVID-19 vaccines and supplies, $2.2 billion for further support for medical research and vaccine developments and $1 billion for additional COVID-19 therapeutics procurement.

The overall reduction of $12.4 billion in COVID-19 spending is largely attributable to the winding down of benefit payments to individuals under the Canada Recovery Benefits Act. These include a $4.2-billion decrease for the Canada Recovery Caregiving Benefit, a $2.3-billion decrease for the Canada Recovery Sickness Benefit and a $3.4-billion decrease for the Canada Recovery Benefit.

In addition, for the 2022-23 fiscal year, major economic response programs were enacted or amended by Bill C-2, An Act to provide further support in response to COVID-19, with benefits programs extending into the current fiscal year.

Bill C-2 extended wage and rent subsidies, increased the maximum number of weeks and extended the Canada Recovery Sickness Benefit and the Canada Recovery Caregiving Benefit and enacted the Canada Worker Lockdown Benefit Act to authorize the payment of the Canada Worker Lockdown Benefit in regions where a lockdown is imposed for reasons related to COVID-19. Such measures will continue to be guided by science and will evolve as needed.

[*Translation*]

Of course, in light of this spending, we need to ask ourselves serious questions about the viability of the federal public purse and our ability to pay for it all. The government assures us that everything looks good. The Canadian economy grew at an annualized rate of 3.1% in the first quarter of 2022, which raised the real GDP growth rate by 0.8% compared to its pre-pandemic level.

According to Budget 2022, GDP growth is one percentage point higher than projected in the fall economic and fiscal update. Canada went into the pandemic with the lowest net debt-to-GDP ratio in the G7, and we increased our relative advantage throughout the pandemic. Standard & Poor recently reaffirmed Canada's AAA credit rating, with a stable outlook. Even if the cost of servicing the public debt rises modestly in the coming years, it will remain well below what it was before the 2008 financial crisis.

Now, honourable senators, I'd like to talk about another key aspect of the history of the estimates, namely their significance in terms of transparency and accountability within our parliamentary democracy.

• (2110)

Each year, the Main Estimates and related documents provide a clear indication of how the government intends to allocate taxpayers' money and help ensure that spending is transparent and accountable. Budget cycle documents include the Main Estimates, supplementary estimates, departmental plans and departmental results reports. All of these documents, in conjunction with the public accounts, help parliamentarians scrutinize government spending.

Esteemed colleagues, as I do with every supply bill, I invite you to consult the Government of Canada's InfoBase, an interactive online tool that contains a wealth of federal data that can be useful in holding the government to account.

[*English*]

Honourable senators, the appropriation bill before us today is crucial to the government's ability to not only deal with the impact of the pandemic but also to provide support for Canadians and their businesses as the economy continues to recover and grow.

Before concluding, I want again to thank the members of the Standing Senate Committee on National Finance and its chair, Senator Mockler, for their usual diligence. Thank you to Senator Marshall also as critic of the bill. As we all know, as of late they have managed a heavy workload with the customary excellence with which we are all familiar. Thank you.

Honourable senators, I invite you to support this bill. Thank you. *Meegwetch*.

Hon. Elizabeth Marshall: Thank you, Senator Gagné, for your comments on Bill C-24.

I would like to make a few comments as critic. Just to start off, I want to make the point that Bill C-24 is supported by the Main Estimates. The Main Estimates for this year outlines almost $400 billion in budgetary spending authorities. Of that spending, $190 billion requires approval by Parliament, while $207 billion — or more than 50% — has already received parliamentary approval by legislation other than appropriation bills.

I'm going to comment on that later.

These Main Estimates also support the interim supply bill, Bill C-16, which we approved on March 31. The interim supply bill is actually an advance of the Main Estimates, which will allow the government to operate until June 30 when the main supply bill is expected to be approved by Parliament. Of the $190 billion, $75 billion outlined in the Main Estimates has already been approved by Appropriation Bill No. 1, and this bill, Bill C-24, requests approval of the remaining $115 billion.

Since the budget was tabled on April 7, these Main Estimates do not include any of the new budget initiatives. As senators are aware, these two spending documents, the Main Estimates and the budget, outline two different spending plans by the government. This mismatch or misalignment of the Main Estimates and the budget has been a problem for many years, yet the government is taking no action to align their two spending plans.

The problem is further compounded by the 2022-23 Departmental Plans, which were tabled March 2, because they do not include any information on the new budget initiatives. Readers and parliamentarians are left with the question of what the performance indicators are for the new budget initiatives. In other words, we're expected to approve the funding for new budget initiatives even though they do not know what the funding is supposed to achieve.

The $190 billion being requested in these Main Estimates is 50% higher than the $126 billion requested in 2019-20, the last fiscal year preceding the pandemic. The increase of $64 billion represents an increase of 50% compared to 2019-20, which clearly indicates that government spending has not returned to pre-pandemic levels.

I remain concerned that there is no process for the systematic review of statutory expenditures. Over 50% of the expenditures outlined in the Main Estimates are already approved by existing legislation. While officials testifying at the Standing Senate Committee on National Finance are sometimes questioned on statutory expenditures, a systematic review would be beneficial. I have written the steering committee of the Standing Senate Committee on National Finance, requesting that we initiate a special project to study statutory expenditures. I am hopeful that, with the support of my colleagues on the committee, we can make recommendations to correct this problem.

In addition to statutory expenditures, there are other items that fall outside of the voted and statutory expenditures. Last year, these other "items not included in the estimates" — that's the name they are given — totalled $100 billion and were not subjected to review by the Standing Senate Committee on National Finance. Parliamentarians would also benefit from a review of these other "items not included in the estimates."

The Parliamentary Budget Officer, in testimony before the Standing Senate Committee on National Finance, expressed his concern that, contrary to a government statement, the Main Estimates do not represent the government's spending plan as it fails to include any of the new measures outlined in the budget — nor do the Departmental Plans include any budget initiatives. He said that the Main Estimates hinder our ability to understand and scrutinize the government's funding requests, to track new policy initiatives announced in the budget or to identify the expected results of new budget initiatives.

I agree with his concerns.

Because the Main Estimates do not include any new budget initiatives, we have to search Supplementary Estimates (A), (B) and (C), trying to identify which new budget initiatives are being

funded. If Supplementary Estimates (A), (B) and (C) do not identify the budget initiatives as such, it is simply not possible to track these items.

For example, last year, Budget 2021 identified over 200 budget initiatives for the 2021-22 fiscal year at a cost of $49 billion. However, by the end of last year, we were told by Treasury Board in the final estimates document that $36 billion of the $49 billion had been funded, leaving us to wonder what happened to the remaining $13 billion.

The Parliamentary Budget Officer indicated that he supports the all-party recommendations of the House of Commons Government Operations and Estimates Committee to remedy the mismatch of the budget and the Main Estimates.

The recommendations include the following: First of all, Parliament should establish a fixed tabling date for the budget, and the tabling date should be early enough to ensure that the budget measures are included and incorporated in the Main Estimates. Also, the Departmental Plans should be tabled at the same time as the Main Estimates.

These changes would be consistent with the recommendations the Parliamentary Budget Officer made earlier this year, which include moving the publication date of the Public Accounts to no later than September 30. Last year, we didn't get the Public Accounts until about December 20, just before we adjourned for Christmas. So we waited nine months for the Public Accounts. We really need to have that document.

What I find in the Senate — I guess with all of government — is that there is a lot of attention given to the estimates and the budget. However, those are just plans. When the Public Accounts are released and provide the actual numbers, nobody looks at them. So we concentrate on all the planning documents to talk about how wonderful they are, but nobody ever looks at the Public Accounts to ask what exactly was spent or look at the Departmental Performance Reports and ask what exactly the money achieved. So we really should have those Public Accounts earlier in the year — September 30 would be good — and then we could use them when we do our review of Supplementary Estimates (B).

The other recommendation that the Parliamentary Budget Officer made was to require that the Departmental Results Reports be published at the same time. This year, I was asking where they were right up until we adjourned for Christmas. I think they were tabled probably February 2, so we waited quite a while for the Departmental Results Reports. But this is the information we need in order to do a good review of the Main Estimates and all the supplementary estimates when we conduct our review.

Overall, the Parliamentary Budget Officer is of the view that these changes would create a cohesive, intuitive and critically transparent financial decision-making process for legislators.

• (2120)

In his report on this year's Main Estimates, the Parliamentary Budget Officer highlighted the cost of three federal programs. Senator Gagné already mentioned them, but I wanted to mention them again because of the amount of money involved.

First, federal spending on elderly benefits, including Old Age Security, Guaranteed Income Supplement and other allowance payments, are expected to increase over the next four years from $68 billion in this fiscal year to $86 billion in 2026-27. Those elderly benefits are statutory payments, and given the significant cost of the programs and the projected increase over the next four years, it supports my opinion that more time should be spent studying statutory payments.

The second area highlighted by the Parliamentary Budget Officer is federal spending on health. The Canada Health Transfer is the largest federal transfer to provinces and territories, and it provides financial assistance to help pay for health care. It's calculated to automatically grow in line with the three-year moving average of nominal gross domestic product growth, with a minimum annual growth rate set at 3%. The Canada Health Transfer is also allocated to all provinces and territories on a per-capita basis.

The Canada Health Transfer is set to increase from $45 billion in 2022-23 to $56 billion in 2026-27. Those payments are also statutory.

Earlier this year, Canada's premiers asked the federal government for a $28 billion increase in federal transfers, which is significantly more than the $11 billion increase projected over the next four years.

The third area highlighted by the Parliamentary Budget Officer is Indigenous spending. Indigenous-related spending in 2017-18, before the creation of the two new departments, was $14.5 billion. These Main Estimates are proposing Indigenous-related spending of $45 billion: $6 billion for Crown-Indigenous Relations and Northern Affairs Canada and $39 billion for Indigenous Services Canada. Of the $39 billion for Indigenous Services Canada, $22 billion is for out-of-court settlements, while $20 billion of the $22 billion is for compensation for First Nations children.

While the Main Estimates indicate that $45 billion is requested, the recently tabled Supplementary Estimates (A) indicate that these two departments are requesting an additional $3.5 billion. In its study of the Main Estimates, which supports Bill C-24 and the first appropriation bill, Bill C-16, the Standing Senate Committee on National Finance received testimony from 11 departments and organizations, as well as the Parliamentary Budget Officer and the minister responsible for the Treasury Board.

I'm going to go through some of the departments. I know Senator Gagné mentioned some of them, but I wanted to mention a couple just to highlight a few issues that are important to me and that I hope would be important to the committee.

Infrastructure Canada is requesting $7 billion compared to $4.5 billion requested last year. That is a significant increase of $2.5 billion, or 56%. The $2.5 billion increase is primarily attributed to an increase in grants and contributions for public infrastructure and communities investment oversight and delivery.

I'm going to mention a few dollar amounts because the dollar amounts that we see in the Main Estimates in the budget are so big that I think we have become desensitized to their size.

There is $51 million in grant funding being requested for the Green and Inclusive Buildings program. There is $40 million in grant funding being requested for a number of programs, including the Natural Infrastructure Fund, Canada's Homelessness Strategy and the Smart Cities Challenge.

In addition, $2.5 billion is being requested for the Investing in Canada Infrastructure Program. I want to give a few comments on that particular program. The Investing in Canada Plan spans 21 federal organizations that include 13 federal departments, 2 Crown corporations and 6 regional development agencies. It's a very significant plan.

Infrastructure Canada is the lead department for the Investing in Canada Plan and is responsible for meeting reporting requirements and overseeing the plan's implementation. It also houses the Investing in Canada Plan Secretariat, which is the central point for coordination of the plan. It has a big role to play.

Also being requested is $1.5 billion in the New Building Canada Fund and $468 million for the Public Transit Infrastructure Fund.

Given the significant spending and investments in infrastructure, there have been a number of studies undertaken in recent years. In 2017, the Standing Senate Committee on National Finance release two reports on the government's multi-billion infrastructure funding program. At that time, the government had planned to spend $186 billion on infrastructure over a 12-year period from 2016 to 2028. That's $186 billion.

The Finance Committee in its study identified significant problems in obtaining data on projects as well as results data on the infrastructure projects and programs. Last year, the Auditor General of Canada undertook an audit of the Investing in Canada Infrastructure Program, which was in response to a motion passed by the other place asking the Auditor General to audit the Investing in Canada Plan. They had very significant concerns about that infrastructure plan.

She concluded, among other things, that Infrastructure Canada, as the lead department, was unable to provide meaningful public reporting on the plan's overall progress toward its expected results.

I must say that we did a lot of work on Infrastructure Canada and the Investing in Canada Infrastructure Program. One of the things we noted was that the department has a big map on its website. You could click on certain areas, find out what projects were under way and identify exactly what was going on. But when you clicked on the icons, what you got was incomplete and dated information going back to maybe 2018 or 2017. I don't know why the map is even on the website.

When we received the Main Estimates, I was surprised by the increase in the funding request given that the department had received a very critical report from the Auditor General and has met only 16 of its 51 performance indicators. Both the Privy Council Office and Treasury Board of Canada Secretariat provide guidance and support regarding programs that cross several organizations. This would be one such program. I had expected that the significant increase in funding would be subject to improvements in program reporting and performance results by the department.

The next department I wanted to provide a comment on is Employment and Social Development Canada. They are requesting $11 billion in the Main Estimates this year compared to $4 billion requested last year. Senator Gagné also mentioned this because included in this $11 billion is $5 billion being requested for the new child care strategy. As of March, all 13 of the Canada-wide early learning and child care agreements have been negotiated and signed with the provinces and territories. As Senator Gagné said, they have included some objectives for the program, including a 50% reduction in fees, on average, to families by the end of 2022, a $10-a-day average fee by 2025-26 for all regulated child care spaces in Canada, the creation of about 250,000 new child care spaces by 2025-26 and the creation of between 52,000 and 62,000 new early childhood educator positions.

But most of the objectives are linked with the year 2025-26. Honourable senators may recall that I asked the minister responsible for the national child care program how many of those spaces and positions would be created each fiscal year to 2025-26. After all, the new spaces and positions will not suddenly be created at the end of 2025-26, but rather throughout the five years to 2025-26. While the minister indicated that this information is included in each jurisdiction's agreement, the information is actually not provided.

Given the estimated cost of that program over the five-year period, which is $27 billion, the government should disclose — and we should be told — how many spaces and positions should be created each year so that progress can be monitored annually and compared to the number of spaces and positions actually created. In addition, the departmental plan does not provide any targets for the creation of new child care spaces or child care positions. The Parliamentary Budget Officer also released a report on the daycare program and has indicated that he will be releasing additional reports in the future.

• (2130)

The Department of the Environment is requesting $1.9 billion in this year's Main Estimates, compared to $1.7 billion last year. They have allocated that $1.9 billion into five lines of business. Three of these indicate some increase, while one, conserving nature, is requesting a significant increase of $283 million, going from $325 million last year to $609 million this year. Grants and contributions also show a significant increase from $623 million last year to $770 million this year. Within the grants is the establishment of Canada's international climate finance program,

which is requesting $10 million in grants funding and $16 million in contributions. This is part of a $5.3-billion program announced in June of last year to help developing countries transition to low-carbon, sustainable development.

The department has indicated in its departmental plan for this year that it will continue to collaborate with its partners to establish proper governance. It's not established yet, they're working on it. But it was also confirmed by officials from Global Affairs Canada, who indicated that performance indicators will be developed separately for this $5.3-billion program.

The problem is that the department's results report for 2020-21 indicated that it has only met 8 of its 56 performance targets. Of the 86 organizations reporting on their performance targets, the Department of the Environment was one of the organizations with the lowest numbers of performance targets being achieved. The department needs to review its departmental plan, establish realistic performance targets and achieve results that would instill confidence that the money it is spending is actually achieving meaningful results.

The last department I wanted to mention is the Department of Veterans Affairs because they're requesting $5.4 billion in the Main Estimates, compared to $6.2 billion requested last year. Last month, the Auditor General released a report on the processing of disability benefits for veterans. Delays in the processing of disability benefits have been a long-standing problem that is yet to be resolved in the department. The report indicated that as of March 31, 2021, over 43,000 disability benefit applications were awaiting a decision, including first applications, reassessments and departmental reviews. While the department's service standard is to process 80% of their cases within 16 weeks, veterans applying for disability benefits for the first time waited a median of 39 weeks for a decision. RCMP veterans had to wait even longer for benefit decisions for first applications, which was 51 weeks.

Last month, the Minister of Veterans Affairs provided an update indicating that as of April 29 of this year, there were 11,000 applications of the 30,000 waiting to be processed that exceeded the 16-week processing standard, which was an improvement on the 23,000 from two years ago. This was consistent with information provided to our committee by officials. Department officials told the committee that their objective is to further reduce the backlog next year. So while there has been some improvement in processing times, the current statistics indicate that one in every three of the applications in the queue still exceed the department's service standard. Given the resources available to the government and provided to government departments, I fail to understand why veterans are still waiting so long to have their applications processed.

Honourable senators, before I conclude, I just want to go back and mention a couple of areas where, if the government could improve those areas, it would greatly assist parliamentarians and others in their review of the Main Estimates. If we could have a budget and a Main Estimates that includes all the budget initiatives, we wouldn't have to be going back and forth between all the supplementary estimates, trying to track and see if those specific budget initiatives have been implemented. If we could get the departmental plans at the same time we get the Main Estimates, if we could get the public accounts by September 30, that would be great. And if we could get the departmental results reports to be published at the same time as the public accounts, that would be a big step forward.

This concludes my comments on Bill C-24 and the Main Estimates for 2022-23. I will wrap up by extending my appreciation to all of my committee colleagues for their enthusiasm and excellent questions in committee. I would also thank our chair, Senator Mockler, our committee clerk, our analysts and all of the staff who make our meetings productive. Thank you very much.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

(Motion agreed to and bill read second time, on division.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

(On motion of Senator Gagné, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

[*Translation*]

APPROPRIATION BILL NO. 3, 2022-23

SECOND READING

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate) moved second reading of Bill C-25, An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2023.

She said: Honourable senators, I'm pleased to rise today to introduce the appropriation act for the 2022-23 Supplementary Estimates (A). Through this supply bill, the government is requesting Parliament's approval of the planned spending proposals that are detailed in the Supplementary Estimates (A).

During each supply cycle, the appropriation bill acts as a vehicle through which payments from the Consolidated Revenue Fund are authorized for government programs and services. The voted amounts in these supplementary estimates represent maximum "up to" ceilings or estimates. It is therefore incumbent on me to remind honourable senators that it is not out of the ordinary if these amounts are not fully spent over the course of the year. The actual expenditures are listed in the public accounts, which are tabled after the end of the fiscal year.

As this chamber will remember, the estimates are part of a series of documents, comprised of the Main Estimates, supplementary estimates, departmental plans, departmental results reports and the Public Accounts. These documents provide important information and help us, as parliamentarians, scrutinize government spending.

The reality is that Canadians have the right to know how public funding is spent. Honourable colleagues, that is a key aspect of our parliamentary system. Documents such as Supplementary Estimates (A) provide the Canadian public with a detailed and transparent breakdown of how taxpayers' money is used. They also help hold the government accountable for its spending.

[*English*]

Honourable senators, the Supplementary Estimates (A), 2022-23 were tabled in the Senate on May 31. With these Supplementary Estimates (A), the government continues to invest in Indigenous communities, the health and well-being of Canadians and their security, while also recognizing the importance of supporting international partners who share our democratic values.

As you well know, the supplementary estimates provide information on additional spending requirements that were not sufficiently developed at the time of the tabling of the Main Estimates or that were subsequently refined to reflect recent changes. As a whole, they provide information on $8.8 billion in new voted spending for 26 federal organizations. They also provide information on an additional $860 million in planned statutory budgetary spending.

• (2140)

Colleagues, these planned expenditures will support a variety of critical priorities, including support for Indigenous children and families, public health, support for Ukraine's defence and measures to address climate change.

For context and awareness, it is helpful if we break down spending found in the estimates for the current fiscal year. The 2022-23 Main Estimates presented $397.6 billion in planned budgetary spending to deliver programs and services to Canadians. This consisted of $190.3 billion in voted expenditures and $207.3 billion in statutory spending already authorized through other legislation.

With Supplementary Estimates (A), the estimates to date for 2022-23 amount to $407.2 billion, including $199.1 billion in planned voted expenditures and $208.1 billion in forecast statutory expenditures. This represents a 4.6% increase in planned budgetary voted spending over the 2022-23 Main Estimates.

As honourable senators will be aware, there is a difference between voted and statutory expenditures. Voted expenditures require annual approval from Parliament through an appropriation bill like the one before us today. Statutory spending, on the other hand, is approved by Parliament through legislation other than an appropriation bill.

With that being said, allow me to provide a breakdown of some of the major items in these estimates.

[*Translation*]

The government is focusing on priorities that are important to Canadians, including $3.6 billion to support priorities for Indigenous communities; $1.4 billion for existing and emerging for COVID-19 treatments; $853 million to support Canada's response to the invasion of Ukraine; and $323 million to encourage the use of zero-emission vehicles.

Notably, five organizations are each seeking $500 million or more.

These include the Department of Indigenous Services, which is seeking $2.2 billion; the Public Health Agency of Canada, which is seeking $1.5 billion; the Department of Crown-Indigenous Relations and Northern Affairs, which is seeking $1.4 billion; the Department of Public Safety and Emergency Preparedness, which is seeking $823.6 million; and the Department of National Defence, which is seeking $500 million.

Let me further detail these supports.

[*English*]

First, I want to speak to supports for Indigenous Canadians and their communities. Honourable senators, as part of our ongoing journey towards reconciliation, the Government of Canada is committed to making necessary investments to settle claims and support the infrastructure and services that are vital to Indigenous communities' physical, mental, social and economic health and well-being.

Together, the departments of Indigenous Services and Crown-Indigenous Relations and Northern Affairs are proposing $3.6 billion in new spending in these estimates. This includes $2.1 billion to implement compensation agreements relating to First Nations Child and Family Services and Jordan's Principle programs, including immediate initial reforms in child and family well-being programs and infrastructure; $900 million for negotiated specific claim settlements; $146 million for partial settlement of Gottfriedson litigation; $130 million for the Federal Indian Day Schools Settlement Agreement; $99 million towards addressing the ongoing legacy of Indian residential schools; and $75 million announced in Budget 2022 to support affordable housing and related infrastructure in the North. When combined with the funding in the Main Estimates, the Department of Crown-Indigenous Relations and Northern Affairs plans on spending approximately $3.3 billion on specific claims.

Colleagues, these investments are not only necessary but vital to help towards reconciliation.

[*Translation*]

Canadians from coast to coast have experienced various natural disasters brought on by climate change.

The science is clear: These destructive events will become increasingly more common.

As the government works to achieve its climate plan goals, it also realizes that Canadians who have been affected by natural disasters need support and relief.

These supplementary estimates provide $823.6 million in funding to reimburse provinces' and territories' costs for disaster events that occurred across the country over the last decade.

Funding will cover costs associated with the 2016 wildfires in Fort McMurray, Alberta, and the 2017 wildfires in Saskatchewan and British Columbia; the 2017 ice storm in New Brunswick; the 2017 spring floods in Newfoundland and Labrador and in Quebec; and, more recently, the 2020 spring floods and heavy rainstorms in Manitoba.

These funds will go to the Disaster Financial Assistance Arrangements, which provide provincial and territorial governments with federal support to help cover response and recovery costs.

[*English*]

Honourable senators, these Supplementary Estimates (A) also propose funding for one of Canada's staunchest allies, Ukraine. Indeed, Canada stands shoulder to shoulder with Ukraine and its people. As honourable senators well know, the government has already taken several steps to provide support. Canada has sent humanitarian and military aid to Ukraine since the invasion began and is taking measures to support displaced Ukrainians as they arrive in Canada.

These Supplementary Estimates (A) include approximately $853 million for Canada's response to the invasion, and $500 million is proposed for military aid, including non-lethal and lethal equipment, weapons and associated training, maintenance and management.

Support isn't just about weapons and equipment. Indeed, $352.7 million is proposed for special immigration measures for Ukrainian refugees. These measures include chartered flights, temporary hotel accommodations, application processing, a dedicated hotline for immigration questions, settlement and income support.

Honourable senators, I commend the work the government has been doing in helping settle displaced Ukrainians. A special pathway was created to facilitate the immigration process by eliminating many of the usual visa requirements. The Canada-Ukraine Authorization for Emergency Travel, or CUAET, helps Ukrainians and their family members come to Canada as quickly as possible and provides them with the opportunity to work and study while in Canada.

Ukrainians may apply for a three-year open work permit at the same time, and most of the usual requirements associated with a visitor visa or work permit will be waived. The government understands that Ukrainians who come to our country may have a lot of uncertainty about their future. They are looking for stability as they get back on their feet. This is why Ukrainians who are already in Canada have the option to extend their visitor status, work permits or study permits so they can continue to live and work or study in Canada temporarily.

[*Translation*]

Honourable colleagues, on a different front, Canada continues to be engaged in a fight against the COVID-19 pandemic.

We have come a long way and learned a lot. We know that taking precautions like wearing a mask helps reduce transmission. We also have vaccines and therapeutics that are helping stave off severe illness.

But we know that we cannot get too complacent. It's important to remain vigilant with this ever-changing and mutating virus.

• (2150)

That is why the Supplementary Estimates (A) propose $1.8 billion to support the government's response to the pandemic.

As honourable senators will note, this builds on the $9.7 billion in planned spending for COVID-19 measures, including the economic response plan, that was in the Main Estimates 2022-23. This includes $1.4 billion for the Public Health Agency of Canada to procure additional COVID-19 treatments to meet the needs of provincial and territorial health systems.

As the Canadian entertainment industry recovers from the pandemic, $150 million from these estimates would go to Telefilm Canada to extend the Short-Term Compensation Fund for Canadian audiovisual productions until March 31, 2023. There is also $102.5 million for the pan-Canadian Sero-Surveillance Consortium for studies to determine the extent of COVID-19 infections and immune responses in the Canadian population. Finally, $100 million is earmarked for the Department of Finance to improve school ventilation.

Senators will note that this was proposed statutory spending found in Bill C-8, the Economic and Fiscal Update Implementation Act, 2021, which received Royal Assent last Thursday.

Honourable senators, taken together, the proposed investments contained in these supplementary estimates will help move us forward as we make our way out of the pandemic and, as we do, the government's commitment to transparency will remain steadfast. The Government of Canada is committed to making it easier for parliamentarians and Canadians to hold it to account for its spending decisions. For example, the Government of Canada's InfoBase is an interactive online tool that presents a wealth of federal data in a visual way.

The ability to exercise oversight is one of the most important roles that parliamentarians can play on behalf of our citizens. To do this well, parliamentarians must have access to accurate, timely and easy-to-understand information on government spending. GC InfoBase provides that information. It contains the main and supplementary estimates, along with other data related to government finances, people and results.

Publishing expenditure datasets on such digital tools is central to providing parliamentarians and Canadians with more information on where public funds are going, and how they are being spent. I want to point out that the government welcomes feedback on its documents and processes.

In conclusion, honourable senators, the bill I have the honour to introduce today is important to implement the government's commitment to the health and well-being of Canadians and other key priorities. The 2022-23 Supplementary Estimates (A) show that the government is responding to immediate needs while continuing to make long-term investments that benefit all Canadians.

[*English*]

Before concluding, please let me once again thank all the members of the Standing Senate Committee on National Finance for their thorough and important work. Now, honourable senators, I urge you to support this bill. Thank you.

Hon. Elizabeth Marshall: Honourable senators, I would like to begin by thanking Senator Gagné for her comments on Bill C-25. As the critic of the bill, I have a few other comments.

First of all, Bill C-25 is supported by Supplementary Estimates (A), and it is requesting $8.8 billion in voted expenditures, so that's requesting parliamentary approval, and it is forecasting a net increase of $860 million in statutory expenditures. This will increase budgetary expenditures for this year to $199 billion and increase the forecast in statutory expenditures to $208 billion.

With respect to Supplementary Estimates (A), in my last speech, I was talking about tracking the budget initiatives, and we don't see new budget initiatives in the Main Estimates because the Main Estimates are tabled before we get the budget. When we get Supplementary Estimates (A), we start looking for these new budget initiatives and usually Supplementary Estimates (A) includes a substantial number of new budget initiatives, but this year, Supplementary Estimates (A) only includes seven new budget initiatives, and that's expected to cost $1 billion.

There are a total of 211 initiatives in Budget 2022, which are estimated to cost over $7 billion. So if you take the 7 that are in Supplementary Estimates (A) and the 22 which already have statutory approval, there are still 182 budget initiatives yet to be funded in future appropriation bills. We'll be looking for them in Supplementary Estimates (B), Supplementary Estimates (C) and maybe even in the subsequent year.

This is just to give you an idea as to how difficult it is to keep track of the new budget initiatives, because the Main Estimates and the budget document are misaligned. They just don't match up. We still have a lot of tracking to do for those 182 budget initiatives.

Last year, Supplementary Estimates (A) included about half of last year's budget initiatives, and there were probably about 280 budget initiatives last year.

I don't know why the government has included so few Budget 2022 initiatives in Supplementary Estimates (A), and the Parliamentary Budget Officer couldn't provide any insight into that issue.

In addition, the $8.8 billion being requested in Supplementary Estimates (A) includes $1 billion for six initiatives from last year's budget. You can see how there has to be a matching up between all of the estimates documents and the budget.

There are the 2021 initiatives. They have yet to be funded in future initiatives, but given the lack of information to determine which budget initiatives from last year remain unfunded, we can't identify them. I did ask the Parliamentary Budget Officer if he could identify them, and he did say that they would go back and look, but I don't expect them to be able to identify them.

I think part of the issue is with the $13 billion gap that I mentioned in my speech on the earlier bill.

Honourable senators may recall that I've mentioned many times the difficulty in tracking budget initiatives to determine if and when they are funded. The Parliamentary Budget Officer recently indicated that he's now going to track the implementation of budget initiatives, and he's going to present them in an online tracking table on his website.

That's good news, and it's going to greatly assist us as parliamentarians in our review of government spending, but he's only providing us a stopgap solution to a problem that's created because the government is tabling two spending documents. He's just trying to give us some assistance in matching up the two spending documents.

The Supplementary Estimates (A) document provides details on the $8.8 billion being requested in Bill C-25. I went back and looked at how much time our committee spent studying the $8.8 billion, and my colleagues on the Finance Committee probably won't be surprised to hear me say this, but we spent three and a half hours studying the $8.8 billion being requested. I just felt that it simply wasn't enough time to properly review how the government intends to spend the $8.8 billion. What I find in committee when we have so many competing obligations with regard to the budget bill, the Main Estimates and Bill C-8 is that we are in a time crunch.

• (2200)

When you don't have enough time to get answers to your questions, you feel that you haven't done a good job of analyzing the information that is in the estimates document.

So we received testimony from Treasury Board officials, the Parliamentary Budget Officer and officials from five organizations requesting funding in Bill C-25.

The Department of Indigenous Services is requesting $2.2 billion for compensation and reforms to the First Nations Child and Family Services program and to Jordan's Principle program. So this $2.2 billion increases total departmental funding for this year to $42 billion.

Both programs are ongoing, and testimony indicated that our committee should further review the funding for these two programs and how they are delivered and administered, because when we received testimony from the departmental officials, there were a number of questions that were unanswered and there was, especially on my part, some confusion with regard to how the two programs overlapped.

The Public Health Agency of Canada is requesting $1.5 billion. That would bring their total funding to date for this fiscal year to $10 billion. So the $1.5 billion being requested will be used to buy additional therapeutics for existing and emerging COVID-19 treatments.

Officials did tell us that most of the $1.5 billion was funding that was reprofiled, and I've been trying to find some information on the source of the reprofiled funds and haven't quite come to a solution on that, so that's another area that has to be earmarked for follow-up.

The Parliamentary Budget Officer indicated that the Public Health Agency of Canada is requesting funding for medical research and vaccine development. Funding for medical research and vaccine development has decreased significantly while funding for therapeutics, vaccines and personal protective equipment and rapid tests have increased, demonstrating the changing needs of the pandemic.

The Department of Public Safety is requesting $823 million, which will bring their total funding for this year to $1.7 billion. The $823 million is for the Disaster Financial Assistance Arrangements program, and will be used to provide money to provincial and territorial governments to help pay for the costs of responding to and recovering from natural disasters.

The $823 million is part of the $1.9 billion announced in last year's budget, which raises the question as to why the funding is only being requested now. This is part of the age-old problem where we're getting budget initiatives from one year ending up in a document of another.

The Department of National Defence is requesting half a billion dollars in military aid for Ukraine. Officials also provided us with an update of their defence policy and their defence investment plan, which is being updated and released this fall. In past meetings, the committee has had difficulty in obtaining current information on the department's capital projects. The Parliamentary Budget Officer issued a report in March analyzing the status of the departmental capital spending plan for 2017 to 2037.

The department has planned to spend $164 billion on 348 capital projects over a 20-year period. The analysis shows slippage in the first four years of the plan to 2021, and we already identified that in earlier committee meetings. So this funding has now been pushed to future years, notably 2023 to 2028, thus presenting further challenges to the department to rapidly wrap up capital spending during those five years. Departmental officials indicated that their updated investment plan will be released publicly in the fall of the year.

The Canadian Air Transport Security Authority also testified before the committee. They are requesting $329 million in addition to its base funding of $567 million, which is included in the Main Estimates. CATSA, as we know it, has been criticized over the past number of months for increasing lineups at airports and delays in screening passengers. That's been on the news quite prominently lately.

Their testimony focused on the reason for the delays in screening passengers. They indicated that 1,750 of their 7,400 screening officers were laid off during the pandemic, but only 1,250 returned to their jobs. They currently have 6,800 screening officers, and they are trying to recruit an additional 1,000 screening officers.

They said that the problem is not the adequacy of the funding. They said there would be sufficient funding if they received the additional $329 million, but the problem relates to the labour market and the staffing of screening officer positions by third-party screening contractors.

In addition, staff must be adequately trained, as part of the problem can be attributed to new staff or even returning staff. Although officials told us otherwise, passengers who travel extensively have said that there are problems regarding the consistency of screening procedures from one airport to another, as well as problems regarding secondary screening.

The Department of Finance has indicated an increase in statutory authorities in the amount of $1.2 billion primarily attributable to interest on mature debt and other interest costs. This brings the total cost of interest so far this year to just over $24 billion compared to the $26.9 billion forecasted in Budget 2022. We anticipate additional increases in interest costs will be included in Supplementary Estimates (B) and (C) since interest rates are rising and that interest costs will probably exceed the $29.6 billion forecasted in Budget 2022.

As we know, the government has committed in Budget 2022 to rein in spending by $9 billion through two expenditure review exercises. The Parliamentary Budget Officer told us that, based on the information provided by government, operating and capital spending can only grow by 0.3% a year in order to achieve the $9 billion in savings. That restraint, he said, will be more severe than what was undertaken in the early 2000 and 2010s. In addition, there were several government priorities announced in the electoral platform last year which are not yet included in the budget, as well as other pressures to increase

spending. He did not believe it was credible that there will be the level of spending restraint required to meet the $9 billion in savings.

Treasury Board officials also testified at committee. One of the frustrations in reviewing requests for funding is the lack of performance information from organizations which are requesting large sums of money. Many of these organizations do not meet a substantial number of the performance indicators, so we do not know what the funding has achieved. Despite the lack of accountability information, funding to these departments and agencies continues to increase. The Department of Indigenous Services, Infrastructure Canada and Environment Canada are three of these departments.

Treasury Board is responsible for the financial oversight of governments, specifically overseeing how the government spends money on programs and services and how it managed. It also oversees the financial management of government departments and agencies. In other words, it's the manager of the public purse.

Treasury Board also has a policy on results which requires each department and agency within a minister's portfolio to publish a departmental plan and departmental results report. Given that many departments receiving significant and increasing levels of funding do not meet many of their objectives and do not demonstrate what their funding is achieving, the question remains as to why Treasury Board does not require improved accountability information from those departments.

Because there is insufficient results information available for many departments and agencies, it's not possible to determine what results are being achieved. Funding provided is often in the millions and billions of dollars.

Treasury Board should require departments and agencies to include relevant performance targets for all funding approved and insist that those departments and agencies meet a significant number of their performance indicators. Without this information, we do not know what the funding provided is actually achieving.

These conclude my comments, honourable senators, on Bill C-25. I again would like to thank my colleagues on the Finance Committee for their support, for their questions and for their enthusiasm, and also to send them off to the chair and to all the staff who support us during our committee meetings. Thank you.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

(Motion agreed to and bill read second time, on division.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

(On motion of Senator Gagné, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

• (2210)

[*Translation*]

PRIVACY COMMISSIONER

MOTION TO APPROVE APPOINTMENT ADOPTED

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of June 8, 2022, moved:

> That, in accordance with subsection 53(1) of the *Privacy Act*, Chapter P-21, R.S.C., 1985, the Senate approve the appointment of Mr. Philippe Dufresne as Privacy Commissioner, for a term of seven years.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

(*At 10:11 p.m., pursuant to the order adopted by the Senate on May 5, 2022, the Senate adjourned until 2 p.m., tomorrow*.)

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P20709

This is Exhibit “D” to the affidavit of **Mallory Kelly,** affirmed
remotely and stated as being located
in the city of Gatineau, in the province of Quebec,
before me at the city of Ottawa in the province of Ontario,on
July 4, 2025, in accordance with
O. Reg 431/20, Administering Oath or Declaration Remotely.

SENATE SÉNAT
CANADA

DEBATES OF THE SENATE

1st SESSION • 44th PARLIAMENT • VOLUME 153 • NUMBER 58

OFFICIAL REPORT
(HANSARD)

Wednesday, June 22, 2022

The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Wednesday, June 22, 2022

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

THE HOSPITAL FOR SICK CHILDREN

Hon. Sabi Marwah: Honourable senators, it is not often that a Canadian institution is ranked as best in the world, yet that just happened when *Newsweek* magazine named the Hospital for Sick Children, or SickKids, as it is commonly referred to, as the top pediatric health centre globally.

The Hospital for Sick Children is Canada's most research-intensive hospital and the largest centre dedicated to improving children's health in this country. It is also a hospital of firsts — first in discoveries, first-of-its-kind treatments and first in innovations.

About 18 months ago, SickKids performed another first. A young girl named Ellie with a rare genetic condition had persistent self-injurious behaviour that was causing her significant harm. Her doctors at SickKids used deep brain stimulation to almost eliminate those behaviours, and today, Ellie is thriving.

The past two years of COVID have tested the hospital in new and profound ways. SickKids played a key role in COVID child vaccination efforts in Ontario. It supported adult-care hospital partners by accepting adult patients for the first time in its history. It implemented PCR school-testing programs, advised governments and assisted community on COVID matters and accelerated its virtual care offerings to ensure its children continued to receive the care they needed.

Despite COVID, SickKids continued its pioneering work on precision child health, which will shift it from a one-size-fits-all approach to medicine to health care that is individualized to each patient's unique needs.

A mental health strategy was developed that will help SickKids achieve unprecedented outcomes in children and youth mental health through collaborations, innovations and partnerships. It could not have come at a better time, given the mental health impacts on children and youth. An organization-wide equity, diversity and inclusion strategy, or EDI strategy, was launched that provides a path of critical inclusion of diverse people and communities across SickKids care, research and education initiatives so that everyone can feel acknowledged, valued and respected.

Colleagues, the *Newsweek* ranking is a testament to the extraordinary nurses, doctors, researchers and staff of SickKids who have shown continual resilience, innovation, commitment and a willingness to go above and beyond to carry out their mission while keeping patients, families and staff safe.

I know this first-hand because I had the privilege to serve on their board of trustees for a decade.

Congratulations to SickKids on being named the top children's hospital in the world, and thank you for all you do for children and families across Canada and around the world. Thank you.

Hon. Senators: Hear, hear!

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Danielle and Michael Allen. They are the guests of the Honourable Senator Plett.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

CANADA DAY

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, as we approach Canada Day and the end of the parliamentary session, I want to take the opportunity to say a few words about our great country.

As Canadians, we are blessed to live in one of the freest and safest nations on Earth. We have much to be proud of and grateful for. As a beacon of hope, democracy, opportunity and liberty, Canada has attracted millions of people from around the world, who came here to make this country their home. Every year, hundreds of thousands of newcomers are welcome with open arms to join our growing Canadian family and way of life.

This Canadian way of life is one that is rooted in a distinct set of values: prosperity, security, hard work, opportunity, free enterprise, human rights, community and compassion, to just name a few. But the most foundational principle of this great country is, without a doubt, freedom, for without freedom, none of the other things I just mentioned would be possible.

The last few years have been difficult for everyone. Faced with challenging times brought on by a pandemic, Canadians have been divided, isolated and often pushed to the limit. Governments have repeatedly tried to restrict our freedom, yet I believe the adversity we have faced will only strengthen our resilience and make us an even better country. In spite of governments' best efforts to divide us and turn us against each other, I believe Canadians will emerge more united than ever — with one another, their families, their friends and fellow Canadians.

Our governments have also tried to use the pandemic as a means of getting rid of proper accountability and diminishing the role of parliamentary oversight. That needs to end. The hybrid Parliament needs to end. Canadians expect us to ensure proper parliamentary oversight, which is our role and our duty to them.

As Canadians, we must never forget that the freedoms we enjoy every day cannot be taken for granted nor are they free; our freedoms came at a very costly price, paid for by men and women far braver than any of us, who sacrificed themselves in the fight against tyranny so that future generations could be free. It now falls upon us to guard that freedom and protect it for those who will follow us.

Canada is a great country worth celebrating, and it is my hope that we will do just that, not just this upcoming Canada Day but every day. Thank you.

Hon. Senators: Hear, hear.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Sierra Quinn Mckinney and Jodee Mckinney. They are the guests of the Honourable Senator Simons.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

NEW ARTS INITIATIVES

Hon. Patricia Bovey: Honourable senators, before we rise for the summer, and our work in the regions begins, I want to update you on several initiatives from over the past year. They are exciting and empowering. One provides Inuit art and artists with new opportunities. Another will give Canada's Black artists new exposure to audiences and profile at home and abroad.

• (1410)

Yesterday, on Indigenous Peoples Day, the Inuit Art Foundation and the Canada Council for the Arts made a groundbreaking announcement. Together, after years of Inuit artists' lacking equal access to the funding opportunities of southern artists, a much-needed, national, Inuit-specific, multidisciplinary granting pilot program has been developed in the spirit of self-determination.

Launching next winter, 2022-23, it will support the Inuit Art Foundation's work with Inuit communities throughout Inuit Nunangat and in the south. Distributing over $100,000 in its first year, it will assist Inuit artists in every aspect of their careers, self-expression and self-determination across disciplines. It will increase access to and awareness of artists' work in both private and public milieus. It will give greater access to art markets at home and abroad. The project also offers capacity-building opportunities for Inuit program officers and assessment juries. Inuit community feedback will ensure artists' needs will be met. Inuit art was Canada's face abroad for years. I am delighted it will be again.

Simon Brault, Director and CEO of the Canada Council for the Arts, said:

> . . . Inuit artists, we intend to enable the pursuit of sustainable careers in arts and culture and to contribute to capacity building within communities across Canada.

Another major initiative grew from the work of Canada's Black content steering committee for Canada's participation in the Pan African Heritage Museum, opening in Ghana next year. A newly formed collective, Canadian Black Artists United, is launching its inaugural event at the Canadian Museum for Human Rights in Winnipeg this Sunday.

Artist Yisa Akinbolaji, whose work was in the Senate's first Honouring Canada's Black Artists presentation, is their inspiration. I am honoured to be their guest speaker. The leadership of Black artists from across this country who work in all disciplines and with whom I have been working closely these past several years has been stellar. Canada's contributions to the virtual and actual exhibitions of the Pan African Heritage Museum will be exciting, honest, challenging and innovative, as they look to the past, present and future.

Colleagues, I thank all involved in both these initiatives for their dedication, tenacity and vision as they ensure these empowering steps to more equitable and sustainable careers.

JULIE BOISVENU

TWENTIETH ANNIVERSARY OF DEATH

Hon. Pierre-Hugues Boisvenu: Honourable senators, I would like to thank you all for the messages so full of sympathy and human warmth that I have received since yesterday.

[*Translation*]

Tomorrow night, June 23, marks 20 years since my daughter Julie was abducted while walking to her car after celebrating her promotion to manager at a Sherbrooke company. She was held captive, raped and murdered by a repeat offender. Her body was found 10 days later in a ditch outside the city.

Twenty years ago, this tragedy forever scarred an entire community. Since then, I have dedicated my life to victims of crime, to their families, and to defending their hard-won rights. This tragedy was the reason I was appointed to the upper chamber.

I have always believed that parents do not choose their children, but that children choose their parents. From the first night she disappeared, I knew deep down that Julie was gone. I knew she would never come back, and I believe that she was steering my life towards something other than a quiet retirement, as I used to say at home.

Julie would be 47 years old today. She would probably be an accomplished wife and mother. I often imagine what my life would have been like if I had not lost my daughters, but I can't imagine my life without the mission that their tragic and untimely departures instilled in me, that is, a need to reach out to families who have had a loved one brutally stolen from them.

Julie taught me so much, in life and in death. She possessed strength of character and never looked back despite facing the kind of tremendous challenges that can prevent us from putting our lives, our dreams and ourselves back together. Her strength inspires me to keep working for victims involved in our justice system and to support victims' families. I am driven by hope and by love for life itself. We can offer them serenity only if we are not inhabited by anger, rage and a desire to take revenge on the offender.

Julie, my dear child, you left us 20 years ago, but it still feels like yesterday. To me, your face has not changed. Your strength of character and your love of life are always with me. Our father-daughter conversations in the backyard over an after-dinner glass of wine are forever etched in my memory.

Julie, I am proud of what we have accomplished for victims by creating the Association des familles de personnes assassinées ou disparues, supporting families and making changes to justice systems. We adopted the Canadian Victims Bill of Rights to give victims rights and a voice.

With these few words, I want to say a big thank you for being part of my life and the lives of your family and your many friends, although our time together was far too short. Thank you on behalf of the families I have supported after they experienced their own tragedies. There are so many such families that I have lost count.

I have another 20 months of work ahead of me in the Senate, and I still have things I want to accomplish with my honourable colleagues. Our commitment to do more to protect women who are victims of domestic violence will be a full-time endeavour. So many women are in need of help, protection and support. Together, we will do our best to support them and save lives.

Julie, thank you for joining me on this mission, our mission, and for guiding me towards the victims and their families to ensure that their voices are heard, as well as yours, so they are never forgotten. I am proud of you and your sister Isabelle, and I always will be. Julie, 20 years have passed since you left this earth, but time has no meaning for a father, and you will always be my little darling.

Thank you for everything, my dear. I love you.

Hon. Senators: Hear, hear!

[*English*]

NATIONAL INDIGENOUS HISTORY MONTH

Hon. Nancy J. Hartling: Honourable senators, I am proud to share a musical initiative from my home community in Greater Moncton, New Brunswick, called "The Gathering Chant." It honours National Indigenous History Month in Canada, as well as the Mi'kmaq people who have lived in New Brunswick and the Atlantic region since time immemorial.

I learned about "The Gathering Chant" from a friend of mine, singer-songwriter Michel Goguen, who performs under the name Open Strum. Michel supports various causes by writing and performing music that he gives freely to charities, who then distribute the songs to donors and volunteers. This time, he teamed up with Unama'ki Institute of Natural Resources, a non-profit organization based in Nova Scotia that unites traditional Mi'kmaq knowledge with science and applies this lens to conservation and environmental stewardship initiatives. The funds raised for the institute will go toward supporting their summer youth program called Nikani Awtiken.

"The Gathering Chant" is actually a traditional song in Mi'kmaq culture about getting together as a community. In the spirit of the song, Michel teamed up with Hubert Francis from the Elsipogtog First Nation in New Brunswick, who is a well-known singer-song writer. In 2019, Hubert received the prestigious East Coast Music Awards' lifetime achievement award.

In the spirit of community, Michel and Hubert gathered a truly international choir of 73 people from 22 different countries across the world to perform for the recording. Colleagues, I was delighted to be one of those 73 singers who contributed to "The Gathering Chant." We sang in the Mi'kmaq language, which was a new challenge for most of us.

We all learned so much, and so, too, will the youth who participate in the Nikani Awtiken program. This annual eight-day summer camp is an opportunity for Mi'kmaq youth to learn about their relationship with and responsibility toward the natural world and to develop skills based on traditional Mi'kmaq knowledge that will foster a closer relationship with their culture and the land. They will grow into a generation of Mi'kmaq youth empowered with leadership and environmental stewardship skills deeply informed by Indigenous knowledge.

I can't think of a better way to celebrate Indigenous History Month than through the sharing of music, culture and language. "The Gathering Chant" brought so many people together, and I hope that it will inspire those who listen to it. It was released on June 21, on National Indigenous Peoples Day in Canada. Thanks to those who made it possible, especially Michel and Hubert. *Wela'lioq*.

• (1420)

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Dr. Vlastimil Dlab, Fellow of the Royal Society of Canada, Helena Dlab, and Nancy Cruz. They are the guests of the Honourable Senator Deacon (*Nova Scotia*).

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

[*Translation*]

TRIBUTE TO ACADIA

Hon. René Cormier: Honourable colleagues, as we prepare to return to our home regions to be with our families and friends, I want to share a few thoughts with you on our national celebrations, which bring us together and give us an opportunity to recognize and celebrate the diversity of our Canadian culture.

Yesterday, we celebrated National Indigenous Peoples Day. In a few days, we will be celebrating the national holiday of Quebec and the Canadian francophonie, and then we will have Canada Day on July 1.

I would like to add an important holiday to that list, National Acadian Day, which is August 15. It is a day to recognize, affirm and celebrate the place that the Acadian people occupy in our country, while reminding everyone of the role this francophone nation has played in shaping Canada and its international diplomacy.

The president of the Société nationale de l'Acadie, an organization that represents the Acadian people on the national and international stages, noted the following in a brief submitted to the Standing Senate Committee on Official Languages, and I quote:

> The international success of the Acadian people shows the way forward for the renewal of cultural diplomacy policy in Canada. . . .
>
> Cultural diplomacy has been central to the Acadian national project for a century and a half. It is by forging links with the francophonie, including Quebec, France and the international Francophonie, that we have asserted ourselves as a people within the Canadian federation. . . .

In fact, with its Acadian World Congresses, its partnerships with Louisiana, Quebec, Saint-Pierre and Miquelon, and Belgium, its membership in the Organisation internationale de la Francophonie, or OIF, the creation of SPAASI, the strategy for the promotion of Acadian artists on the international stage, and the creation of OMIA, the office for international mobility in Acadia, the Société nationale de l'Acadie is an active and effective leader in Canada's civil and cultural diplomacy.

According to her December 2021 mandate letter, the Minister of Foreign Affairs has the following responsibility, and I quote:

> Celebrate Canada's unique francophone cultures through the promotion of the French language across our diplomatic missions and in our work to transform the Organisation internationale de la Francophonie.

The Acadian people and the Société nationale de l'Acadie are essential partners in this important mission. I fervently hope that the Government of Canada will fully recognize the monumental work being done in this regard by the Acadian people.

In closing, dear colleagues, I want to wish each and every one of you a peaceful and relaxing summer. I hope that, when the bells ring out for the Grand Tintamarre on August 15 and Acadians peacefully take to the streets to celebrate their existence and their contribution to the world, when men, women and children from all walks of life, all genders and all identities merrily bang on pots and pans and play improvised instruments to show that they belong to this proud people, the whole country will vibrate with joy. I hope you will all take part and that your hearts will be filled with gratitude for this people, who have been helping to build our magnificent country since 1604, a country where, despite what some may say, we are free to be ourselves, no matter our identity, background or origins. Thank you.

Hon. Senators: Hear, hear!

[*English*]

ROUTINE PROCEEDINGS

STUDY ON THE FEDERAL GOVERNMENT'S RESPONSIBILITIES TO FIRST NATIONS, INUIT AND MÉTIS PEOPLES

SIXTH REPORT OF ABORIGINAL PEOPLES COMMITTEE TABLED

Hon. Brian Francis: Honourable senators, I have the honour to table, in both official languages, the sixth report (interim) of the Standing Senate Committee on Aboriginal Peoples entitled *Not Enough: All Words and No Action on MMIWG* and I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

(On motion of Senator Francis, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

MEDICAL ASSISTANCE IN DYING

FIRST REPORT OF SPECIAL JOINT COMMITTEE TABLED

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I have the honour to table, in both official languages, the first report (interim) of the Special Joint Committee on Medical Assistance in Dying, which deals with the

review of the provisions of the Criminal Code relating to medical assistance in dying and their application, including but not limited to issues relating to mature minors, advance requests, mental illness, the state of palliative care in Canada and the protection of Canadians with disabilities, entitled *Medical assistance in dying and mental disorder as the sole underlying condition: an interim report* and I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

(On motion of Senator Martin, report placed on the Orders of the Day for consideration at the next sitting of the Senate.)

THE SENATE

NOTICE OF MOTION CONCERNING THE ELECTRONIC TABLING OF DOCUMENTS

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, until the end of the current session, any return, report or other paper deposited with the Clerk of the Senate pursuant to rule 14-1(6), may be deposited electronically.

NOTICE OF MOTION PERTAINING TO THE PROCEEDINGS OF BILL C-28

Hon. Marc Gold (Government Representative in the Senate): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding any provision of the Rules, previous order or usual practice:

1. if the Senate receives a message from the House of Commons with Bill C-28, An Act to amend the Criminal Code (self-induced extreme intoxication), the bill be placed on the Orders of the Day for second reading on June 23, 2022;

2. if, before this order is adopted, the message on the bill had been received and the bill placed on the Orders of the Day for second reading at a date later than June 23, 2022, it be brought forward to June 23, 2022, and dealt with on that day;

3. all proceedings on the bill be completed on June 23, 2022, and, for greater certainty:

   (i) if the bill is adopted at second reading on that day it be taken up at third reading forthwith;

   (ii) the Senate not adjourn until the bill has been disposed of; and

   (iii) no debate on the bill be adjourned;

4. a senator may only speak once to the bill, whether this is at second or third reading, or on another proceeding, and during this speech all senators have a maximum of 10 minutes to speak, except for the leaders and facilitators, who have a maximum of 30 minutes each, and the sponsor and critic, who have a maximum of 45 minutes each;

5. at 9 p.m. on Thursday, June 23, 2022, if the bill has not been disposed of at third reading, the Speaker interrupt any proceedings then before the Senate to put all questions necessary to dispose of the bill at all remaining stages, without further debate or amendment, only recognizing, if necessary, the sponsor to move the motion for second or third reading, as the case may be; and

6. if a standing vote is requested in relation to any question necessary to dispose of the bill under this order, the vote not be deferred, and the bells ring for only 15 minutes; and

That:

1. the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report on the matter of self-induced intoxication, including self-induced extreme intoxication, in the context of criminal law, including in relation to section 33.1 of the *Criminal Code*;

2. the committee be authorized to take into consideration any report relating to this matter and to the subject matter of Bill C-28 made by the House of Commons' Standing Committee on Justice and Human Rights;

3. the committee submit its final report to the Senate no later than March 10, 2023; and

4. when the final report is submitted to the Senate, the Senate request that the government provide a complete and detailed response within 120 calendar days, with the response, or failure to provide a response, being dealt with pursuant to the provisions of rules 12-24(3) to (5).

• (1430)

[*Translation*]

PARLAMERICAS

PLENARY ASSEMBLY, NOVEMBER 26, 29
AND DECEMBER 10, 2021—
REPORT TABLED

Hon. Rosa Galvez: Honourable senators, I have the honour to table, in both official languages, the report of the ParlAmericas concerning the Eighteenth Plenary Assembly, held as virtual sessions on November 26, 29 and December 10, 2021.

[*English*]

QUESTION PERIOD

PUBLIC SAFETY

ROYAL CANADIAN MOUNTED POLICE

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, my question today is again for the Leader of the Government in the Senate. This is a follow-up to yesterday's question, leader, about pressure put on the RCMP commissioner by the Prime Minister and Minister Blair to release information on the investigation into the horrific April 2020 shootings in Nova Scotia.

Leader, these are the notes of Superintendent Darren Campbell of the Nova Scotia RCMP:

> The Commissioner said she had promised the Minister of Public Safety and the Prime Minister's Office that the RCMP (we) would release this information. I tried to explain there was no intent to disrespect anyone however we could not release this information at this time. The Commissioner then said that we didn't understand, that this was tied to pending gun control legislation. . . .

Leader, I know your government isn't good at providing answers, but, now that you have had time to get a response, did Commissioner Lucki promise to use the mass murders in Nova Scotia to advance the Liberal government policy? Who in the Prime Minister's Office or in the minister's office talked to Commissioner Lucki about releasing this information?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question.

The independence of our law enforcement operations is a key principle of our democracy and one that the government deeply respects. I have been assured that at no point did the government pressure or interfere in the operational decisions of the RCMP. I direct all senators to the commissioner's statement from yesterday in which she makes very clear that there was no interference.

Canadians, including those directly impacted by the tragedy, have expressed concern about when and how the RCMP shared information with the public, and that is why the government specified in the order of reference that the Mass Casualty Commission examine the communications approach taken both during and after the event.

Finally, senators, the former Minister of Public Safety, Minister Blair, both during Question Period in the House and today to reporters, was unequivocal. I know Minister Blair is a man of integrity, and I quote him from Question Period:

> I can confirm for the House, as the commissioner has also confirmed, that no such direction or pressure was exerted by any member of this government to influence the commissioner's exercise of her authorities over her police service.

Senator Plett: Of course, leader, we are all aware of the denials that are coming fast and furious over there, and people are being thrown under the bus as fast as they can.

Senator Gold, you might not like our questions, but there is no excuse for the lack of information you are providing, and this is no information on this important issue. The types of answers the government gives makes a mockery of accountability.

This is the testimony, leader, of Lia Scanlan, communications director for the Nova Scotia RCMP:

> The commissioner releases a body count that we (Communications) don't even have. She went out and did that. It was all political pressure.

Leader, she continues, "That is 100% Minister Blair and the Prime Minister."

Again, these are not my words but Lia Scanlan's, "And we have a Commissioner that does not push back."

Leader, why did the Prime Minister and Minister Blair talk to the commissioner about releasing information on the number of victims during an active police investigation?

Senator Gold: Thank you for your question.

Respectfully, I answered your first question, and I'm going to answer the following. Minister Blair said today to reporters:

> . . . I made no effort to pressure the RCMP to interfere in any way with their investigation. I gave no direction as to what information they should communicate. Those are operational decisions of the RCMP and I respect that and I have respected that throughout.

I should add, as well, that Minister Blair also refuted the notes that were referred to in the newspaper article to which you referred, again saying these were the recollections, perhaps, of that person. Minister Blair stands by his statement, and I can do no better than stand behind his statement as well.

Hon. Leo Housakos: Honourable senators, my question is for the leader of the Liberal-NDP government.

Senator Gold, I need to get back to the question asked of you by Senator Plett. At the end of the day, with your talking points, you are essentially asking us to believe the word of this Trudeau government over the RCMP.

Senator Gold, it has been a few years now since we found out that your government wasn't above interfering in criminal court proceedings for political expediency, and more recently we found out that you are not above illegally suspending the rights of Canadians with an unjustified invocation of the Emergencies Act.

It should come as no surprise to any of us that your government thinks nothing of interfering in the police investigation of one of this country's most brutal mass murders and taking advantage of that tragedy in order to advance the Trudeau political agenda.

My question to you is simple: Is there any length to which the Trudeau government will not go for political expediency?

Senator Gold: Senator Housakos, thank you for your question. I stand by the answer. Your premises are not accepted or correct. The commissioner was clear in her statement. Minister Blair was clear in his statement, and that is the appropriate answer to that which you have asked.

Senator Housakos: Senator Gold, the RCMP has been very clear in their claims in this investigation. The only people refuting them are the government talking points that you are spewing here today.

If your government really wants us to believe that you are putting the interests of Canadians — in particular, the families of victims in Nova Scotia — ahead of the Trudeau government's political interests, you would have already agreed to the emergency debate on the accusations revealed yesterday regarding the RCMP commissioner. Instead, your government has moved to have Parliament remain at half efficiency for yet another year as a response.

Senator Gold, I know you came to this place in the spirit of independence. I know you have an open mind, and somehow now you have found yourself as a member of Privy Council representing a government that has proven to be hyperpartisan.

Don't you think the people of Nova Scotia deserve better? Don't you think the victims' families deserve answers to these important questions?

Senator Gold: I know all Canadians, this government and members of the opposition are heartbroken over the tragedy that happened in Nova Scotia. I stand by my answers to your question. I am saddened by the use of the tragedy that befell the victims in the way that you have presented your commentary and question.

• (1440)

The fact is the government respects the independence of the RCMP. The minister was clear that there was no interference. The commissioner was clear that there was no interference. That is the position of the government.

It is the position of the government that respects not only the RCMP, but respects the integrity of the inquiry that is going on and, most of all, respects and honours the memory of those who lost their lives in Nova Scotia.

CANADIAN HERITAGE

ENGLISH-SPEAKING LINGUISTIC MINORITY IN QUEBEC

Hon. Tony Loffreda: Honourable senators, my question is for the Government Representative in the Senate.

Once again, Senator Gold, my question is on minority rights. They are so important, not only in Quebec, but across Canada. Today, I want to address Bill 21 which infringes on the civil liberties of Quebecers. Many religious and ethnic communities in Quebec continue to feel their rights have been eroded. As you know, the law is currently being challenged before the provincial courts.

Last December, in an answer to a question from Senator Omidvar, you said:

> . . . The Government of Canada remains committed to following the litigation closely and will take whatever decisions are deemed appropriate at the appropriate time.

Senator Gold, some might argue the appropriate time was a long time ago. When will the government take a strong stand on this bill and start defending the rights of minorities in our province? What is your definition of the appropriate time?

Hon. Marc Gold (Government Representative in the Senate): The Government of Canada has always been clear that it is on the side of Quebecers who are shocked and disappointed that a young teacher can no longer practise her profession because of how she chooses to observe her religion.

This government is committed to defending the rights and freedoms that are protected in the Canadian Charter of Rights and Freedoms, including the right to freedom of religion and the right to equality, as this matter touches upon those fundamental freedoms and the interpretation of the Charter which underscore our liberal democracy.

This government fully expects that this case will be appealed to the Supreme Court of Canada. If that happens, the government is committed to contributing to the debate, giving the broad implications for all Canadians and the need to defend the Charter, including the way in which the "notwithstanding" clause was invoked. The government has stated clearly that it will intervene in this matter at the Supreme Court level.

Senator Loffreda: Thank you for your answer, Senator Gold.

I appreciate the government may not want to take a position on the bill until the Court of Appeal of Quebec renders a decision. But sometimes governments need to lead and protect the rights and freedoms of its citizens, whether they were born here or not. Like the rest of Canada, Quebec's economic prosperity will rely heavily on immigrants.

This bill makes our province increasingly less attractive to diverse communities from around the world. When will the Prime Minister start advocating for these minorities who are such an important part of our national fabric? When will the government denounce Premier Legault's use of the "notwithstanding" clause as a means to override individual Charter rights?

Senator Gold: Thank you for your question.

The government has been very clear from the outset that it does not support Bill 21, notwithstanding that Bill 21 appears to be within the jurisdiction of the province. It does not support it because of its infringement on fundamental rights. The government has been clear about that. The Prime Minister has been clear about that from the outset.

Indeed, the Prime Minister was the first to even discuss the possibility of intervening in court cases when leaders in all other parties were reluctant to say a word.

More recently, the Prime Minister has made it clear that he will intervene. In that regard, Senator Loffreda, I think the government can stand proudly on its record for defending minority rights in this country and doing its part within its jurisdiction and within the division of labour between our institutions to stand up for Canadians' rights.

ENVIRONMENT AND CLIMATE CHANGE

TESTING AND CLASSIFICATION OF TOXIC SUBSTANCES

Hon. Rosa Galvez: Honourable senators, my question is for the Government Representative in the Senate.

Senator Gold, central to the control and management of chemical substances is the need to determine their toxicity and classify them according to their potential harm.

In most developed countries, and to avoid conflict of interest, arm's length or scientific institutions, such as the Centre d'expertise en analyse environnementale du Québec, do this work.

Several times during study of Bill S-5, I asked government officials who undertake the testing and assessment of substances for their toxicity. Are they actual tests or are they literature reviews conducted by the government or industry?

Hon. Marc Gold (Government Representative in the Senate): Thank you, Senator Galvez. I participated in many of those hearings, so I'm aware of the questions that you asked. I do believe that you received answers and they would be reflected in Hansard.

I don't have Hansard at hand. I can refer you back to those answers. I hope that they are satisfactory. On the assumption that they are not, thank you for raising the issue in the chamber. We look forward to the third reading debate on the bill later today.

Senator Galvez: I would appreciate it if you could provide me with the answers because the answers were not to my satisfaction.

Bill S-5, finally, clearly states that risk is the approach to managing toxic substances, but is it the risk to humans or the risk to the environment? What constitutes highest and acceptable risk?

Senator Gold: Thank you. I'm flattered and honoured to be in this position despite what some of my colleagues have said about the government that I represent.

But I'm neither the sponsor of the bill nor an expert, nor indeed even a member of the committee, even though I participated ex officio.

Senator Galvez, respectfully, I think that the question was asked — or should have been asked, if it wasn't — to the officials in the course of the protracted and extensive study on the bill. I'm afraid I'm not in a position to answer that question in this setting.

NATIONAL DEFENCE

INDEPENDENT EXTERNAL COMPREHENSIVE REVIEW

Hon. Jane Cordy: Senator Gold, on May 20, after nearly a year of study, former Supreme Court Justice Louise Arbour released her report on the external review into sexual harassment and misconduct in the Canadian military. Her report consisted of 48 recommendations.

As you mentioned in this chamber to a question from Senator Coyle, Minister Anand committed to implementing 17 of those recommendations immediately.

My question concerns recommendation number 5 — which is not one of those 17 — which states that Criminal Code sexual offences should be removed from the jurisdiction of the Canadian Armed Forces and they should be prosecuted exclusively in civilian criminal courts in all cases. Senator Gold, could you let us know what is the hesitation to committing to this recommendation?

A similar recommendation came out of a previous 2015 study of sexual harassment and misconduct in the Canadian military. I'm just wondering what are the barriers for the transfer of the cases to civilian investigation and prosecution?

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question. As I may have answered on a previous occasion, senators may recall that the government, in fact, laid the foundation in this area, as in many others, by accepting an interim recommendation from former Supreme

Court Justice Louise Arbour to begin referring the investigation and prosecution of Criminal Code sexual offences from the military justice system to the civilian one.

Since Minister Anand received and accepted the recommendation to refer sexual offences from the military justice system to the civilian system in the fall, the government has made substantial and substantive progress in such referrals.

As Ms. Arbour outlines in a report — and this is my understanding of the facts on the ground — there have been some challenges with certain jurisdictions. To this end, Minister Anand is writing, again, to provincial and territorial partners about the path forward and to start the process of establishing a formal, intergovernmental table to build a durable transfer process that will better serve the Canadian Armed Forces now and in the future, and, of course, serve the interests of justice for those who are victims of alleged assault.

Senator Cordy: Thank you very much for that. I'm really pleased to hear about the interim steps that are taking place. I have never met Minister Anand, but, based on the things she has done, I have tremendous respect for her and am quite certain she will try to get things done.

• (1450)

The minister previously stated that she was acting on a recommendation from the previous External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces report from 2015 to allow victims of sexual assault to request, with the support of what was then to be called the center for accountability for sexual assault and harassment — now the Sexual Misconduct Response Centre, SMRC — transfer of the complaint to civilian authorities. According to the Office of the Canadian Forces Provost Marshal last November, roughly 145 cases of sexual misconduct allegations involving Canadian Armed Forces members could be transferred to civilian police to investigate.

To date, do you know how many cases of these have been tried or brought to civilian court? Are civilian police obligated to investigate cases of sexual misconduct allegations if requested by the Canadian military, or are they able to refuse such cases?

Senator Gold: Thank you for the question, senator. It's an important one. I don't know the number of cases. I do know the investigation into serious allegations of crime sometimes takes time. That may or may not be a factor underlying the statistics of which, unfortunately, I'm ignorant, nor do I know specifically, but I will inquire, as to what discretion, if any, there may be in the hands of civilian police officers faced with an allegation.

Again, procedurally and within normal practices, there are certain thresholds that may need to be reached before next steps are taken, from allegations to gathering of evidence, to the determination that a charge would be justified in being laid. I'll make those inquiries, senator, and hope to get back to you.

[Senator Gold]

JUSTICE

CONSULTATION WITH INTERESTED ORGANIZATIONS

Hon. Dennis Glen Patterson: Honourable senators, my question is to the Leader of the Government in the Senate. Senator Gold, in the question and answer document you sent to all senators late last night on Bill C-28, the government pointed out that, in the absence of a preamble, the courts will lean on "the parliamentary record" to learn the purpose of the bill. I would take that one step further to say that parliamentary proceedings have also been used as courts weigh any challenges to a law.

Senator Gold, do you not then feel it would be prudent to ensure that we have someone on the record other than the government to assure us that this bill will properly address the very narrow gap left by the Supreme Court of Canada decision and does not, in fact, create more loopholes?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question, which I will answer briefly. No, I do not think that is necessary. As students of the law know, the purpose and intent of legislation are gleaned not only from the words and structure of the act or the act into which the particular bill is inserted, and not only by the record that may exist in parliamentary debates, but is also informed by what courts have said about the purpose of provisions in previous cases.

Honourable senators, when debate on this matter begins, I will have opportunities to set out more fully my views on the bill and why the bill is worthy of our support.

Senator Patterson: Senator Gold, let me get a little more particular on my concern. We have heard that groups such as the National Association of Women and the Law felt they were not meaningfully consulted on Bill C-28. In fact, the national association's meeting with justice officials occurred on a Tuesday and the bill was tabled that Friday. The association has now asked all senators for the opportunity to state their case. They complain that the process is rushed. However, it is possible, according to the motion you have given notice of today, that we will receive the bill either later tonight or tomorrow and be pushed into considering the bill at all stages in a single day without hearing — in this place or in the other place — from any women's organizations, not to mention the wider legal community.

Senator Gold — and I ask this as, I suppose, yet another man speaking on this issue — is your government content to entirely exclude the voices of women's organizations to provide their considered comments now that we know what's proposed in the text of the bill? Is your government, which prides itself on being feminist, really content to exclude women and women's organizations from commenting on this bill when they are telling us they have identified significant flaws in the legislation?

Senator Gold: I'm going to be careful in my response, senator. I would perhaps invite you to speak to your colleague to your left as to what the understanding was of the process that was agreed to as reflected in the motion. I would further encourage

you to listen to my speech with an open mind and to recognize that the government took into account the views of many stakeholders, only one of whom seems to have been mentioned at length here.

Senator Patterson: It's about hearing —

Senator Gold: I have not finished my answer, sir. I will take a cue from a colleague more experienced than I. To your question, "is the government content to ignore," the government is not ignoring, so the answer is no.

[*Translation*]

IMMIGRATION, REFUGEES AND CITIZENSHIP

PASSPORT SERVICES

Hon. Claude Carignan: My question is for the Leader of the Government in the Senate.

Leader, every minister's mandate letter contains the following statement:

> Canadians continue to rely on journalists and journalism for accurate and timely news. I expect you to maintain professional and respectful relationships with journalists to ensure that Canadians are well informed and have the information they need to keep themselves and their families safe.

Yesterday, however, journalists covering the infamous passport story on public property were told by security officers that they were on federal property and were asked to leave. Journalists were kicked out of passport offices at the Guy-Favreau Complex, which is a public space.

Is that the government's vision for freedom of the press and for Canadians' right to be fully informed?

Hon. Marc Gold (Government Representative in the Senate): No, not at all.

Senator Carignan: This government has found a new way to deal with lineups at passport offices.

This morning, at the Guy-Favreau Complex, they handed out 73 tickets to the first 73 people in line, so the lineup was reduced by simply kicking everyone else out of the line, which stretched to over 400 people. Consequently, Canadians, citizens who had been waiting for hours, and in some cases days, were kicked out.

This government does not take action and tends to make excuses or apologize. Now that it has made enough excuses, will it soon apologize to the people who are waiting and establish some way to offer compensation to those who missed their vacations or trips because they didn't get their passports on time?

Senator Gold: As for your questions, I will submit a request for information to the government and get back to you with an answer.

[*English*]

PUBLIC SAFETY

EXEMPTION FROM SECURITY SCREENING

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, my next question again is for the government leader. Leader, *La Presse* reported yesterday that Minister Sajjan, the Minister of International Development and Minister responsible for the Pacific Economic Development Agency of Canada, sought an exemption from having to go through security in our airports. This exemption, leader, is reserved for the Prime Minister of Canada and his immediate family, the Governor General of Canada and the Chief Justice of the Supreme Court of Canada.

• (1500)

Leader, after Transport Canada initially refused Minister Sajjan's request, he tried again and was successful. Your government has apparently given him a partial exemption from airport security measures that countless other Canadians — you and I — have to go through.

Could you tell us why? How many other Trudeau cabinet ministers are now going to ask for the same exemption?

Hon. Marc Gold (Government Representative in the Senate): I am advised that the minister is often required to travel with classified material and equipment between Ottawa and his residence in British Columbia. To ensure that classified materials and equipment are not viewed by officials without the appropriate security clearance, officials are granted this exemption — it's a partial exemption — to the search of security-sensitive materials and for those materials only. The minister and his personal belongings still go through security — which often includes secondary screening — on all domestic flights, like any other Canadian.

I have no other information with regard to any other requests for exemptions.

Senator Plett: Reportedly, Minister Sajjan requested this exemption because, as you say, he carries classified information.

I find it strange that the minister would request this exemption now, as prior to his demotion last year, Minister Sajjan had been the Minister of National Defence. In his old cabinet post, he would have carried much more sensitive documents than he does in his current position as Minister of International Development.

The press also reported that former finance minister Bill Morneau once sought an exemption and was denied. Clearly, that policy has changed.

Leader, your government has created chaos in our airports. Instead of dealing with this issue, it looks like ministers are giving themselves additional privileges so they don't have to suffer through security screenings like all other Canadians.

Is every Trudeau cabinet minister now entitled to bypass airport screening every time they travel with sensitive documents?

Senator Gold: The answer is no. To the best of my knowledge, this was the only request. I repeat that the exemption that was granted was partial only. The minister still has to go through regular security screening, save and except for the equipment and documents that are classified and not appropriate for review by the officials.

DELAYED ANSWERS TO ORAL QUESTIONS

(*For text of Delayed Answers, see Appendix*.)

THE SENATE

TRIBUTES TO DEPARTING PAGES

The Hon. the Speaker: Honourable senators, today we pay tribute to three more of our dedicated Senate pages who will be leaving us this summer.

Nonso Morah is honoured to have had the opportunity to represent the province of Alberta within the Senate Page Program this year. She is looking forward to starting her second year at the University of Ottawa, studying Conflict Studies and Human Rights in both official languages, with a minor in Creative Writing. Nonso looks forward to pursuing new challenges and working in the service of her community. She says she will forever cherish her time as a page and is grateful to all who contributed to making it such an incredible experience.

On behalf of all senators, thank you, Nonso, for your dedication.

Hon. Senators: Hear, hear.

The Hon. the Speaker: Simon Hopkins has just graduated from Carleton University with a Bachelor of Public Affairs and Policy Management, specializing in International Policy Studies, Security and Defence. In the fall, Simon will continue his studies at Carleton with a Master of Journalism. Simon says he is honoured to have served the last two years as a page working during many historic events. He would like to thank the Office of the Usher of the Black Rod, the page leadership team and his colleagues for their hard work and support over the last two years.

On behalf of all senators, thank you, Simon, for your dedication and hard work.

Hon. Senators: Hear, hear.

The Hon. the Speaker: John Shand, our Chief Page, will be continuing his studies next year at the University of Ottawa, studying Political Science with a minor in Psychology. Having now finished his third year as a page, John has been proud to represent the province of Manitoba and honoured to have served as Chief Page for this past year. He would like to thank the Office of the Usher of the Black Rod, the Senate page team and his friends and family who have made this unique and wonderful experience possible.

On behalf of all senators, thank you, John, for your service.

Hon. Senators: Hear, hear.

[*Translation*]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate): Honourable senators, pursuant to rule 4-13(3), I would like to inform the Senate that as we proceed with Government Business, the Senate will address the items in the following order: third reading of Bill C-19, followed by third reading of Bill S-5, followed by second reading of Bill C-5, followed by all remaining items in the order that they appear on the Order Paper.

[*English*]

BUDGET IMPLEMENTATION BILL, 2022, NO. 1

THIRD READING—DEBATE ADJOURNED

Hon. Lucie Moncion moved third reading of Bill C-19, An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures.

She said: Honourable senators, I am pleased to take part in today's third-reading debate on Bill C-19, An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures (the Budget Implementation Act, 2022, No. 1).

The measures in this bill include many recent budget measures that are fundamental to the government's plan to grow the economy and make life more affordable for Canadians as they continue to recover from the global COVID-19 pandemic.

[*Translation*]

In this is speech, I will touch briefly on important measures relating to housing, employment and tax fairness. I will also address other measures, such as the tax on vaping products and climate-related tax measures.

I will conclude with an overview of observations from reports by the committees that studied various parts of Bill C-19, specifically those in the report by the Standing Senate Committee on Aboriginal Peoples. I think it is important to read certain parts of that powerful report in this chamber.

First I will talk about housing access and availability.

Honourable senators, we know that Canadians need housing to thrive, but Canada simply doesn't have enough. To address the situation, the government's latest budget includes an ambitious housing construction plan. The plan would double the number of homes built in the country over the next 10 years.

Of course, a national effort will be required to make this project a reality. The government will work with its partners at all levels of government, and will provide significant payments to the provinces and territories under the proposals set out in Bill C-19. These include up to $750 million to help municipalities deal with the shortfall in public transit and housing caused by the pandemic. The funding would be conditional on provinces and territories matching the federal government's contribution and working with their municipalities to expedite the construction of more housing for Canadians.

Honourable senators, Bill C-19 will also make the housing market fairer. We know, for example, that foreign investors are actively buying residential real estate in Canada. The bill prohibits non-Canadians from purchasing residential property for two years. This measure will help ensure that housing is used as homes for Canadian families and not as speculative financial assets.

[*English*]

In addition, the bill would further promote fairness in the real estate market by removing the ambiguity that may arise from the existing rules regarding the application of the GST or HST to the assignment of a contract of sale by making all assignments of contracts of sale by individuals taxable and by standardizing the tax treatment for the purchase of a new home.

Currently, when a person makes a new home assignment sale, the GST or HST may or may not apply, depending on the reason for purchasing the home.

For example, the GST or HST does not apply if the buyer initially intended to live in the home. This creates an opportunity for speculators to be deceitful about their original intentions and create uncertainty for everyone involved in an assignment sale as to whether the GST or HST applies. The current rules also result in the uneven application of the GST or HST to the full and final price of a new home. To redress this, Bill C-19 would amend the Excise Tax Act to make assignment sales in respect to newly constructed or substantially renovated residential housing taxable for GST or HST purposes.

• (1510)

On the housing front, Bill C-19 would also make housing more affordable for the homes people already live in. Over recent years, the home accessibility tax credit has provided support to offset some of the costs of home renovations and upgrades that make a home safer for seniors and persons with disabilities. In order to better support independent living, Bill C-19 would double the credit's annual limit to $20,000, making additional significant alterations and renovations more affordable. These enhancements, which would apply to the 2022 and subsequent taxation years, would provide up to an additional $1,500 in tax support. Taken together, Bill C-19 offers Canadians a suite of measures that support housing availability and affordability.

[*Translation*]

Let's talk about the importance of investing in a strong workforce. The investments in Budget 2022 extend far beyond real estate. Bill C-19 provides for investments in a stronger and rapidly growing workforce.

It will make it easier for the skilled immigrants our economy needs to settle in Canada. It will improve the government's ability to select candidates from the Express Entry pool who meet the needs of Canadian businesses.

[*English*]

In addition, Bill C-19 would introduce a labour mobility deduction for tradespeople, which would allow workers to deduct up to $4,000 per year for travel and temporary location expenses. By making it more affordable for people working in the skilled trades to travel to where the jobs are, this deduction would help reduce labour shortages in some areas of our country.

Bill C-19 would also introduce 10 days of paid sick leave for workers in the federally regulated private sector, which will support 1 million workers and protect their families, their workplaces and their jobs.

Honourable senators, Bill C-19 would advance the government's efforts to ensure Canadians benefit from a sound tax system where everyone pays their fair taxes. Bill C-19 proposes to implement the government's tax on the sale of new luxury cars and aircraft with a retail sale price over $100,000 and on new boats over $250,000.

Bill C-19 will also help address complex financial crimes, including money laundering, corruption and tax evasion by providing authorities with access to accurate and up-to-date data on the people who own and control corporations. Anonymous Canadian shell companies can be used to conceal the true ownership of assets, including businesses and expensive properties. This change to legislation would accelerate the creation of a public registry of federally incorporated corporations before the end of 2023, two years earlier than planned, to help counter illegal activities.

This would also help to prevent shell companies from being used to avoid sanctions and the tracing and freezing of financial assets. This is particularly relevant as Canada works with its allies through the new Russian Elites, Proxies, and Oligarchs Task Force to target the global assets of Russia's elites and those who act on their behalf.

At the Standing Senate Committee on Foreign Affairs and International Trade, officials described the process that would be followed for the forfeiture and disposal of seized assets. The minister would be responsible for identifying which asset could be seized and for applying to a court to seek a forfeiture order and to provide notice to any parties with an interest in the seized property.

[*Translation*]

On the topic of economic recovery, some of the measures in Bill C-19 are part and parcel of an economic stimulus package designed to meet the needs of the various sectors that were hard hit during the pandemic.

Many Canadian film and video productions were delayed during this time. Bill C-19 would grant more time to incur eligible expenses and extend certain deadlines related to tax credits that were available in these circumstances.

In 2019, roughly 1,540 and 550 corporations claimed the Canadian Film or Video Production Tax Credit, or CPTC, and the Film or Video Production Services Tax Credit, or PSTC, respectively. A comparable number of businesses could potentially avail themselves of these extensions. Another change found in the first part of Bill C-19 would allow the Canada Revenue Agency to accept late applications for the Canada Emergency Wage Subsidy, the Canada Emergency Rent Subsidy and the Canada Recovery Hiring Program. Since their introduction, these programs have been subject to strict deadlines that are sometimes ill-suited to the reality Canadians are facing. This measure would allow the CRA to take into account exceptional circumstances, through a case-by-case analysis, when appropriate, in order to recognize a person's eligibility despite their late application.

[*English*]

Programs offered by the government in response to the pandemic, including the Canada Emergency Wage Subsidy, the Canada Emergency Rent Subsidy, Canada Worker Lockdown Benefit, and the Canada Emergency Business Account helped the Canadian economy immensely to stay afloat. As for the International Monetary Fund's recent Article IV report, the decisive actions and unprecedented fiscal support helped limit economic scarring and protected Canadian jobs.

In order to deliver these programs to support Canadians and the economy during the pandemic, the government had to make extraordinary borrowings. The total sum borrowed from March 23, 2021, to March 31, 2021, under section 46.1(c) of the Financial Administration Act was $6.3 billion. From April 1, 2021, to May 6, 2021, the total borrowed under that section was $2.1 billion. Amounts borrowed under section 46.1(c) do not count toward the government's borrowing limit under the Borrowing Authority Act and are therefore not subject to the same reporting and transparency obligations as amounts that are part of the ordinary borrowing.

Given that the period of extraordinary circumstances has ended, the government proposes that the extraordinary borrowings from spring of 2021 be treated as regular borrowings to provide greater transparency on the stock of the government's debt and accountability to Parliament for the total amount borrowed. The government followed a similar process in the fall of 2020 with respect to extraordinary borrowings that were undertaken between April 1, 2020, and September 30, 2020.

[Senator Moncion]

[*Translation*]

Let's now turn to the health of Canadians. Part 2 amends the Excise Tax Act to ensure that the eligibility rules for the expanded GST/HST rebate for hospitals recognize the growing role of nurses and nurse practitioners in providing health care services in all regions of Canada, including those that aren't remote. Hospitals, charities and non-profit organizations providing health care services with the active involvement of, or on the recommendation of, either a physician or a nurse will be eligible for this rebate.

Senators will also recall that Bill C-19 provides a one-time $2-billion payment to reduce backlogs in the health care system through the Canada Health Transfer. A proportional payment will be made to the provinces and territories on a per capita basis.

[*English*]

The Government of Canada is also proposing measures that will have the effect of preventing long-term negative health behaviours among youth through economic impediments. Part 3 of Bill C-19 proposes to amend the Excise Act, 2001 and related acts and regulations to implement a new excise duty framework for vaping products.

The new framework would require manufacturers of vaping products to obtain an excise licence for vaping products from the Canada Revenue Agency and require that an excise stamp be placed on all vaping products entering the Canadian market for retail sale.

The amendment also includes administrative and enforcement rules relating to the new framework and are intended to ensure that the framework applies to imported vaping products. Many stakeholders, including the Canadian Cancer Society, are urging senators to support Bill C-19 to ensure that vaping products are taxed as soon as possible. Indeed, some statistics, particularly among our youth, are very disturbing.

• (1520)

Colleagues, according to the result of the national survey on tobacco, alcohol and drugs among high school students, the rate of vaping has more than tripled over a four-year period from 9% to 16% to 29%. Recent studies in the U.S. and Canada show alarming upward trends. When you consider that some of the products can contain up to 50 milligrams of nicotine, it is disturbing to see that a new generation is developing an addiction to nicotine through vaping products.

Vaping products are particularly affordable, and young people are very sensitive to product costs. We know that tobacco taxes had an impact on reducing youth smoking, and the same logic applies to vaping products. A tax should help reduce youth consumption.

However, in the interest of public health, the government must consider a comprehensive strategy to address nicotine use among Canadians in general. Ideally, this tax would be accompanied by other measures such as regulating the maximum level of nicotine that these products can contain, as is the case, for example, with cannabis; restriction on advertising and the flavours available; and more education and prevention.

To this end, Part 3 of the bill also amends the Federal-Provincial Fiscal Arrangements Act to allow the federal government to enter into agreements on a coordinated approach to the taxation of vaping products with provincial and territorial governments. Provinces and territories may also play a role in this national strategy within their own jurisdictions, including regulating the legal age of consumption of these products and the licensing of establishments.

[*Translation*]

Bill C-19 will continue to help Canadians fight climate change. In 2019, the government established a national price on carbon pollution to ensure that it is no longer free to pollute anywhere in Canada. In provinces where the federal fuel charge applies, all proceeds are remitted to Canadians and communities. Approximately 90% of these proceeds directly benefit the population through the climate action incentive.

[*English*]

The majority of families receive more money back through the climate action incentive than they pay into the federal system. Bill C-19 would change the delivery of the climate action incentive payments from a refundable claim annually on personal income tax returns for those living in Ontario, Manitoba, Saskatchewan and Alberta, to quarterly payments starting in July of this year. Payments would start with a double-up payment to return proceeds from the first two quarters of 2022-23 fuel charge year.

To support the growth of clean technology manufacturing in Canada, Bill C-19 would also help Canadians and Canadian businesses benefit from the global transition to a clean economy by cutting tax rates in half for businesses that manufacture zero-emission technologies.

[*Translation*]

Bill C-19 also contains a measure to expand the scope of the capital cost allowance deduction to include new clean energy equipment. The measure would exclude equipment that mainly uses fossil fuels, for example, fossil-fuelled cogeneration systems and fossil-fuelled enhanced combined cycle systems. It would impose an efficiency requirement on waste-fuelled systems and limit the allowable proportion of fossil fuels that can be used by eligible equipment.

I will now talk about protection measures for Canada.

[*English*]

Bill C-19 would amend the Special Import Measures Act and the Canadian International Trade Tribunal Act to strengthen and improve access to Canada's trade remedy system. The trade remedy system allows for the imposition of anti-dumping and countervailing duties on imports to protect domestic producers from injury caused by dumped or subsidized goods, thereby ensuring better conditions of competition for Canadian businesses and workers.

The trade remedy system also provides for the application of safeguard measures to protect domestic producers from injury caused by surges of fairly traded goods. At this time in our history, these important measures are essential to our economy.

Division 20 of Bill C-19 would amend the Customs Act to enable the Canada Border Services Agency to administer and enforce the Customs Act by electronic means. The proposed changes would also define the term "importer of record" and make that importer liable to pay duties on imported goods alongside the importer or person authorized to account for the goods, as the case may be, and the goods' owner. This would provide for a fairer and more efficient system for Canada.

[*Translation*]

Under the Canada-United States-Mexico Agreement, or CUSMA, Canada agreed to amend the Copyright Act in order to change the general term of copyright protection from 50 to 70 years following the death of an author by the end of 2022. The general term of protection would apply to a wide variety of works. This will enable Canada to meet its obligations, level the playing field with its trade partners and create new export opportunities for Canada's creative industry and Canadian content, while continuing to protect authors.

[*English*]

Bill C-19 would amend the Competition Act to provide better protection of consumers and promotion of fair and equitable markets. The government has chosen to proceed with its modernization in two phases.

The targeted amendments proposed in Bill C-19 in the first phase will bring Canada more in line with international best practices and provide immediate and tangible benefits to consumers and businesses. In general, the government's proposed amendments will strengthen the Competition Bureau's investigation powers, prohibit wage-fixing and related agreements on criminal grounds, increase maximum fines and administrative monetary penalties, clarify that posting of partial prices is false or misleading representation, expand the scope of business practices that may constitute abuse of dominance, allow private access to the Competition Tribunal to remedy abuse of dominance and improve the effectiveness of major notifications and other provisions.

In the second phase, the government will organize broad consultation and undertake a thorough review to continue reform by considering even more transformative changes.

Now, I would like to speak of — and I am very proud of — the committee work that was done by all committees toward truth and reconciliation.

In my second-reading speech, I acknowledged and thanked the members and chairs of the six committees that conducted the pre-studies of Bill C-19, as well as the members and chair of the Finance Committee, for their work on the entirety of the bill — a lengthy and difficult undertaking. The reports from the various committees are important to provide context to the measures and sometimes a path forward to continue the work on certain issues. Not everything can be resolved through a budget bill, but the information contained in these reports is precious to continue our work.

Before I conclude this speech, I would, therefore, like to highlight one report in particular that I find very important and impactful, and I invite you all to read it. I'm referring to the report tabled by the Standing Senate Committee on Aboriginal Peoples. The committee made some observations on Division 3 of Part 5, which proposes to repeal the Safe Drinking Water for First Nations Act.

First Nations have repeatedly called for the repeal and replacement of the act, and the federal government is now required to do so under the safe drinking water class action litigation settlement agreement, jointly approved by the Federal Court and the Court of Queen's Bench of Manitoba on December 22, 2021. The repeal of the act in Bill C-19 is therefore not contentious. However, the observations from the committee regarding the access to safe drinking water for all communities in Canada are important to emphasize. The report says:

> The committee is alarmed about the unacceptable water crises that continues to plague First Nations across Canada causing serious illnesses, mental health issues and unnecessary suffering. . . .

It further reads:

> The committee underscores the urgency of ensuring access to clean, safe drinking water for all First Nations.

• (1530)

Since November 2015, 132 long-term drinking water advisories have been lifted. We have witnessed great progress over the last few years, but we need to do so much better as a country and work in partnership and collaboration with our Indigenous counterparts to find solutions to this crisis. There remain 34 long-term drinking water advisories in 29 communities.

To improve the situation, the committee suggests the following:

> The committee observes that there are innovative, First Nations-led solutions to drinking water and wastewater infrastructure. . . . The Government of Canada could contribute to these solutions, including by facilitating partnerships between the public and private sectors to deliver infrastructure to First Nations more broadly. Infrastructure builds create jobs and can drive economic and educational opportunities for local communities. Further, the Government of Canada could assess cost / benefits of infrastructure investments in terms of broader economic and social outcomes relative to their cost.

I take the opportunity to underline that June 21 was National Indigenous Peoples Day. The observation in this report reminds us of the relevance of this national day and how important it is to keep working toward the acknowledgement of the truth with respect to Canada's treatment of Indigenous peoples in the past and the present.

[*Translation*]

In closing, Bill C-19 contains a wide variety of measures that seek to invest in Canadians and support some of their top priorities.

By investing in Canadians, the bill will contribute to our economic growth, support job creation and strengthen our economic recovery in the wake of the COVID-19 pandemic and other global challenges.

I urge you to vote in favour of the budget implementation bill and I thank you for your attention.

Hon. Senators: Hear, hear!

[*English*]

Hon. Marty Deacon: Thank you for that great summary and that level of detail. I really appreciate that. I do want to ask a question, if I may.

As you know from sitting at the Finance table, this last part of your speech is something that we ask every year. We get reports every year on water bans and infrastructure challenges. Absolutely, there is no question that going from 132 to 34 advisories is movement in a good, solid direction.

However, I have read the report and I still struggle with those final 34 advisories and getting this done. It is something that plagues my thinking a bit, particularly when you visit Indigenous communities and they give you such strong statistics. When we talk about the money part, we absolutely need funding and financing.

At the end, you started to talk about stakeholders and partners. Candidly, how do you see us addressing those final 32 advisories?

Senator Moncion: Thank you for the question. The answer I will give is outside of Bill C-19, but, having participated in the Finance Committee and in some of the meetings of the Standing Senate Committee on Aboriginal Peoples, the government struggles. The final 32 water advisories that are still in place are challenging beyond what was expected. These are the last 32, but they are the most difficult to deal with. Sometimes that's just because of location or because of the industries that are around the First Nations.

The government is working very hard to bring solutions to these communities and to finally achieve zero water advisories in any communities.

Regarding the stakeholders, that's where I see the beauty of the work that is being done. The government is working with Indigenous peoples, and they are training these people to build, maintain and understand the water balances, to be aware of the environment where they are and to identify the risks that the environment in which they live can have an effect on water.

They have been working with all First Nations to resolve these water advisories. They are working with each of these groups and with members of communities to really get this going so they can take ownership of both the clean water and waste water to manage them in the long term. These solutions are long term. They are a long time in coming and they take a long time to fix, but once it is done, it will be done, we hope, for as long as these systems can support these changes.

There is also the maintenance of these systems through the years. Just because you have built a system doesn't mean you can leave it until you have to replace the whole thing. You must have upkeep and you have to put money into the system so that the technology, water sources and everything is kept up to date.

It is a large undertaking, but I would say the government has done a lot in the last 10 years. There is still a lot to do, but we are getting there.

Hon. Paula Simons: Would the senator take another question?

Senator Moncion: Of course I will.

Senator Simons: I almost feel I ought to give you a standing ovation, because I know how difficult it is to be the sponsor of the budget and carry it through.

However, there is still one part of the budget document that very much concerns me, and that is the insertion of amendments to the Criminal Code to criminalize denial and downplaying of the Holocaust. This was a question I didn't get to ask the Government Representative, so I'll ask it of you. Why was this placed in the budget bill, and should we be concerned that this Criminal Code amendment, that impinges upon constitutional freedom of expression rights, has been sort of tucked into the budget where it can't be pulled out and properly debated?

Senator Moncion: Thank you for the question; it is an important one.

First, the knowledge I have of this specific issue is that it was something that was asked for by the Jewish community. There are people who are saying we don't need this, and there are people who are saying this is important and needs to be in the bill. I can't speak for the government, but I believe that bringing the offence into the Criminal Code was a way to provide Canadians with the assurance that this is top of mind for the government.

When we are talking about freedom of the press, I think we have to look at the different views on this. This will probably be challenged on a constitutional basis. I think at some point we might bring change to this, but I really believe that when the government was looking at putting this into the Criminal Code, it was done to send a strong message to Canadians about Islamophobia. It is a problem in our country and a problem, I think, elsewhere in the world.

Senator Simons: Leaving aside the merits of the amendment, I have to say that since I spoke on this in the chamber last week, I have been overwhelmed with responses from people in the Jewish community across Canada — including the children and grandchildren of survivors — who agreed with me that this was an imprudent strategy.

I'm concerned about the presence of this change in a budget bill. I was privileged to sit in when the Standing Senate Committee on Legal and Constitutional Affairs discussed this and brought in Minister Lametti to ask him these questions. But I remain concerned that, by amending the Criminal Code within a budget bill, we have been robbed of an opportunity to have a more complete debate on this issue.

• (1540)

Senator Moncion: Thank you for the question. The budget bill is used to bring in measures that come from the budget. The budget was presented in April, and in the budget there was information on measures the government would bring forward. That's why you find it in the budget bill.

We might agree or disagree on the fact that the budget bill or the budget implementation act is not the best place for it, but that is how the government sees bringing forward what is in the budget — to bring it through the budget implementation act. If you look at the budget and see the number of measures there, they are not all in the budget implementation act, because they don't all need changes, but some do.

That would be my logical answer to your question.

Hon. Frances Lankin: Senator Moncion, would you accept another question?

Senator Moncion: With pleasure.

Senator Lankin: Thank you for all your work on this. I applaud anyone who takes on sponsoring the budget implementation act. I do share the opinion that was just offered about omnibus legislation, but I am also aware that in a minority Parliament time is always at a premium.

I want to come back to the question about clean drinking water in First Nations. I'm sure it was the way I heard this, and I was concerned when I heard you say that the government was working to help First Nations to, for example, learn about the environment and the connection with clean water — I know you agree with me that government has much to learn from First Nations on that point — but when you went on and talked about a few other things, I see that as capacity building. For some communities that is a requirement, and the resources to do that have to be there. For ongoing sustainability of the systems — maintenance upgrades, new technology et cetera — the resources have to be there.

Would you just deconstruct for me the budget provisions themselves and how they will enable these last 30-odd more difficult cases to be resolved in short order?

Senator Moncion: Thank you for the question. It's a good question. By repealing the Safe Drinking Water for First Nations Act, it gives more powers to the First Nations to take ownership and to have more freedom to work within their communities to resolve the water problems. I think it is more in that aspect, and the government keeps working with the communities to find solutions.

Being from the North, I will give you the example of the reserve in Kashechewan, which is in northern Ontario, and which has been a difficult situation to resolve because of the yearly debacle of the river and the water system that is not viable because of the location. When you are in Ottawa, you don't necessarily know all about what is going on in a community and when the government is working with the First Nation.

I understand when you talk about capacity building, and I think the water solution is a larger one than just putting in a system and hoping that the system is going to work. It is capacity and community building. It is working with First Nations, giving them the freedom to work and find solutions and working with government.

I want to apologize to my First Nations colleagues because I might not be answering this question in the best way, but I'm doing my best to try.

Hon. Elizabeth Marshall: Honourable senators, I rise to speak to third reading of Bill C-19, the budget implementation act.

Honourable senators, Canada is facing many challenges. Inflation is at its highest in 40 years and is expected to increase. Interest rates are rising. Canadians are one of the most highly indebted people in the world, and increasing interest rates will make their mortgages and other debts more expensive.

Government has also increased its debt, which is now $1.6 trillion. Interest on this debt will now cost more. There is no commitment to return to a balanced budget. Our debt of $1.6 trillion will be transferred to our children, grandchildren and even great-grandchildren. Our debt will be their problem.

Canada's GDP per capita grew by 0.8% annually from 2007 to 2020, ranking us in the third quartile among advanced economies. In other words, we were near the bottom of the rankings but not at the bottom.

As indicated in the government's own budget document this year, the Organisation for Economic Co-operation and Development, or OECD, projects that Canada will be the worst-performing advanced economy over the period 2020 to 2060. Our economy has waning competitiveness, weak private sector innovation and sluggish business investment. Our GDP per capita is 12% lower than the OECD's best performers. Our productivity is 18% lower than the OECD's best performers.

Our country needs a plan to address our economic problems and create the wealth we need to sustain our economic and social well-being.

Canadians and the Bank of Canada are coming to the realization that inflation, which remained at or below the Bank of Canada's annual target of 2%, has now become a major economic problem. The Bank of Canada remained convinced that the inflation experienced in 2021 was transitory despite some economists sounding the alarm over the escalating inflation. In fact, in his recent press conference in early June, the Governor of the Bank of Canada warns us that inflation will probably go even higher, and it has.

Inflation has had a devastating impact on Canadians, especially low-income Canadians and those on a fixed income. Inflation in May was 7.7%, the highest since 1983. Food prices increased 8.8%. Canadians paid more in May for food compared to May 2021. Fresh fruit, vegetables, meat, bread and pasta all increased. Even a cup of coffee costs 13.7% more compared to last year. And consumers paid 48% more for gasoline in May than they did a year ago.

In April, average hourly wages for employees rose 3.3%, meaning that, on average, prices rose faster than wages and Canadians experienced a decline in purchasing power.

When this government came to power in 2015, they were focused on the middle class and those working to join it. Remember Budget 2016: *Growing the Middle Class*; Budget 2017: *Building a Strong Middle Class*; and Budget 2018: *Equality and Growth for a Strong Middle Class*, and so on?

We even had a minister of middle class prosperity. I don't think anyone feels that "middle class prosperity" anymore with inflation now recorded at 7.7%.

Inflation is affecting many Canadians who have to choose between buying food, paying their bills and making their mortgage payments. There are numerous media reports of the dire circumstances of some Canadians and the increasing use of food banks.

To understand how inflation and rising prices are contributing to financial concerns or influencing the financial decisions of Canadians, Statistics Canada conducted the Portrait of Canadian Society survey from April 19 to May 1. The survey found that three in four Canadians report that increasing prices are affecting their ability to meet day-to-day expenses. Most Canadians are feeling the impact of inflation, but lower-income Canadians are more concerned about, and more affected by, rising prices. Canadians were most affected by rising food prices, which increased 9.7%.

• (1550)

When the finance minister was asked at our Finance Committee what initiatives were included in the budget to address the impact of inflation, she said inflation is very much a global phenomenon and referenced the recently announced items in the budget, including the dental program and the additional $500 payment for Canadians who are struggling with housing affordability.

While financial assistance provided to certain groups of Canadian society is certainly appreciated by those receiving the financial assistance, inflation affects almost all Canadians, and this is an issue which must be addressed by the government.

On June 8, the Bank of Canada released its *Financial System Review* focusing on inflation and rising interest rates, as well as existing and emerging vulnerabilities. In an effort to control inflation, the bank has increased interest rates and has indicated that they will continue to do so.

High household debt and high house prices are not new vulnerabilities. We have tracked household debt and house prices for years, and the Bank of Canada, the Canada Mortgage and Housing Corporation, and even the International Monetary Fund, have identified these as key vulnerabilities of the Canadian economy. However, households are now exposed to increasing interest rates, which will make their mortgages and other debts more expensive. For highly indebted Canadians, they may have difficulty servicing their debt. If the economy slows and unemployment increases, even more Canadians will have problems servicing their debt.

The Governor of the Bank of Canada has said that more Canadians have stretched their finances during the pandemic to buy a home, so they will be more sensitive to interest rate increases. In addition, Canadians who bought homes when prices were high may see the value of their homes decline. There is also the risk that the value of their homes may actually be less than their mortgage.

Last week, the Federal Reserve in the U.S. raised its benchmark interest rate by 75 basis points, its most aggressive hike in 25 years, as the U.S. central bank tries to rein in inflation in the United States.

The Bank of Canada is scheduled to make its next interest rate announcement on July 13, and some economists are predicting that the Bank of Canada will also move more aggressively to raise interest rates in Canada.

A recent debt survey by Manulife Bank of Canada found that 18% of homeowners polled are already at a stage where they can't afford their homes. The survey also found that one in five Canadians expect rising interest rates to have a significant negative impact on their overall mortgage debt and financial situation.

But it is not just Canadians who will be facing increasing debt costs. The government is also carrying significant debt — in excess of $1.6 trillion — so the cost of servicing that debt will increase. While the government reported debt servicing costs in 2021 at $20 billion, they are projecting it to increase to $42.9 billion in 2026-27, and recent reports by the Parliamentary Budget Officer expect that increase to rise further.

Last May, Bill C-14 raised the government's debt ceiling from $1.168 trillion to $1.831 trillion. While some parliamentarians were alarmed over this increase, the Minister of Finance told the House of Commons Finance Committee on March 11 last year:

> We are saying that this is the upper limit to which the government may borrow.
>
> We are not saying the government will undertake those borrowings. . . .

Now, just 15 months later, we are told that debt is now $1.6 trillion. We are well on our way to reaching that $1.8 trillion ceiling. In fact, it seems the government cannot reach that limit fast enough.

As the government takes on more and more debt, we have been assured by them that the cost of servicing this debt, or the "public debt charges," remain low. However, we now know that interest rates are rising quickly and so is the cost of servicing the government's debt. A review of the government's financial documents over the past two and a half years shows that debt servicing costs are increasing significantly. Projections included in the last two budgets and the last two fall fiscal updates point to a rising concern over increasing interest costs.

The 2020 fall fiscal update released in December 2020 estimated that public debt charges for this year would be $22.4 billion. Four months later, this was increased to $25.7 billion in Budget 2021, and further increased to $26.9 billion in this year's budget. Over a period of 18 months, the government's estimate of debt servicing costs for this year increased $4.5 billion, or by 20%.

A second issue has surfaced over public debt charges. We all know that the government borrowed heavily during the pandemic, and a significant portion of this debt was acquired by the Bank of Canada. In fact, the bank's purchases of government bonds were approaching half a trillion dollars before the bank ceased acquiring those bonds.

In 2021, the government reported debt servicing costs of $20.4 billion. However, the government also disclosed in the public accounts net losses totalling $19 billion in respect of the Bank of Canada's purchases of Government of Canada bonds on the secondary market.

Why the $19 billion loss on the purchase of those bonds is recorded as negative revenue I do not know, but it is clearly a debt servicing cost. The debt servicing cost for 2021 is not the $20.4 billion being reported by government, but actually $39 billion.

As of June 1, 2022, the Bank of Canada continues to hold $397 billion of Government of Canada bonds. The Bank of Canada has indicated that it will not purchase any additional bonds but, rather, let the existing bonds mature, and they will essentially fall off the bank's balance sheet. However, there are others who say that this passive shrinking of the bank's balance

sheet as the bonds mature strikes some observers as inadequate. Last month, the C.D. Howe Institute's Monetary Policy Council urged the bank to accelerate the process by selling the bonds.

However, in a recent meeting of the Standing Senate Committee on Banking, Trade and Commerce, the governor of the bank testified that if the bank sold the existing government bonds it is holding, there would be a loss of $20 billion, which will be paid by the Government of Canada in accordance with the indemnity agreement between the government and the bank. This $20 billion would increase the government's deficit by $20 billion.

Earlier this month, the World Bank said most countries are headed for a recession and warned of a possible return to stagflation: an economy characterized by high inflation and low growth. It said global economic growth is expected to slow down before the end of the year, and most countries should begin to prepare for a recession.

Earlier this month, the media reported that the United Kingdom's economy unexpectedly shrank in April, raising the risk that their economy will contract in the second quarter.

Canada is just emerging from the pandemic, which was a major financial shock to our economy. We should now get our spending under control and prepare for the next financial shock.

While no one can predict the future, the government supported our economy during the pandemic by borrowing and spending a substantial amount of money. It is time to get our fiscal house in order, yet the government continues to spend and borrow, seemingly unaware of the dark clouds forming.

Honourable senators, Bill C-19, similar to previous budget bills, proposes several amendments to the Income Tax Act, which is now over 3,000 pages long. The Income Tax Act is a complex and inefficient piece of legislation which has accumulated a patchwork of credits, incentives and narrow "fixes." Governments use the tax system to help meet certain policy goals by adding credits or deductions, or to provide benefits to specific groups, making the Income Tax Act more complicated with each amendment.

The last time the government carried out a review of our tax system was 1967. Yes, that is 55 years ago. Much has changed in the past 55 years. The world has become more global, technology has changed the way we live, people are living longer and the nature of work has changed. It is time to review our tax system — actually, it is past time.

Numerous national and international organizations have recommended many times that the government update its tax system, including committees of the House of Commons and the Senate. The current system is riddled with problems and has become unnecessarily burdensome to the Canadian taxpayer, businesses and tax professionals. Even the Canada Revenue Agency, which administers the Income Tax Act, is challenged to provide correct answers to public inquiries.

[Senator Marshall]

• (1600)

We need a tax system that is simple and easy for taxpayers and businesses, encourages investment and job creation and enhances Canada's global competitiveness. We need to be better positioned to compete for jobs, talent and investment with a fair, simple and efficient tax system.

Before I discuss certain sections of Bill C-19, I just want to make a comment on the omnibus nature of Bill C-19. First, Bill C-19 is an omnibus bill. It is 440 pages long. The proposed amendments to the Income Tax Act are highly technical and numerous. Given that these amendments will amend the very complicated Income Tax Act, which is itself 3,000 pages long, the study of Bill C-19 by any committee of the Senate is a very daunting task.

The "Select Luxury Items Tax Act" is a bill within a bill. It is 175 pages of the 440-page Bill C-19, and it should never have been included in this omnibus bill. The "Select Luxury Items Tax Act" should have been tabled in Parliament as a stand-alone bill to be properly studied and debated. It is shameful that the government has not studied the economic impacts of the proposed tax to determine how it will affect workers, businesses and the economy.

Part 5 of Bill C-19 proposes 32 measures and includes amendments to many other acts. Each of these 32 measures warrant detailed study. However, the breadth and depth of the measures contained in Part 5 of Bill C-19 alone required more time for study than the time provided.

While various parts of Bill C-19 were referred to a number of committees for study, the time provided was greatly limited. We are expected to make do with the time provided and rubber-stamp the bill.

Part 4 of the budget implementation act proposes to implement the "Select Luxury Items Tax Act," which will impose an additional tax on some vehicles, aircraft and boats. It is complex legislation. As I said before, it is 175 pages long and contains 157 clauses. It should not have been included in the 440-page omnibus budget implementation act. Rather, it should have been tabled as stand-alone legislation to be studied and debated separately by Parliament, as I indicated earlier.

The "Select Luxury Items Tax Act" imposes a tax on the retail, sale, lease or importation of certain luxury cars and personal aircraft priced over $100,000, as well as boats priced over $250,000. The tax will be calculated at the lesser of 10% of the full value of the item or 20% of the value above the established threshold, which is $100,000 for cars and personal aircraft and $250,000 for boats. The tax will come into effect September 1, 2022. The Parliamentary Budget Officer estimates that this tax will generate $87 million in revenue this year because there is only part of the year remaining, and $163 million next year.

Representatives of the aerospace industry do not support this "Select Luxury Items Tax Act," and estimate the loss of 1,000 Canadian jobs and up to $1 billion in lost revenues to companies across the country. They indicated that the tax will affect not only large companies but companies of all sizes, in all regions throughout the Canadian supply chain. Some manufacturers are already experiencing order cancellations due to the pending tax.

The tax comes at a time when the aerospace industry is still recovering from the pandemic. It is asking government to undertake an economic impact assessment to determine what effect the tax will have on the aerospace industry, its employees and the economy. The International Association of Machinists and Aerospace Workers also expressed concern over this luxury tax, indicating that the tax is misdirected toward manufacturing. The tax will adversely affect jobs, and the negative impact on jobs will far outweigh any benefits that would come from this tax. The association also took issue with the fact that there has been no assessment of the impact on jobs and stressed that such an assessment must be done.

In summary, witnesses testified that the luxury tax will put Canadian aerospace companies at a disadvantage globally compared to their competitors, and will cause a loss in sales that will translate into job losses. They said that other countries have implemented similar taxes but have had to repeal or modify them.

In its testimony on this luxury tax, the National Marine Manufacturers Association Canada indicated that an economic impact study carried out by Ernst & Young and economist Dr. Jack Mintz on the proposed tax would result in a minimum $90 million decrease in revenues for boat dealers and potential job losses of at least 900 full-time equivalent employees. The study concluded that the select luxury items tax act would largely fall on middle-income workers who would no longer service or manufacture high-end boats in Canada. The tax also threatens the survival of Canada's domestic boat manufacturing base, which has already been negatively affected by years of competition from other jurisdictions. The tax will also cause job losses at marinas and service shops.

In 1991, the U.S. Congress passed a 10% luxury tax on all new boats sold in the U.S. that cost more than $100,000. Within the first quarter of the year, sales of new boats over $100,000 plummeted 89%, resulting in massive job losses and multiple bankruptcies. The tax was eventually abandoned.

The select luxury items tax act was studied by the Standing Senate Committee on National Finance, and the committee report was tabled in the Senate yesterday. The following is an excerpt from the committee's report:

> After hearing from groups, notably the Aerospace Industries Association of Canada and the National Marine Manufacturers Association, our committee was surprised to learn that the government has not studied the economic impacts of the proposed tax, including on business activity and employment in these sectors.
>
> Our committee therefore recommends that, prior to implementing this tax, the Department of Finance conduct such a study and that it inform our committee of the results, including its consultations with the impacted sectors.
>
> In addition, should this tax be found to have a negative impact on business activity and/or employment in these sectors, we would urge the government to react quickly and take mitigating measures including, if necessary, doing away with the tax altogether.

Division 6 of Part 5 of Bill C-19 is proposing to amend the Federal-Provincial Fiscal Arrangements Act to authorize a $2-billion payment to the provinces and territories through the Canada Health Transfer, allocated on an equal per capita basis to help reduce the surgical and other medical procedure backlogs caused by the pandemic. In addition to the $2 billion proposed in this bill, an additional $500 million was provided in 2019-20 and another $4 billion in 2020-21 to address the pressures that COVID-19 have put on the health care system, including backlogs of medical procedures.

The Canada Health Transfer is the largest federal transfer to the provinces and territories, and helps pay for health care. It is expected to cost $45 billion this year, increasing to $56 billion in 2026-27. Provincial and territorial premiers are asking for another $28 billion increase, which is significantly more than the $11 billion increase projected over the next four years.

Provinces and territories are not required to report to the federal government on how the monies are disbursed, although the conditions of the Canada Health Act are to be respected.

In addition, our briefing note on this portion of the bill indicated that the Prime Minister has committed to discussing with the provinces and territories the long-term strength, sustainability — which is an interesting word — and resilience of the health care system after the pandemic. The cost and sustainability of our universal health care system is often raised.

• (1610)

Using data from the Organisation for Economic Co-operation and Development, or OECD, the Fraser Institute recently compared the performance of 28 high-income OECD countries with universal health care systems to determine how well Canada's system is performing relative to its peers. They used 40 indicators representing four broad categories: availability of resources, use of resources, access to resources, and quality and clinical performance.

The study concluded that Canada spends more on health care than the majority of high-income OECD countries with a universal health care system. After adjusting for age — those over age 65 — Canada ranked second highest of the 28 countries for health care expenditures as a percentage of GDP and eighth highest for health care expenditures per capita. Although Canada ranks among the most expensive universal health care systems in the OECD, its performance for two of the four categories — that

is, availability and access to resources — is generally below that of the average OECD country, while its performance for the other two categories — the use of resources and quality and clinical performance — is mixed.

The study concluded that there is an imbalance between the value of health care that Canadians receive and the relatively high amount of money they spend on their health care system. This is surely an issue that will be addressed by the Prime Minister and the premiers when they meet.

Division 7 of Part 5 of Bill C-19 is proposing to amend the Borrowing Authority Act and the Financial Administration Act to include the extraordinary borrowings of 2021 in the borrowing authority maximum amount and no longer treat this amount as extraordinary borrowings for reporting requirements.

Division 7 also proposes to amend the Financial Administration Act to change the reporting requirements for extraordinary borrowing amounts so that these amounts are no longer required to be tabled separately in the House of Commons within a 30-day time frame, but rather be reported in the annual Debt Management Report. Under current legislation, extraordinary borrowings must be reported within 30 sitting days of Governor-in-Council approval. There were extraordinary borrowings of $288 billion in 2020 and $8.4 billion in 2021. Both reports were tabled on a timely basis within the 30-day time frame stipulated by legislation.

The government is now proposing that extraordinary borrowings be reported in Finance Canada's Debt Management Report. This is the same report we waited one full year to see. The government pushed back the tabling of its March 2021 Debt Management Report to March 2022. In essence, the government has concluded that the tabling of extraordinary borrowings is too timely, and that this information should be included in a report that can be delayed for up to a year, as they did this year.

The government is proposing this amendment under the pretext of improving accountability. However, if the government were truly sincere in improving accountability, they should have amended the Financial Administration Act to require the Debt Management Report to be tabled earlier rather than the one-year time limit currently stipulated.

Bill C-19 also proposes to amend the Borrowing Authority Act. This act focuses on the consolidated borrowings of government and its Crown agencies. However, reporting is only required once every three years. It is a triennial report — I think it's the only triennial report required in government; all the other reports are annual. The consolidated borrowings of government is an amount not readily available, and I know because I went looking for it.

Since reporting is once every three years, to determine the consolidated borrowings, information is gleaned from the government's public accounts, the financial statements and other financial information of Crown agencies themselves. You have to look through a lot of information, which I did before Christmas, and come up with the dollar amount yourself, and usually, it's an estimate.

When we had the finance officials at the National Finance Committee, I asked them what the consolidated debt was, and they said $1.6 trillion. The $1.6 trillion I mentioned earlier in my speech, that came from finance officials. It was in a government document somewhere. I don't know where. I checked with the Parliamentary Budget Officer and the Library of Parliament, but I don't think that number is published anywhere.

If the government were truly interested in improving accountability, it should have amended the Borrowing Authority Act to require an annual report on consolidated debt rather than the triennial report currently required.

Division 12 of Part 5 of the budget implementation act enacts the prohibition on the purchase of residential property by non-Canadians act. It prohibits the purchase of residential property by non-Canadians for a period of two years, and there are some exceptions defined under the proposed section 4 of the act.

The cost of homes in Canada has increased significantly over the past number of years, supported by low interest rates, a shortage of residential dwellings and high inflation. Both the federal and provincial governments have struggled to keep housing prices at an affordable rate.

The bill defines prohibition in section 4 of the act, stating that, " . . . it is prohibited for a non-Canadian to purchase, directly or indirectly, any residential property." The penalty for doing so is a fine of not more than $10,000 and, on application by the minister, a court order for the property to be sold. If sold, the owners are not to receive more than the price they paid for the property.

There was insufficient time to thoroughly study the proposed bill and its implications. However, of concern to me is the discretion afforded to the minister to prescribe matters by regulation. For example, the minister can exempt certain classes of individuals from the ban and can change the definition of certain key terms. As a result, regulations can change how the ban will actually work in practice.

There is also concern that the ban on the purchase of residential properties infringes on provincial jurisdiction or discriminates based on nationality. It remains to be seen whether this ban will actually increase the residential properties available for Canadian occupancy or moderate housing prices. Inflation and increasing interest rates may be the biggest factor in moderating prices in the housing sector.

Division 3 of Part 5 of the bill proposes to repeal the Safe Drinking Water for First Nations Act. This part of the bill was referred to the Standing Senate Committee on Aboriginal Peoples for examination. The committee tabled its report in the Senate on June 10. Like Senator Moncion, I was very much struck by the report.

In its report, the committee expressed alarm about the unacceptable water crisis that continues to plague First Nations across Canada, causing serious illnesses, mental health issues and unnecessary suffering. It went on to say:

> Canadians would be shocked, and ashamed if they knew how the Government of Canada has treated First Nations on water issues.

The report outlines some specific examples of problems encountered by First Nations in accessing safe drinking water, including references to legal actions taken against the Government of Canada in relation to clean drinking water in First Nations communities. While the committee said it recognizes that the federal government is taking important steps to address long-term drinking water advisories, it said that it remains deeply concerned that First Nations had to resort to litigation to obtain federal funding for safe drinking water in some communities.

The committee concluded its examination of this part of the bill by saying it believes that:

> . . . with respect to First Nations water, the Government of Canada has breached the honour of the Crown and its treaty and nation to nation relationships.

It was the committee's view that the minister should report publicly on the solution to the First Nations water crisis, and further, "the implementation of any solution needs to be measured or the status quo is unlikely to change."

Honourable senators, Division 30 of Part 5 of the bill proposes to implement the first series of changes required to meet the government's commitment to create a publicly searchable corporate beneficial ownership registry by 2023. At the present time, anonymous Canadian shell companies can be used to conceal the true ownership of businesses. This makes them vulnerable to misuse for illegal activities such as money laundering and tax evasion. To counter this, authorities need access to timely and accurate information about the true ownership of these entities.

Specifically, the proposed amendments to the Canada Business Corporations Act will require private federal corporations to send information on their beneficial owners to Corporations Canada on an annual basis when a change in ownership occurs. This will allow Corporations Canada to provide that information to an investigative body or authorized entity.

• (1620)

Government has, for several years, been talking about a publicly accessible beneficial ownership registry. The information in such a registry would be invaluable in pursuing money laundering and tax evasion and would assist the government in collecting, according to some estimates, billions of dollars in tax revenues.

Last year's budget provided $2 million for the implementation of a publicly accessible corporate beneficial ownership registry by 2025. The Banking Committee at that time expressed concern that the changes being proposed and the $2 million being provided were insufficient to implement the registry by 2025. This year, government is accelerating its targeted implementation date of a beneficial ownership registry to the end of 2023, a mere 18 months away.

Government has also indicated that the registry will now be implemented using a two-phased approach in which phase one includes these amendments and phase two will include other amendments, which will be disclosed in a future budget implementation bill in the fall of this year.

Government has further indicated this two-phased approach will allow for necessary consultations with stakeholders. Although consultations were held in 2020, there are several unresolved issues surrounding the government's new commitment to implement the registry before the end of next year. Specifically, they have moved to what they call a two-phased approach without providing detailed information on the plans and the objectives of each phase, and no funding has been provided for the implementation of the registry. While $2 million was included in last year's budget, it was not enough to implement the registry and none of this money had been spent. While implementation of the registry by the end of next year is a laudable objective, this is only 18 months away. Government has many challenges to overcome before this deadline.

The Standing Senate Committee on Banking, Trade and Commerce was tasked with reviewing this part of the bill and also expressed concern over the two-phased approach. The committee also suggested that the government take complementary action to ensure the success of the registry by collaborating with provinces and territories, allocating adequate financial and human resources to ensure the success of the registry and continuing to examine the potential use of lawyers as nominee shareholders to shield the identity of beneficial owners.

Of particular interest was the release last week of the report of the Cullen Commission, which held a public inquiry into money laundering in British Columbia. The Cullen Commission said that the federal anti-money laundering regime is not effective and the Province of British Columbia needs to go its own way. Commissioner Cullen said that the agency tasked by the federal government to identify money threats, the Financial Transactions and Reports Analysis Centre, which we know as FINTRAC, is ineffective. He said that FINTRAC's results compare poorly to other nations with comparable systems. Given the deadline established by government to implement phase one, we will be able to assess progress of the system during our study of the 2023 budget.

This year's budget announced two spending reviews that are supposed to save the government and the taxpayer $9 billion over five years. The objective of the first review is to reduce planned spending in the context of a stronger recovery. Government estimates this review will save $750 million a year for four years, beginning next year, for a total savings of $3 billion. Government has said that the 2022 fall economic and fiscal update will inform us of the progress of this review.

The second initiative will be a strategic policy review led by the President of the Treasury Board. This initiative will assess program effectiveness in meeting government's key priorities. It is also supposed to identify opportunities to save and reallocate resources. This second review is estimated to save $6 billion over three years beginning in 2025. Next year's budget is supposed to provide an update on these savings. My primary concern relates to the $9 billion in potential savings since it is being used to reduce the five-year cost of new programs as disclosed in the budget. If the $9 billion in savings does not materialize in whole or in part, any shortfall will have to be funded by the government, thus increasing the projected deficit.

Given that previous expenditure reviews were unsuccessful, such as those in Budget 2017 and the 2019 fall fiscal update, government will be challenged to actually realize these savings. The initiative launched in 2017 actually resulted in increased spending while no information could be found on the 2019 initiative.

The Parliamentary Budget Officer has questioned these initiatives, indicating severe fiscal restraint will be required to achieve these savings. In addition, our review of departmental performance reports in the Finance Committee indicates that the quality of performance information provided by departments and agencies will make it much more difficult to carry out the review.

Given the invasion of Ukraine, government has signalled that there will be a significant increase in the budget for military spending. Budget 2022 allocates $6 billion over five years to reinforce our defence priorities with another $2 billion going toward supporting a culture change in the Canadian Armed Forces, enhancing cybersecurity and supporting Ukraine. The budget does not provide details on what the $6 billion over five years will provide, but the budget document frames it as funding that will strengthen Canada's contributions to our core alliances and bolster the capabilities of the Canadian Armed Forces.

In 2017, the government released its defence policy and earmarked $164 billion over the 20-year period from 2017 to 2037 for capital expenditures for the Department of National Defence. However, financial information indicates that, for its capital spending, there was a shortfall or underspending of $10 billion on capital projects between 2017 and 2021 between what the defence policy had projected and what was actually spent. Revised departmental plans show that this $10 billion shortfall will now be shifted to future years, notably 2023 to 2028. That's the background. This is my point.

Earlier this week, the government announced it would spend $4.9 billion over the next six years to modernize NORAD and upgrade our continental defence system, and there is a commitment by government to invest $40 billion over the next two decades on NORAD. Government must clarify whether the 2017 to 2021 spending shortfall of $10 billion, which is now shifted to future years, will be the source of funding for the NORAD initiative, or whether the NORAD initiative requires new funding. These issues are important because we need to know how post-budget initiatives will affect government-projected deficits as disclosed in Budget 2022.

It is not only NORAD which requires significant funding. The Canadian Armed Forces has old planes, old ships, second-hand submarines that are often not operational and a shortage of recruits. In addition, in order for Canada to reach NATO's 2% of GDP defence spending benchmark, government will need to spend between $13 billion and $18 billion more per year over the next five years. Suffice to say the Canadian Armed Forces and the Government of Canada have their challenges in protecting our country.

Each year, government launches new billion-dollar programs or significantly increases existing programs. These include multi-billion-dollar infrastructure programs, such as the $187 billion Investing in Canada Infrastructure Program and the $30 billion Federal Secretariat on Early Learning and Child Care launched last year, promising reduced child care fees, 250,000 new child care spaces and about 55,000 new early childhood educator positions by 2026.

Last year, $1.5 billion was allocated in the budget for the Rapid Housing Initiative, promising 4,500 new affordable units that would be constructed within 12 months. The program is extended this year to create at least 6,000 new affordable housing units at an estimated cost of $1.5 billion. This year government is also committing $10 billion for the making housing more affordable initiative, targeting the creation of 100,000 new housing units over the next five years. However, all these numbers are projections. They are estimates. And we never see the report cards which tell us what has actually happened. Did the infrastructure projects actually get built? And where are those projects actually located? In what communities? Were the housing units actually constructed? In what communities? Are those units occupied? How many child care spaces have been created so far?

• (1630)

Honourable senators, these are the questions we should be asking, and this is the information we should be looking for. This is accountability. The easiest part is saying that we plan to do something. The difficult part is delivering results.

Each year, government departments and organizations release their departmental results reports. However, the information provided in many of these reports do not provide sufficient information to indicate what results they actually achieved with the funding provided. Quite simply, the departmental results reports are not providing the information they are supposed to provide. Government, its departments and agencies should provide report cards on its programs and demonstrate that the money provided has actually achieved its purpose. The departmental results reports no longer demonstrate accountability.

Honourable senators, in closing, I would like to thank Senator Moncion for two speeches on the budget bill. I would also like to thank all of my colleagues on the National Finance Committee, the chair, the deputy chair and all the staff who supported us in our many meetings while we studied the budget. Thank you, honourable senators.

The Hon. the Speaker pro tempore: Senator Boehm, if you have a question, Senator Marshall will have to ask for additional time.

Hon. Peter M. Boehm: I do have a question, Your Honour.

The Hon. the Speaker pro tempore: Senator Marshall, are you asking for five minutes to answer questions?

Senator Marshall: Yes.

An Hon. Senator: No.

The Hon. the Speaker pro tempore: Leave is not granted.

[*Translation*]

Hon. Diane Bellemare: I want to congratulate Senators Moncion and Marshall, the sponsor and critic of Bill C-19. I want to speak briefly at third reading of this bill.

I have three points that I want to address.

Many of you have already spoken about the democratic deficits of omnibus budget implementation bills, but I'd like to say it in my own words.

The practice of introducing omnibus bills undermines the democratic process because, as you know, it limits debate and limits potentially worthwhile amendments that could be made to bills.

It is much more complicated for the Senate to amend the budget than to amend a specific bill, and we have much less time set aside to study a bill.

The Senate generally adopts the government's budget without amendment, but omnibus bills force us to vote in favour of the budget even if it contains provisions that are not directly connected to the government's budgetary and fiscal policy and to which we might be opposed, as Senator Simons previously pointed out.

A quick review of budget implementation bills introduced since the beginning of the 21st century shows that these mammoth bills are a relatively new phenomenon in Canada's parliamentary history.

[*English*]

As proof on this subject, let me quote from journalist Bill Curry's article in *The Globe and Mail* today entitled, "Senate reports express concern with large budget bills ahead of final vote on C-19" where he states:

> According to research compiled by the Library of Parliament, the first reference to a "budget implementation bill" occurred in 1991. Throughout the nineties, they were small bills of about a dozen pages each.
>
> Budget bills started to grow in size in the next decade, but their page count jumped dramatically to hundreds of pages in 2009 and 2010 as the government dealt with a global economic crisis.

[*Translation*]

It was during the Harper government that omnibus bills first made an appearance. At that time, as you may recall, the Department of Finance didn't announce the contents of budget implementation bills ahead of time. Parliamentarians were often surprised to see what was in them and the last-minute additions that were made. Let me give you a few examples. In the 2014 budget implementation bill, there were amendments to the Labour Code regarding health and safety that were developed without consulting the stakeholders.

The 2015 economic action plan bill included provisions that amended the Immigration and Refugee Act. It also included amendments to the Ending The Long-Gun Registry Act, which put an end to the debate with certain provinces, including Quebec, that wanted to keep the existing data in the registry.

Those are examples of legislation that shouldn't be part of budget implementation bills but rather should make their own way through the legislative process.

I believe it was in 2017 that the Liberal government adopted a very similar practice, essentially the same one as the previous Conservative government, the only difference being that parliamentarians are now informed ahead of time of the legislative provisions to be included in budget implementation bills. The budget speech includes a schedule listing all the legislative measures to be presented, which means we can prepare.

The process is now more transparent, but that doesn't make it more acceptable, as these bills contain a number of elements that don't really have anything to do with the budget. Examples I gave earlier are amendments to the Criminal Code with respect to the Holocaust, the amendment to the Judges Act and the amendment to the Parliament of Canada Act. Those are all well and good, but those kinds of amendments should not be in this bill.

Furthermore, these bills are often too big. In fact, many witnesses, including some who appeared before the Standing Senate Committee on Banking, Trade and Commerce, said that some divisions of Part 5 of the bill, such as the division on competition, should be in a bill of their own.

In short, just because a bill has financial implications doesn't mean it deserves to be incorporated into the budget, and it is poor practice to include so many issues in the budget that aren't directly related to the budget statement, even if that practice is more transparent than it was before.

One has to wonder how and why governments got to this point.

We know that the reason this practice exists is to make it easier to pass legislation that would otherwise be more difficult to pass.

Is another reason that we have a minority government? Is it because of the COVID-19 pandemic or the scope of the legislative agenda? I don't think those are valid excuses for broadening the scope of budget implementation bills.

In my opinion, one way to reduce the size of mammoth budget implementation bills is to spread out the introduction of government bills more evenly throughout the year.

I therefore invite academics and political science experts to tell us what they think about this and propose solutions.

One thing is certain, and that is why I rose to speak today: If this practice continues to grow, Canadians are going to become increasingly cynical about our institution.

That being said, I will obviously be voting in favour of Bill C-19, but I want to take this opportunity to ask the government not to include employment insurance reform in the next budget implementation bill. Which brings me to my next point.

[*English*]

In the budget speech, the government said it will release its long-term plan for the future of EI after the consultations conclude.

Let us be clear: It would be inappropriate to include this plan in a budget implementation bill. The reasons are obvious. It would be difficult for us to realize an in-depth study of this reform, which is central to the health of the labour market. We would not be able to look at regional consequences and make a value-added contribution.

However, I want to take this opportunity to insist on the necessity for an iterative consultation process with the labour market partners who finance entirely this social program. The proposition I made in Bill S-244, which I introduced recently, would make an important addition to the EI Commission that could make a difference in favour of better EI reform. It proposes to strengthen the social dialogue within the EI Commission. This constitutes the kind of iterative approach in the consultation process that can be extremely useful and innovative in this case. I will continue this file upon our return in September. As you might recall, this bill has been supported by the main labour market partners in Canada, such as the Canadian Labour Congress and the Canadian Chamber of Commerce.

• (1640)

I think the Senate can play an important role in the EI file because we have a cognizant group of senators who could invest themselves in this reform. We could have the time to do an in-depth analysis, especially if the government asks us to pre-study the bill.

[*Translation*]

As my third and final point, I want to emphasize that the Senate can make a difference in the quality of legislation. It has done so in the past. The Senate exerted its influence when examining Bill C-19, although it did not make any amendments.

[*English*]

Indeed, Bill C-19, when tabled in the House, contained 32 divisions in Part 5. It now contains 31 divisions.

We are grateful for the leadership of our colleague Senator Yussuff in persuading the government and Minister Qualtrough to remove Division 32 on the creation of a new EI board of appeal that would have replaced the EI appeal process under the Social Security Tribunal of Canada. The withdrawal of this division is consequential to the unanimous objection of labour and employers' associations.

[*Translation*]

The government was surely acting in good faith in proposing reform. It wanted the reform to respond to the grievances of workers and employers, but it missed the mark.

If the proposals to strengthen social dialogue at the Employment Insurance Commission included in Bill S-244 had been in effect, the government would not have missed the mark. Stakeholders could have pointed out the problematic situations from the outset and proposed reforms to the tribunal that would have really addressed the needs.

In closing, I want to acknowledge the tremendous amount of work done by all honourable senators on Bill C-19. I especially want to commend the sponsor of the bill, Senator Lucie Moncion, and its critic, Senator Elizabeth Marshall. Thank you. *Meegwetch*.

[*English*]

Hon. Donna Dasko: Honourable senators, I appreciated Senator Bellemare's discussion of omnibus bills, yet here is another interesting section of this bill.

Colleagues, I rise today to speak to Division 13 of Bill C-19, the budget implementation act, which advances the Senate modernization agenda initiated by this government in 2016 of moving toward a more independent Senate. It includes amendments to the Parliament of Canada Act and other changes.

Division 13 recognizes the steps that have been taken toward independence in our upper chamber and reinforces this direction by making key changes: changing the annual additional allowances for Senate leadership positions, and requiring that leaders of all recognized groups in the Senate are to be consulted on the appointment of certain officers and agents of Parliament.

Colleagues, as we know, these amendments are not new. They were initially introduced as Bill S-4 in the Senate last year; again as Bill S-2 after the 2021 election; then in the other place as Bill C-7; and then were incorporated by the government into this bill, the budget implementation act. They follow from significant rule changes within the Senate since 2016 to recognize groups other than the government and official opposition.

Many of our colleagues have worked hard to achieve these changes. I want to thank all Senate leaders — in particular, our leaders Senator Woo and Senator Saint-Germain — for the hard work they have done over the years, as well as Senator Harder and Senator Gold for taking us to this point.

My goal today is to speak briefly about the evolving Senate and about how Canadians view our upper chamber.

During my 30-year career in the public opinion business, I have had the opportunity to study, analyze and consult Canadians on the many proposals advanced over the years to achieve Senate reform.

In 1987, the Meech Lake Accord included in a short list of provisions a clause giving the provinces the ability to submit names to the Prime Minister to fill Senate spots. That accord died in 1990.

In 1992, the Charlottetown Accord included in its much longer list of provisions clauses to implement a "Triple-E" Senate — a Senate that would be elected, equal and effective. That accord died on the heels of a national referendum that failed that year.

In 2011, Prime Minister Harper introduced legislation with term limits for senators and proposals to allow the provinces to hold Senate elections. That reform also died when the Supreme Court ruled in the 2014 reference that such changes would require constitutional amendments.

Mr. Harper knew then, as we still know now, how difficult it is to change the Constitution. In fact, a recent Environics poll shows that only 35% of Canadians would be willing to reopen the Constitution for the purpose of making changes to the Senate. Much more public support than that would be needed before we would go down that road again.

Colleagues, in my lifetime, the only major Senate reform that has truly succeeded has been Prime Minister Trudeau's initiative toward creating an independent Senate.

I want to make a few observations about public opinion and speak a bit about what Canadians think of the Senate.

First, we still have challenges with the way the public views the Senate overall. In reviewing national public opinion research conducted by Nanos Research last year, I tried to dig into the weeds to understand what the remaining sources of public dissatisfaction with our chamber were.

Among the number of Canadians who hold a negative view of the Senate, here are the reasons they give for why they view us negatively. Some are critical because we are not elected, and they would prefer to have an elected Senate. Others are critical because they say the Senate is still too partisan, yet others still point to the scandals of many years past. But the single most important critique is that they do not see that we provide value for money. They don't know exactly what we do, they think maybe we cost too much. They are not quite sure, and that really emerges as the most important of all the critiques.

Colleagues, we have not told the story of our hard work, purpose and sober second thought very well, and we must continue to do a better job of that. When it comes to the independent Senate, however, we see a lot of positive feedback from Canadians.

In the Nanos survey from last year, there was widespread approval of the new Senate appointment process that has been in place since 2016. According to the data, 80% of Canadians think it's a good change and a good development that new senators sit as independent members and are not active in a political party. Furthermore, 67% think that the open application process to become a senator is a good change, and 79% say it's a good change that an independent board reviews applications for the Senate.

Most importantly, colleagues, Canadians want future governments to keep building an independent Senate. Three quarters of Canadians — 76% — want future governments to keep the changes to the appointment process that have been implemented, and only 3% of Canadians want to return to the previous ways of appointing senators.

Colleagues, we still have work to do. We must keep building awareness of the Senate's unique role in governance and of the move toward independence and non-partisanship. When awareness of the independent Senate increases, so do positive attitudes.

• (1650)

I will conclude by saying the reforms promoting independence are a very bright light for our institution. Division 13 of Bill C-19 is an important and vital step toward recognizing our independent Senate and recognizing it into the future. I will be voting yes. Thank you.

Hon. Tony Loffreda: Honourable senators, I rise today at third reading to speak to Bill C-19, the government's budget implementation act, 2022, no. 1. I thank all the senators who have spoken thus far for their insightful speeches.

As a member of the National Finance Committee and the Banking Committee, I had the pleasure of immersing myself in a top-to-bottom review of this almost 500-page bill. Combined, we held eight meetings and heard from more than 75 witnesses. We received several written briefs, and I also reviewed the reports from the six committees who conducted pre-studies of specific parts of the bill. And I will attempt to be as complementary as possible to the other speeches we have heard.

Studying a budget implementation act is always an exciting and daunting task that usually includes a review of a long list of policy initiatives, income tax amendments and various other measures. Bill C-19 is no different.

[*Translation*]

As we all know, sometimes you need to look around you to feel better about yourself. Indeed, the Canadian economy is doing well compared to our G7 allies. For example, the International Monetary Fund revised its growth projections in April downward slightly. Globally, growth is projected to hit 3.6%, while in Canada, the increase is 3.9%, which moves us ahead of the United States, Great Britain and the European Union. These projections are encouraging.

Although the Canadian economy is moving full steam ahead, many Canadians remain in tough, precarious situations. Inflation is mainly to blame for the many problems facing Canadians who are worried about making ends meet. Fortunately, there are some measures in Bill C-19 that will ease the financial burden for some of these Canadians.

[*English*]

There are a few measures in C-19 that I welcome and feel will help alleviate some of the financial pressure and economic hardships Canadians are dealing with these days due, in part, to the inflationary pressures we are experiencing. I'm optimistic that some of these measures will help create wealth and increase productivity in our country.

For instance, I think of the labour mobility deduction for tradespeople, which was well covered, to allow workers to deduct eligible expenses of up to $4,000 per year. I've spoken to many entrepreneurs who continue to struggle to find workers. This measure should help and, hopefully, will solve some of the delays. Labour shortages are not the only challenge, as supply chain delays also continue to have a negative impact, as we have all witnessed and experienced.

I also support the government's commitment to providing greater support to the disability community, namely through the home accessibility tax credit. This measure is expected to benefit 10,000 Canadian families and allow seniors and people with disabilities to live and age at home. I also support the expansion of the eligibility criteria for the disability tax credit, and I would welcome further expansion in the future to a refundable tax credit.

We all know housing supply and affordability in Canada are big issues. Let's not mince words: It's a crisis that needs our immediate attention. Thankfully, there are a few measures in Bill C-19 that focus on housing, namely Divisions 4 and 12 of Part 5. Division 4 authorizes the Minister of Finance to make payments to provinces and territories of up to $750 million out of the Consolidated Revenue Fund for the purpose of addressing municipal and other transit shortfalls and needs, and improving housing supply and affordability, which is so important.

Division 12 enacts the prohibition on the purchase of residential property by non-Canadians, a new statute that implements a ban on foreign investment in Canadian housing for two years. The prohibition would also apply to certain foreign corporations and entities and prevent non-eligible foreign persons from avoiding the ban by using corporate structures.

I also want to briefly acknowledge the government's commitment to fast-track by two years the implementation of a public and searchable beneficial ownership registry by bringing amendments to the Canada Business Corporations Act. Division 30 of Part 5 of the bill will require private federal corporations to proactively send information on their beneficial owners to Corporations Canada. The registry is being implemented in a two-phase approach, and we expect further amendments this fall in the government's second budget implementation act of 2022. In committee, officials from Innovation, Science and Economic Development Canada, or ISED, explained that the government will further consult with stakeholders, which is so important.

I think it will be important for our Banking Committee, when the time comes, to take a good look at the proposed changes in phase two to make sure that there are no loopholes that could, among other things, allow foreigners to create shell companies and bypass the measures in Division 12, which bans foreign investment in housing. I know our colleague Senator Downe shares this concern and has written to Minister Freeland about it.

Of course, these three measures are in addition to another housing-related measure we adopted in Bill C-8 last week: the Underused Housing Tax Act, which the government estimates will generate $735 million in revenue in the next five years. Officials who appeared before the National Finance Committee argued that Division 12 is one measure that is packaged within a number of measures put in place in Budget 2022 by the government to contribute to better affordable housing outcomes for Canadians and curb foreign demand.

I was reassured that these measures are only part of a larger package of initiatives because a lot of work still needs to be done on this file. Taxing foreign owners won't solve the housing shortage, and it is unlikely to address affordability challenges. With the recent and anticipated interest rate hikes, housing may become increasingly more inaccessible for Canadians. Approximately one in four Canadians are worried that increasing interest rates will force them to sell their homes.

It is my hope that our Banking Committee will take the time this fall to explore what opportunities, challenges and risks lie ahead in the sector and make recommendations to the government on how to make housing more affordable, available and accessible.

I appreciate that the federal government may be limited in what it can actually do to address the housing crisis since many of the responsibilities fall within provincial and municipal levels of government. Zoning issues and permitting come to mind. I respect jurisdictional authority, but I also believe that the Canadian federation works best and can achieve great things when all levels of government work together. The housing file is one such issue where collaboration is crucial. When funding transit provincially, a solution would be that this funding be linked to an increase in housing supply. This housing supply is currently being rationed by provinces and municipalities. This is too complicated to get into in a short period of time, but we will study this further, and I will comment on it at a later time.

One issue that has received a lot of media coverage and that I have some reservations about is the select luxury items tax act, Part 4 of the bill. On the surface, this seems like a good policy. As the government argued when it introduced the tax in Budget 2021, those who can afford to buy luxury goods can afford to pay a bit more. It is estimated that this measure would increase federal revenues by $749 million over five years.

At the National Finance Committee, we heard from the aerospace and marine industries, and both advanced that the measure would be harmful to the economy and would have a negative impact for thousands of Canadian families. It was suggested that this measure could result in lost jobs and lost revenues to companies across the country. I won't get into the numbers, but many supply chains will obviously be affected. We were reminded that the United States enacted a similar tax on boats in the early 1990s, only to repeal it a couple of years later. We can always learn from global jurisdictions and especially our largest trading partner.

• (1700)

Finance officials suggested that, within the context of the economy of the whole, it wouldn't really impede growth globally but recognized that specific sectors, like automotive, boating and planes, will experience a bigger impact. I think the government may have failed to look at the consequence of this measure on workers within these sectors, lost revenue from sales and the impact on our reputation globally.

I am not suggesting that this tax be repealed from Bill C-19 — and we've made a few observations in our National Finance Committee's report, to which you can refer — but I can't help but question what economic impact assessment the government conducted to justify it. I think it will be very important for senators on the National Finance Committee to monitor the implementation and impact of this tax and for the government to also track the impact of this tax and the impact it will have on employment, and to act very quickly if the impact is negative.

We've discussed the excise taxes and the "sin" taxes, but, rapidly, what can I add? I'll add this: as reported in the Public Accounts of Canada, revenues from tobacco between 2016 and 2021 amounted to nearly $16 billion, and just over $9 billion for alcohol. These are considerable sums of revenue for the treasury. With respect to vaping products now being taxed, the revenues from their taxation in the next five years will generate approximately $654 million. I just want to outline the importance of those taxes.

In relation to competition and growth, when Minister Freeland tabled her budget in the other place on April 7 she acknowledged that the Achilles heel of the Canadian economy is productivity and innovation. I completely agree with her, and I feel Bill C-19 could have done more to properly address this issue. The business community feels the same way. Sure there are some measures, like the changes to the Competition Act in Division 15 of Part 5, that could set the stage for a more competitive marketplace. According to the government, these changes could result in lower prices for goods and services, greater choices for consumers and better, good-paying jobs — we never have enough good-paying jobs — and an environment that fuels business, innovation and productivity.

This is good news, because we all know that competition will benefit the consumer, and the consumer, I often say, is the driver of every economic recovery and the motor of every economy. If we look south to the largest economy in the world, and our largest trading partner, the consumer is two thirds of that economy, and close to 60% of the economy in Canada. Seeing the importance of the consumer, any measure and/or amendment that benefits the consumer is always very welcome.

It is also important that the government increase engagement with stakeholders, the business community and others to see what else must be done to ensure that Canada keeps pace with our global competitors. We need to be an attractive destination, a place where we encourage businesses to innovate and give Canadian workers a chance to prosper. We must also establish very favourable conditions to promote domestic and foreign investment.

In conclusion, honourable senators, as we look to the future and consider how Canada can, should and must manage the recovery, we need to turn our attention to Canada's overall competitiveness. I've said it before and I'll say it again: It's much easier to distribute wealth than to attract and create wealth. It was the same in business. When you tell executives to cut expenses, they quickly go and do so. When you tell them to grow sales, it's a little tougher.

Canada needs a plan to address our lacklustre productivity and growth performance. Simultaneously, we must also find ways to raise revenues and start dealing with our debts and deficits. I won't get into the numbers. They've been mentioned enough by Senator Marshall, who is looking at me while smiling and nodding. I also want to thank Senator Moncion for doing a great job as the sponsor of the bill, and Senator Marshall as critic.

While I'm at it, I want to thank all my colleagues on the Finance and Banking Committees. It's always a learning experience, and I am really privileged. But the best way to raise revenues is to grow our economy.

Colleagues, I will vote in favour of Bill C-19. I feel most of these measures will have a positive impact on our economy, although I was hoping to see more measures to address Canada's productivity growth and competitiveness. Bill C-19 is, nonetheless, a good step forward and a reminder that much work lies ahead — and not just talk. It's easy to talk, but let's see action. Let's make action happen. I'm glad to contribute, and to join my colleagues on the Finance and Banking Committees in doing some great work. Thank you for all your work.

[*Translation*]

Hon. Chantal Petitclerc: Honourable senators, I want to thank Senator Moncion and Senator Marshall for their exceptional work during the study of this bill.

Honourable colleagues, as you know, I have called out the Government of Canada a few times on its priorities when it comes to the financial needs and rights of persons with disabilities, either by deploring how long it took to bring in assistance programs during the pandemic, or emphasizing the urgent need to kick-start a new Canada benefit for persons with disabilities. Our role as sentinel requires us to point out these shortcomings or any other broken promise. However, when appropriate, we also have a responsibility to commend any measure that eases the burden on Canadians with disabilities.

[*English*]

Bill C-19 gives us the opportunity to do so by proposing to expand the eligibility criteria for the disability tax credit, DTC, which is a gateway to being entitled to other supports, including the Registered Disability Savings Plan and the child disability benefit.

[*Translation*]

I want to take a few minutes today to talk about these changes and to share the relief of the Canadians who have long been pushing for this tax measure to be improved. The Library of Parliament reports that around 45,000 families and individuals will benefit from the DTC and will have better access to other associated benefits.

You may recall that the Standing Senate Committee on Social Affairs, Science and Technology examined this tax credit in 2018, in response to the work done by Senator Munson. The tax credit was known to be difficult to access, especially for applicants with intellectual disabilities. At the time, we learned that it was common for a medical certificate stating that an individual met all of the eligibility criteria to be rejected without explanation. We therefore based our recommendations on the need to eliminate barriers, make the eligibility criteria fairer and more consistent, and inject some compassion into the administration of the program.

[*English*]

Our requests have been partially met by the changes proposed in this budget implementation bill, which will not only facilitate assessment and reduce delays, but, above all, will improve access to this tax measure. In general, an individual is eligible for the DTC if he or she has one or more severe and prolonged impairments in their physical or mental function that seriously limits their ability to perform basic activities of daily living.

[*Translation*]

The first set of amendments in Bill C-19 actually updates the list of what are considered to be mental functions essential for daily living. This list was strongly criticized for its lack of clarity and consistency with respect to several regular life situations.

The other major change to be commended concerns what can be included when calculating the time spent weekly on essential therapy. At present, certain activities are not included. For example, consumption of food and activities related to the physical exercise required to administer medication and ensure the safe dosage of medical food or medical formula are not eligible.

This will no longer be the case once Bill C-19 is passed. Even better, the new category of activities will also include the time spent on appointments to receive treatment because of the impairment. It will also be possible to calculate the time spent by another person to assist the individual receiving therapy if that individual is unable to perform the activities themselves because of the effects of their disability. At present, any recipient must be receiving essential therapy at least three times a week, for a total of at least 14 hours a week. The frequency required for the administration of this will be reduced from three times a week to two.

• (1710)

Another bit of good news in this bill is that, thanks to an amendment passed unanimously by the other place's finance committee, people with type 1 diabetes will now automatically be eligible for the DTC.

[*English*]

Dr. Michèle Hébert, Chair of Buds in Bloom and family advocate at Children's Healthcare Canada, welcomes this progress in these terms:

> This amendment recognizes the extensive time spent to coordinate care, in large part due to issues related to application processes and administration such as missing forms, heavy paperwork, re-application requirements, rejections, securing a prescriber's approval or bureaucratic interpretations in meeting eligibility to secure this important tax credit.

Dr. Marc-André Dugas, Chief of Pediatrics at Centre mère-enfant Soleil du CHU and board member at Children's Healthcare Canada, states that:

> . . . this is a welcome change to reduce the associated administrative burden on families and providers alike, this reduces the challenges facing young families at a time when they are attempting to courageously manage this illness.

[*Translation*]

There are still barriers. The eligibility criteria will be less stringent. However, some Canadians who hire consultants to fill out the form so they can collect the benefit may turn over up to 30% of their tax refund once their application is approved. This is in spite of the Disability Tax Credit Promoters Restrictions Act that was passed in 2014 — yes, 2014 — and the publication of the regulations in 2021, which was nine years later. The regulations, which were supposed to cap fees that DTC

promoters could accept or charge for these services at $100, were suspended indefinitely by a British Columbia judge pending the outcome of a constitutional challenge.

There are still obstacles and barriers. From equipment costs to treatment and services, the harsh reality is that it always costs more to be a person with a disability.

That said, I'm pleased to see that people with disabilities are now participating in the conversation more than ever before. Three years ago yesterday, the ambitious and historic Accessible Canada Act received royal assent. The act is based on the principle of "nothing without us," which set the tone and showed that a barrier-free Canada is possible by 2040. It's realistic to hope the provinces will follow suit in sectors under their jurisdiction.

The 2020 Speech from the Throne announced a plan to include people with disabilities, and the new Canada disability benefit is a key component of that plan.

[*English*]

In conclusion, while I applaud the proposals in Bill C-19, it remains frustrating and disappointing to see that Bill C-22 has not even begun second reading in the other place. I therefore urge the government to make it a high priority when we get back in September because as we are about to recess, we must never forget that for the 22% of Canadians living with a disability — and as many have said before me — poverty will not take a summer break. Thank you.

[*Translation*]

Hon. Éric Forest: I would like to congratulate and thank the sponsor of the bill, Senator Moncion; the official critic, Senator Marshall; as well as the committee chair and its members.

I just want to come back for a moment to the luxury items tax that would apply to the aeronautical, nautical and automotive sectors, among others.

As you know, the current government made this a key election promise; unfortunately, it seems to be poorly crafted. Indeed, during our work, we were very surprised to find that officials from the Department of Finance, otherwise extremely competent people, were unable to justify this tax which, as we know, could be very damaging for the aerospace industry and its workers.

Aircraft manufacturers came to committee to tell us that, as it stands, the tax will have a significant impact on the entire aerospace industry. They estimate losses of $1 billion in revenue as well as 1,000 direct jobs gone. It is important to put this in the broader context, where the Canadian aerospace industry has lost almost 30,000 jobs in 2020 alone and the sector's contribution to Canada's GDP has decreased by $6.2 billion.

Our first instinct was to ask Department of Finance officials the following: If 1,000 direct jobs and $1 billion in revenue are about to be jeopardized because of this luxury tax, can we assume that a study of the anticipated revenue has been conducted, to assess whether the advantages outweigh the disadvantages? Much to our great surprise, we were told that no such studies had been done. Since I'm sure you are as shocked as the Finance Committee members were, let me quote the relevant part from the evidence.

The Director General of the Sales Tax Division with the Department of Finance, Phil King, appeared before the committee on May 31. I asked him the following, and I quote:

> Following the consultations, the Aerospace Industries Association of Canada indicated that it estimated that the tax could result in the loss of approximately 1,000 jobs in Canada and lost sales of between $500 million and $1 billion.
>
> In your consultations, did you estimate the impact of this tax on Canadian jobs in the aerospace industry? I have nothing against taxing the wealthiest; it's a matter of social equity. However, has the impact on workers been assessed?

He provided the following answer, and I quote:

> To respond directly to the senator's question, no, the department has not done an economic impact estimate on the auto, boating or aviation sectors. There are a couple of reasons.
>
> First of all, there are few other examples of such taxes to which we can appeal to look at the impacts, and the economic literature on this type of tax is fairly thin. In particular, that's true of the aircraft sector.
>
> So we don't have an estimate of specifically what the impacts could be, but we have, at the very least, consulted fairly extensively with industry and heard some of the impacts that the senator had mentioned.

Just to be clear, C-19 introduces a tax on luxury items to help the government balance its budget after it had to spend significant amounts during the pandemic. According to the government, the idea is to get the wealthy to contribute. This tax applies to different items, including aircraft mainly produced in Quebec. However, the government is unable to say whether this tax will bring in more than what it will cost in terms of job losses, employment insurance, lower GDP, and so forth.

It is nonetheless quite astonishing that a G-7 country would proceed by trial and error without taking the full measure of the potential negative impact that this tax could have on the flagship businesses of Quebec's economy.

I admit that the lack of a cost-benefit analysis, even a cursory one, tends to reinforce the argument of those who claim that this luxury tax is primarily an electoral ploy by the government to show that it is attacking the wealthiest one per cent.

If the goal is to balance the budget by taxing the wealthy, I think it would have been more effective to increase income taxes to better target the wealthiest members of our society, reconsider certain tax loopholes and revisit our tax treaties with some complacent jurisdictions. However, I must admit that, from an election perspective, that seems less impressive than a tax on luxury items.

• (1720)

I must say that we are very concerned about the lack of a cost-benefit analysis. That is why the Standing Senate Committee on National Finance added an observation to its report on Bill C-19 to recommend that the Department of Finance conduct a real study on the effect this tax would have on Canada's aircraft market and jobs before imposing this tax on the aerospace industry.

As several committees and several colleagues pointed out, it is shameful that we have so little time to study such a big and important bill.

We have criticized the use of omnibus bills to pass measures that have nothing to do with the budget many times in the past. For example, as the Standing Senate Committee on Legal and Constitutional Affairs indicated, it is appalling that the government is including amendments to the Criminal Code to tackle antisemitism in a massive budget implementation bill.

Honourable senators, let me be clear. I think we need to pass Bill C-19 in order to help pensioners, the unemployed, students, workers, and, generally, Canadians. However, I do not want this support to be interpreted as condoning the actions of the government that unfortunately has a bad habit of pushing around parliamentarians by imposing far too strict deadlines to study complex bills containing hundreds of measures that often have nothing to do with the budget. This is a terrible practice and is certainly inconsistent with the government's claims that it is in favour of transparency and sound management of public funds. Thank you. *Meegwetch*.

[*English*]

Hon. Colin Deacon: Honourable senators, I want to first thank Senator Moncion for her sponsorship of this bill and her excellent speech. I also want to thank Senator Marshall. I think we may have only four more budgets that Senator Marshall may be giving great reviews of — maybe better reviews, in another year. We're all appreciative of the time you take to describe the different elements, Senator Marshall, very reliably, regardless of who the sponsor is.

Colleagues, I want to speak to Bill C-19, the budget implementation act, 2022, referencing Budget 2022 that was titled: *A Plan to Grow Our Economy and Make Life More Affordable*. It was billed as a:

> . . . plan for targeted and responsible investments to create jobs and prosperity today, and build a stronger economic future for all Canadians.

I am always pleased to see the government invest in innovation, but innovation alone will not secure the prosperity of our grandchildren and future generations to come. For us to get a strong return on that innovation investment, we will need to align government policies, including procurement polices, regulations and legislation.

We have no time to waste. We are in a global competition for economic opportunity as the world transforms due to digitization and climate change. Right now, it doesn't look good. The OECD predicts that Canada will be at the back of the pack in terms of economic performance through 2030 and in the three decades that follow.

So I am going to make three points that I hope will help to focus attention on what is needed to generate economic return from innovation.

Point 1: The government needs to catalyze and accelerate private investment in innovation.

The pandemic highlighted the potential for governments to innovate, but I feel we have slipped back to where innovation is the exception, not the norm. We have to start applying an innovation lens to our most pervasive problems in our society and economy with agility, speed and scale.

Government has a role in catalyzing private investment and accelerating innovation in the private sector. Unfortunately, this is because we're much better inventors than we are innovators. We have a fabulous research engine, but we are still searching for that transmission that will convert all that research power into the opportunities, jobs and prosperity that Canadians increasingly need.

Achieving this is and has been difficult. Deputy Prime Minister Freeland stated in her budget speech that innovation and productivity are the Achilles heel of our economy. I agree with her. Indeed, many governments, no matter the political party, have been unable to tackle this issue effectively. This is not a new problem in Canada.

This problem was also highlighted by the Senate's Prosperity Action Group, led by Senator Harder. Our report highlighted the following two points. First, over a period of 50 years, Canada's productivity growth has declined considerably. In 1970, Canada's GDP per hour worked was roughly $1 less than in the United States and $1 more than the G7 average. By 2019, Canada's GDP per hour was $18.10 less than the US and $9.50 less than the G7 average.

Second, in 2019, Canadian businesses were investing approximately $15,000 per worker in machinery, buildings, engineering, infrastructure and intellectual property. However, businesses across the OECD were on average investing $21,000 per worker — 40% more — and in the U.S. it was $26,000 per worker — nearly 75% more than in Canada. That is a predictor of the productivity of those workers and our prosperity in the future.

According to the OECD, in 2020 Canada had the lowest level of business investment as a percentage of total investment in the G7. However, it had the highest household investment level and the second-highest government investment level as a percentage of total investment compared to the G7 in 2020.

It is this final point that I would like you to focus on: Canada has the highest level of household investment and the lowest level of business investment despite having leading levels of government investment. If we're going to deliver the promise of Budget 2022, a plan for targeted and responsible investments to create jobs and prosperity today and build a stronger economic future for all Canadians, our government must find ways to successfully catalyze and accelerate private investment in innovation. And we must hurry up and build that transmission, or else we won't be able to afford the engine or the fuel for research.

Point 2: There is an urgent need for greater competition. Over the past year, we have seen a revival of the debate surrounding Canada's competition law and policies. You all know how grateful I am to Senator Howard Wetston for his incredible effort to facilitate the consultation and debate around the Competition Act.

As a result, I was pleased to see the provisions in Bill C-19 regarding amendments to the Competition Act. Division 15 introduced amendments to the Competition Act to criminally prohibit wage-fixing, allow private access to the Competition Tribunal on abuse of dominance and expand the scope of abuse of dominance practices. These are welcome amendments that will move the needle forward on the extensive work needed to reform the Competition Act.

However, I was most pleased when the government clearly positioned these changes to the Competition Act as a "down payment" on what we could expect to see. I was not alone. The Banking Committee shared this view and offered the following observation:

> The committee believes it is imperative that the Government of Canada follows through on the commitment in Budget 2022 to consult broadly on the role and functioning of the *Competition Act* and its enforcement regime, and that it do so without delay.

The need for greater consultation on the act is imperative. Competition affects everyone. It is therefore important to have broad consultations to hear a diverse range of voices on how to reform this important law, not just those of traditional incumbents who have the most to gain from maintaining the status quo. We have to reach far beyond.

Beyond changes to the Competition Act, also discussed by Senator Loffreda, we need to have a whole-of-government approach in terms of developing pro-competitive policies and levelling the playing field for new entrants across the board and delivering increased value to Canadian consumers, especially in sectors where large incumbents dominate, like banking and telecom.

To this end, the Competition Bureau has issued a competition impact assessment and a Competition Assessment Toolkit, which can be a vital tool for legislators and regulators. They need to be used by public servants who have to start prioritizing these tools so they can identify anti-competitive practices, policies and regulations across government and make them pro-competitive.

Our economy will never achieve our potential unless governments become more innovative, more willing to change and unwilling to tolerate the statement, "but that's not how we do things."

Point 3: The last point I want to make is about regulatory modernization. You heard me speak about this in my third-reading speech on Bill S-6 earlier this week. Canada has a huge problem with command-and-control regulations. OECD data for 2018 shows that Canada leads the OECD in the use of these regulations, and that is not a good thing. By definition, they eliminate the opportunity to innovate because they define the process that must be followed.

• (1730)

To be clear, I'm not in favour of deregulation; rather, I'm in favour of efficient regulation and regulatory modernization that plays a huge role in spearheading innovation, increasing investment and accelerating the growth of business while protecting consumers from risks that rapidly emerge only when regulations stagnate in our ever-changing world.

If you don't understand the breadth of administrative burden due to how we regulate, please listen again to the speech that Senator Petitclerc just gave. Those issues are in every corner of how we govern ourselves.

In conclusion, we must become fervent in our determination to build an effective transmission that converts the power from our research engine into opportunities, jobs and prosperity. Increased competition creates opportunities for innovative new entrants, and those new entrants push incumbents to invest in innovation versus increasing dividends, bonuses and share buybacks. That's the benefit of increased competitive pressure. New competitive opportunities increase investment, which further fuels innovation and drives the changes needed to achieve productivity growth.

But the innovation will not convert to productivity growth unless we modernize our regulations so that businesses are empowered to implement innovative new practices that also protect consumers. It is productivity growth that will deliver the promise of Budget 2022. Productivity growth is what will grow our economy and make life more affordable.

However, we have been heading in the wrong direction for 40 years. Change is hard, and we need change. In a recent op-ed in *The Hill Times*, Professor Ken Coates of the University of Saskatchewan offered:

> Tinkering with Canada's existing innovation policies will not transform the national economy into a creative economic power. Governments need to rethink their approaches and look for innovative innovation policies.

An innovative economy requires an innovative government. Canada is already a G7 leader in investing tax dollars. However, we are an OECD laggard when it comes to updating policies, regulations and legislation that determine how effectively those investments convert into opportunities, jobs and prosperity.

Let's "double down" and "triple down" on the down payment that Bill C-19 has made in competition law reforms and the good intentions of Bill S-6 as it relates to regulatory modernization.

I hope you now see how those crucial elements are important to fulfilling the promise of Budget 2022. I support Bill C-19 as a down payment on all the hard work we need to do to maximize the return on the government's investment in innovation. Thank you, colleagues.

(On motion of Senator Martin, debate adjourned.)

STRENGTHENING ENVIRONMENTAL PROTECTION FOR A HEALTHIER CANADA BILL

BILL TO AMEND—THIRD READING—DEBATE

Hon. Stan Kutcher moved third reading of Bill S-5, An Act to amend the Canadian Environmental Protection Act, 1999, to make related amendments to the Food and Drugs Act and to repeal the Perfluorooctane Sulfonate Virtual Elimination Act, as amended.

He said: Honourable senators, I rise today to speak at third reading of Bill S-5, the "Strengthening Environmental Protection for a Healthier Canada Act," which modernizes the Canadian Environmental Protection Act, or CEPA.

I would first like to acknowledge the work done by the members in this chamber of the Standing Senate Committee on Energy, Environment and Natural Resources as we studied this bill. A huge thank you is also owed to our staff: the clerk, analysts of the committee and all those whose support has brought us to this point.

I would also like to especially thank Senator Arnot, who kindly gave up his space on the Energy Committee for me, as sponsor of the bill, to participate. I congratulate him on having his first amendment to a piece of federal legislation accepted by the committee. It will not be his last, I'm sure.

When Minister Guilbeault, in his opening remarks at committee, invited the Senate to study and seek ways to improve this bill, senators took this to heart. You all heard about the number of amendments that were proposed to this bill from Senator Massicotte. We all discovered that modernizing an act as complex as CEPA is not an easy task.

As Senator Massicotte noted yesterday, the committee made a number of amendments to the bill. It also refused some amendments after vigorous debate and thoughtful deliberation. In my opinion, in these decisions around which amendments to accept and which to refuse, the committee exercised its due diligence — moving ahead on those areas it had comfort with and not moving ahead on areas that gave it discomfort.

Over the past two months, the committee heard from numerous witnesses representing many and diverse perspectives. I acknowledge the interest and valuable input of all those who took the time to testify, to provide briefs and to reach out to discuss the many issues that arose during our committee work. The engagement of civil society and industry in our study of this bill illustrates the importance and value of our democratic process.

I am proud to support this bill as it has been amended, and I urge all senators to vote to adopt it and send it to the other place for their consideration.

CEPA is one of Canada's core environmental laws. It protects the health of our people and our environment, largely by enabling federal action on a wide range of pollution sources.

Much has changed since its last significant update in 1999. The proposed amendments to CEPA, if passed, will strengthen the protection of Canadians and our environment, and will provide Canadians with an environmental protection law that confronts 21st-century issues with 21st-century science.

This bill proposes a number of changes to achieve this goal, which can be summarized in two major themes. First, Bill S-5 recognizes that every individual in Canada has a right to a healthy environment, as provided under the act.

To ensure that the right to a healthy environment is meaningful in the context of CEPA, this recognition is paired with a duty of the government to monitor and protect that right. How that will be operationalized will be elucidated in an implementation framework to be developed in collaboration with Canadians within two years of Royal Assent of this bill. That will explain how the right will be considered in the administration of the act.

With amendments that were made in committee, that implementation framework will, among other things, elaborate on principles such as environmental justice, which includes avoiding adverse effects that disproportionately affect vulnerable populations; intergenerational equity, which means meeting the needs of the present generation without compromising the ability of future generations to meet their needs; and non-regression, which means not rolling back environmental protection and continuously improving the health of the environment and of all Canadians. It was clear from the thoughtful discussions in committee that senators were keen to ensure that this right would be meaningful and the guidance on developing the implementation framework clear.

I think the bill reflects those considerations.

Second, this bill proposes to modernize Canada's approach to chemicals management. It requires a new plan of chemicals-management priorities to give Canadians a predictable, multi-year, integrated plan for the assessment of substances, as

well as the activities and initiatives that support substances management. That includes, but is not limited to, information gathering, risk management, risk communications, research and monitoring. It also adds a mechanism for the public to request the assessment of a substance.

The bill sets out a workable regime for substances of the highest risk, which include persistent and bio-accumulative substances, as well as certain carcinogens, mutagens and substances that are toxic to reproduction. The bill requires that, when considering how to manage such substances, priority be given to prohibiting them.

• (1740)

The bill also reorients the act to additional considerations based on emerging concerns of Canadians and the growth of a robust and yet-developing scientific understanding of the impacts of cumulative effects of substances. It also extends its acknowledgement of the necessity to identify and protect vulnerable populations, and, as a result of the committee's discussion, vulnerable environments.

The bill also now includes several provisions to avoid regrettable substitution. That means taking a substance which could be quite toxic to human health and putting it into commerce. The most important of these remains the watch list, which will give an early warning to industry of substances that, for example, are hazardous and may be determined to be CEPA-toxic if exposure to them or their uses change.

The bill further eliminates duplication between acts and departments, and, if passed and if appropriate regulations are adopted, would remove the requirement to notify, assess and manage new drugs under two separate acts as is currently the case. For example, the Food and Drugs Act for the safety, efficacy and quality of a drug; and, concurrently, CEPA for the environmental risks of the drug's ingredients. This would provide a more efficient and effective approach to assessing and managing the risks of drugs in Canada.

Finally, the bill increases transparency with changes to the confidential business information regime and now includes substantive requirements to accelerate efforts to replace, reduce and refine animal testing.

As someone who is familiar with the issues regarding the use of animals in health-related research, I am particularly pleased that the Senate amendments to this bill have moved the yardsticks toward the goal of eliminating animal testing of substances as soon as is scientifically possible.

As I mentioned previously, there was vigorous and thoughtful input from civil society and from industry during the committee's study of this bill. We heard from over 35 witnesses and received numerous written submissions covering a wide swath of issues, items of concern and suggestions for changes. The committee heard from Indigenous organizations, industry organizations, non-governmental organizations, academic experts and individual Canadians, all of whom shared their opinions on the bill and CEPA reform in general.

We heard commentary on a variety of topics, including animal welfare, increasing transparency, public access to information and the assessment and management of toxic substances, among others.

We heard pleas for increased transparency and easier access to information provided under CEPA, confidential business information and modifications to the online CEPA Registry to make it more user-friendly.

We had calls for increased specificity in the risk assessment and risk management processes. We heard about some of the many long-standing hardships faced by Indigenous peoples in relation to pollution and the need take to heart the UN Declaration on the Rights of Indigenous Peoples as well as our constitutional duties and to ensure that the implementation of CEPA would be guided by these.

We heard about the need to "put the health of people and the environment first" and to ensure that vulnerable people and vulnerable environments would be top of mind, not bottom of the pile.

The committee adopted several amendments related to these topics. I will highlight three recurring themes in our discussions and address some of the adopted amendments that address those.

To begin, several amendments were made to better incorporate Indigenous rights and perspectives. Indigenous knowledge was explicitly recognized alongside current and emerging science.

The committee also addressed consultation and reporting requirements. New requirements were added to provide greater notice of actions and decisions under the act, and emphasis was added on the need for a searchable, electronic registry.

The committee added additional protections for vertebrate animals by including substantive provisions to the bill that go beyond the aspirational statement in its preamble and that reordered the three Rs — reduce, replace and refine — to reflect that the first priority is to replace entirely the use of vertebrate animals in toxicity testing. If that is yet not possible, then their use should be reduced and refined. That means attending to their welfare when used for testing.

Among other changes along this theme, the committee also adopted an amendment to require that the plan of chemicals management priorities include specific activities or initiatives to promote the development and implementation of alternative testing methods that do not involve the use of vertebrate animals. This will encourage the development and timely incorporation of scientifically justified alternative methods and strategies in the testing and assessment of substances and is consistent with actions being taken by international partners such as the United States and the EU.

The committee also made a number of observations that I personally hope will drive the government to improve its ability to deliver on what this bill now demands.

Bill S-5 amendments have noted, for example, in section 44 that:

> The Ministers shall conduct research, studies or monitoring activities to support the Government of Canada in protecting the right to a healthy environment. . . .

Another amendment replaces paragraph 45(a) with a new passage that requires the Minister of Health to "conduct research and studies, including biomonitoring surveys, relating to the role of substances in illnesses or in health problems."

Unfortunately, honourable senators, as we heard from witness testimony, the government is not at this time able to provide the essential, robust and comprehensive biomonitoring, biobanking, ongoing longitudinal cohort studies and toxicogenomic analyses that are necessary to support what this bill promotes. Additionally, the committee learned that existing biomonitoring activities do not currently include an appropriate representation of Indigenous peoples. Both of these issues will need to be resolved, as without a robust and fulsome scientific capability in all the areas that I have mentioned, the promises that this bill makes for improved health for people and the environment will not be met.

Many Canadians will be watching to see how rapidly this need for enhancing our capacity to do this essential scientific work will develop and what funding and expectations for the development of this scientific capacity the other place can put into the bill to further promote this necessity.

I am proud to support this bill and urge all senators to vote to adopt it and to send it to the other place for consideration. This modernization of CEPA will be an important step for the Government of Canada toward the continued protection of people's health and the environment, and I trust it will not be the last.

Many parts of CEPA were not modified as they were not within the scope of this bill, but we hope that in the not-too-distant future, as alluded to by Minister Guilbeault's testimony before our committee, we will soon have a chance to address other parts of the act and continue to improve CEPA.

I look forward to following the debates on Bill S-5 in the other place, and I hope the revised and improved version of Bill S-5 which is before the Senate today will be adopted here and moved forward as expeditiously as possible.

Thank you, *wela'lioq*.

The Hon. the Speaker: Senator Kutcher, will you take a question?

Senator Kutcher: Absolutely.

Hon. Mary Jane McCallum: Thank you. Could you expand on biomonitoring as it applies to Indigenous people and when you think it will come to fruition? In other words, what are the areas we have gone over that will be excluded because this cannot be done at this time?

Senator Kutcher: Thank you very much for that excellent question. Biomonitoring, which means looking at the accumulation of substances in the human body — you can look at that through blood work or your nails, hair, tissue and other things — is an essential component of being able to determine how substances impact human health, not just at one point in time but over longer periods of time.

• (1750)

We need the capacity to do that kind of biomonitoring work in the general population, but also very importantly in vulnerable populations. With respect to people who are living in environments in which toxicity is known to be potentially greater, biomonitoring tells us what we need to know in terms of the impact of environment on human health. Canada currently does some biomonitoring but not enough. We heard from witnesses that the biomonitoring has to be much more robust. Many more people need to be involved. It has to reflect the variety of Canadians, of the Canadian population. It cannot just be given to one group. All Canadian groups have to be involved in the biomonitoring so we can see what differential effects the environment can have on different groups.

We also heard testimony that Indigenous peoples are not included in the routine biomonitoring, and certainly not as included as they should be in terms of large enough numbers for us to get a good understanding of what's happening to Indigenous peoples.

Because we can't put money into this bill in the Senate, we strongly urge through our observations that these scientific necessities be improved dramatically within Canada and that the other place address those in this bill. Thank you very much, Senator McCallum, for that question.

Hon. Rosa Galvez: Honourable senators, I rise to speak to Bill S-5, the strengthening environmental protection for a healthier Canada act. As you may know, the Canadian Environmental Protection Act, or CEPA, was adopted in 1999 and has not seen any significant modernization since. Twenty-three years is too long of a wait to update our protection regime in a fast-changing world. More than 28,000 chemicals are registered for use today, and more than 600 new chemicals are introduced every year in Canada, which is more than triple than in the U.S.

I encourage you to vote in support of Bill S-5 as amended in committee and want to use this opportunity to explain how and why CEPA affects all of us, and why it is important that we frequently study and review this act.

CEPA provides the framework for how, why and when chemical substances are assessed for toxicity, and whether and how they need to be regulated. Bill S-5 seeks to strengthen this assessment and regulation-making framework.

[*Translation*]

The House of Commons Standing Committee on Environment and Sustainable Development studied this bill in 2017 and made 87 recommendations. Just a few of these recommendations were taken into account in Bill S-5, most notably the consideration of vulnerable populations. A number of the recommendations from the committee and from experts have not yet been included, such as the requirement of justification for confidentiality requests, risk assessment, climate change, pesticide management, radioactive substances, electromagnetic radiation and genetically modified organisms.

A number of senators tried to fill these gaps by proposing amendments during the committee's study. I want to thank Senators Miville-Dechêne, McCallum, Patterson and Arnot for their thoughtful proposals. I also want to thank Senator Kutcher, the sponsor of the bill, for agreeing to take on the difficult task of sponsoring such a large and highly technical bill.

Yesterday, the Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources shared some statistics about our work and our overall findings. I won't repeat everything that he shared, but I do want to emphasize that 64 amendments were presented, 34 of which were adopted. I'm pleased that my colleagues supported 14 of my amendments, many of which had to do with the reduction of assessments and the number of tests on vertebrate animals.

[*English*]

Under CEPA, the government is tasked with assessing substances and categorizing them depending on their toxicity. The Government of Canada assesses approximately 600 new substances in the Canadian market each year. Yet, with all these substances and thousands of new products imported to Canada annually, the government has not given itself sufficient resources to undertake adequate testing. If you heard my question earlier to Senator Gold, we don't know if the government is overly reliant on industry to provide the scientific basis for assessments, if university labs will play a bigger role in this testing or if government officials rely on literature reviews.

This ambiguity is problematic. A literature review, however useful in getting a broad picture, might not include testing in the right conditions to determine if a substance is toxic in the environment, if it might lead to long-term chronic effects in humans or if there are equivalent substances that are less toxic, for example. While these assessments are the responsibility of the minister by law, the government relies on data from experiments that are overwhelmingly designed, performed, analyzed and disclosed by industry for the purpose of sales. This overreliance on industry-provided data should warrant an additional layer of precaution, not less.

CEPA references the precautionary principle several times, an approach that emphasizes caution when addressing substances for which extensive scientific knowledge is lacking. This is a wise approach when dealing with substances that have the potential to destroy ecosystems or cause lasting health impacts on human health. Unfortunately, our environmental protection regime is more grounded in risk management than precaution.

In fact, Bill S-5 changes the CEPA preamble by removing an acknowledgement that we ". . . need to virtually eliminate the most persistent and bioaccumulative toxic substances. . . ."

This was in the initial CEPA. Today, we would rather focus on "the need to control and manage pollutants." This is neither a precautionary approach nor prevention. It sends the wrong signal, by suggesting that there is no need to eliminate pollutants — only to manage and control them.

When it comes to prevention, we heard from the government that only 25 substances from the list of toxic substances have pollution prevention plan requirements. They went on to suggest that this should not be concerning because not all uses of substances create a risk. We must point out that highest risk and acceptable risk are not defined in Bill S-5. Without these boundaries, risk management may lead to situations where it is acceptable that citizens are exposed to different levels of dangers, which creates more inequalities. This issue is avoided when the focus is put on prevention.

I appreciate that the government proposed an amendment brought forward by Senator Kutcher in committee to extend the priority of pollution prevention actions to both parts of the list of toxic substances in Schedule 1, rather than just part 2. The committee also adopted Senator Miville-Dechêne's amendment giving authority to the government — should they need it — to require pollution prevention plans from any manufacturer of toxic substances. Prevention is a cornerstone of adequate environmental protection, and these amendments make Bill S-5 stronger.

[*Translation*]

The bill also introduces a tool that I think will be good for the environmental protection framework, and that is a list of potentially toxic substances. This list sends a clear signal to industry that a substance may become toxic if it is used differently or if more of it enters the environment. It also indicates that further regulatory action may be taken if necessary. It acts as a warning system, one that is not limited to substances tied to a new activity. Although some industry witnesses were opposed to it, I believe it will benefit industry by helping them avoid substances that they would otherwise have to replace eventually.

• (1800)

[*English*]

With great expectations from citizens, Bill S-5 introduces in its preamble the right to a healthy environment. Sadly, Canadians won't benefit from this right in its due form when the bill passes. At this stage, the bill only instructs the minister to develop and implement a plan to set out the exact nature of this right within two years of coming into force.

The Hon. the Speaker: I'm sorry, Senator Galvez, it is now six o'clock. I apologize, but I have to interrupt you.

Pursuant to rule 3-3(1), I'm required to leave the chair and suspend until eight o'clock unless it's agreed that we not suspend. If you wish the sitting to be suspended, please say "suspend."

Some Hon. Senators: Suspend.

The Hon. the Speaker: The sitting is suspended until 8 p.m. Senator Galvez, you will have the balance of your time when we return.

(The sitting of the Senate was suspended.)

(The sitting of the Senate was resumed.)

• (2000)

BILL TO GIVE EFFECT TO THE ANISHINABEK NATION GOVERNANCE AGREEMENT AND TO AMEND OTHER ACTS

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-10, An Act to give effect to the Anishinabek Nation Governance Agreement, to amend the Sechelt Indian Band Self-Government Act and the Yukon First Nations Self-Government Act and to make related and consequential amendments to other Acts, and acquainting the Senate that they had passed this bill without amendment.

STRENGTHENING ENVIRONMENTAL PROTECTION FOR A HEALTHIER CANADA BILL

BILL TO AMEND—THIRD READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Kutcher, seconded by the Honourable Senator Boehm, for the third reading of Bill S-5, An Act to amend the Canadian Environmental Protection Act, 1999, to make related amendments to the Food and Drugs Act and to repeal the Perfluorooctane Sulfonate Virtual Elimination Act, as amended.

Hon. Rosa Galvez: Honourable senators, with great expectation from citizens, Bill S-5 introduces in its preamble the right to a healthy environment. Sadly, Canadians won't benefit from this right in its due form when the bill passes because at this stage, the bill only instructs the minister to develop and implement a plan to set out the exact nature of this right within two years of the coming into force of the bill. Moreover, although Bill S-5 stipulates that the implementation framework must consider the principle of environmental justice, it must also consider the balancing of the right with other factors, including economic factors. Obviously, rights are subject to reasonable limits. Our charter and judicial system recognize this clearly. However, I couldn't find any similar usage of balancing factors in other rights legislation. Colleagues, what if your right to religious freedom, for example, was balanced with economic factors? Would you accept that?

This right is better than nothing, and when Canadians will benefit from a form of this right, they will join 156 other nations around the world who already have this right enshrined in law in their constitutions. Interestingly, 110 of them afford this right constitutional protection, something that we are far from doing with Bill S-5.

Finally, I'm concerned about the government's decision to remove the title of Schedule 1, "List of Toxic Substances." Although the schedule is referred to as "the list of toxic substances" everywhere else throughout the bill, the title itself was removed. At first glance, it seemed like a minor omission since each substance on Schedule 1 has already been declared toxic under CEPA. However, upon further reflection, I think that it could have unintended or intended constitutional ramifications. The 1997 Supreme Court ruling in *R. v. Hydro-Québec* upheld CEPA as adopted in 1988 as valid legislation on the basis of its criminal law power. Justice La Forest, writing for the majority, noted that:

> . . . the stewardship of the environment is a fundamental value of our society and that Parliament may use its criminal law power to underline that value. . . .

He also stated that the act ". . . is an effective means of avoiding unnecessarily broad prohibitions and carefully targeting specific toxic substances."

In other words, CEPA is within its constitutional jurisdiction as long as it stays narrowly focused on regulating toxic substances, an analysis that is shared with the Canadian Environmental Law Association.

Under CEPA, a substance is declared toxic if it may enter the environment under conditions that may have an immediate or long-term harmful effect on the environment or its biological diversity, may constitute a danger to the environment on which life depends or may constitute a danger to human life or health.

Lead, mercury and plastics, for example, are on Schedule 1 precisely because they are toxic, despite what you might hear from some industry representatives. As with everything, there are cases where these substances do not pose a risk, but that doesn't mean they aren't toxic substances as defined by CEPA. Removing the label "toxic substances" from Schedule 1 could undermine the precedents established by the Supreme Court of Canada in that 1997 ruling, ultimately weakening the government's authority to regulate these substances.

From another angle, simply naming this list as Schedule 1 is meaningless for most Canadians and gives no indication of what this list represents. At worst, it is misleading the public just to satisfy some industries that don't like seeing the substances they use defined as toxic.

I have opted not to bring forward an amendment to reverse this government decision, but I hope the House of Commons will consider this issue seriously for clarity and transparency.

In conclusion, Bill S-5 does improve certain aspects of Canada's toxic substance management framework, but as explained, there is still lots to cover. We really need to better protect our environment, as our health and safety depend on it. Vulnerable populations are overexposed to pollutants present in the water and fish they eat. Without proper labelling, we buy food and items that are sprayed or treated with substances that can bioaccumulate in our bodies. Plastics that are composed in their majority of toxic substances break into microplastics that are found today in human blood and placentae. Chronic, low-dosage exposures are also very dangerous.

I hope that we will continue improving CEPA in the years to come and we won't wait another 23 years to update this important law. Thank you, *meegwetch*.

Hon. Mary Jane McCallum: Honourable senators, I rise today to speak to third reading of Bill S-5, the strengthening environmental protection for a healthier Canada act. I want to acknowledge my brothers and sisters of the Tataskweyak Cree Nation.

[*Editor's Note: Senator McCallum spoke in Cree.*]

This is for you; this is your voice. Thank you to James and Anna for all their work, spirit and energy in working alongside me.

I would like to begin by registering my concern on the continuous assault of the water and lands surrounding vulnerable populations and vulnerable environments. The assault that I speak of largely occurs at the hands of resource-extractive companies. This unrelenting pressure and demand on our natural resources comes from various industries, including oil and gas, whose activities result in tailings ponds and orphan wells and whose hydraulic fracturing on both land and water comes with its own list of environmental concerns; hydro, which has had devastating effects on the quality and calibre of water, the health of the people and species who live in and rely on that water and the surrounding lands that are flooded or eroded with the changing water levels, affecting cultural and spiritual practices; forestry, which discharges effluent that has adverse impacts on surrounding land and waterways; agriculture, due to both herbicides and pesticides making their way into water sources as well as the effluent sewage and related runoff from farms; and mining, whose tailings and effluent are often discharged into the river system.

The vulnerable populations who are disproportionately affected therein, colleagues, are First Nations. Many nations and reserves are located on or in proximity to resource extraction sites. They experience many burdens that are largely unknown and unseen to Canadians who live in cities and in rural settings isolated from the multiple devastations that occur.

Honourable senators, the Assembly of First Nations' brief to the Standing Senate Committee on Energy, the Environment and Natural Resources, under the heading "Right to a Healthy Environment Requires a Remedy," states:

> First Nations experience environmental racism throughout the country, resulting in disproportionate exposure to toxic substances and hazardous activities. Children living in communities or on reserve are disproportionately impacted by unregulated chemicals (e.g., the lack of regulation on use of pesticides and herbicides on and around reserves).

The Assembly of First Nations continues:

> As noted by the United Nations Special Rapporteur on Human Rights and Hazardous Substances and Wastes, "[t]he invisible violence inflicted by toxics is an insidious burden disproportionately borne by Indigenous [P]eoples in Canada."

The rapporteur states that the rights to health, safe water and food, adequate housing, safe and healthy working conditions and others implicated by toxins do not appear to be directly actionable under Canadian law.

• (2010)

Colleagues, CEPA, 1999 has been in effect for 20 years; yet, where is the protection for First Nations promised by this legislation? There was much discussion on the concept of "balancing" in the Energy Committee's study of Bill S-5. Was the protection against toxins "balanced" with other factors like employment and economic considerations, factors that then took precedence over the lives and lands of First Nations?

Has this misaligned "balancing" led to vulnerable populations and environments? The term "vulnerable environment" was defined for the Energy Committee by Mr. John Moffet, Assistant Deputy Minister, Environmental Protection Branch, Environment and Climate Change Canada. He stated:

> . . . the concept of cumulative effects is becoming better understood in the scientific community, and so an environment could be considered vulnerable, for example, if it has been subjected to multiple stresses over a period of time and a new stress, a new emission or pollution that might not have a large effect somewhere else might have a significant effect in an area that has already been subject to multiple stressors over time.

Honourable senators, I would like to raise the case of Tataskweyak Cree Nation, a community in northern Manitoba. Their stressors include the cumulative impacts of residential school and intergenerational trauma; dispossession of lands, culture, livelihood and spirituality and their impact on food security and health; endangered sturgeon population; the devastation of hydro impacts including unsafe drinking water; effluent discharge from mining in Thompson, Leaf Rapids and Lynn Lake, including tailings; and being a water basin for interprovincial and international drainage that flows into Split Lake — the water that is sacred to them.

Now, Tataskweyak Cree Nation has found that new toxins, resulting from the presence of blue-green algae, have added to the myriad of stressors already burdening their waterways. This compounding of issues is a prime example of the term "vulnerable environment."

Colleagues, as we balance economic concerns against health and environmental concerns, we must understand the concept of poverty. Poverty is not simply the lack of income or economy. It is the lack of ability to achieve minimally satisfying living conditions. It is the devolution of one's ancestral home territory into a hazardous environmental wasteland — as we see occurring with Tataskweyak Cree Nation and many communities.

People continue to remain disempowered due, in large part, to the regulatory gaps within federal and provincial jurisdictions. Poverty cannot be removed mainly in terms of economic growth; social changes are required. It is incumbent on us as parliamentarians to identify and remove these barriers to change.

Honourable senators, while CEPA endeavours to protect all aspects of the environment, I will largely focus on issues related to water and environment, as First Nations have been fighting for clean water in their own homeland of Canada and on their reserves for the past 100 years.

Generations of youth have never experienced clean water, having lived their entire lives under a boil-water advisory. The physical, mental, spiritual and emotional burden that this causes cannot continue to be ignored by parliamentarians. These kinds of assaults on the basic needs and human rights of human beings, as well as on those of Mother Earth, are unconscionable.

The issue of blue-green algae raised by Tataskweyak Cree Nation, or TCN, was highlighted in a brief provided to the Energy Committee by TCN's Chief Doreen Spence, who wrote:

> We are particularly concerned about the presence of the blue-green algae toxins in our Lake and drinking water supply which is why we are asking for this amendment.

In an accompanying brief, Mr. Ian Halket, TCN's project director and a hydrologist, states:

> Our lake receives the wash loads from watersheds as far away as the Rocky Mountains in Alberta, southern Minnesota, and North Dakota, as well as, the wash from Winnipeg and English River in Northern Ontario. . . . Our Lake sits at the bottom of watersheds that [drain from the above]. By the time these waters reach our Lake, the plant-available nitrogen has been used up and blue-green algae dominate.

Mr. Halket continues:

> When the natural balance [of nitrogen to phosphorus] gets out of hand (low nitrogen and high phosphorus) blue-green algae start to dominate the algae community in the lake. Blue-green algae release toxins, some of which are the most toxic substances we encounter in the environment, even if you include industrial pollutants. With the advent of big agriculture, wastewater treatment plants and industrial and mining releases of effluents, the natural balance of plant-available nitrogen to phosphorus is being altered, swinging it towards the thresholds that encourage the growth of blue-green algae and increasing concentrations of cyanotoxins in lake water.

He continues:

> Blue-green algae toxins . . . can result in serious illness. . . . In 2020, Health Canada confirmed that more severe symptoms include liver and kidney, nerve and muscle damage.

On this point, Chief Spence wrote:

> People in our community have health complaints ranging from gastrointestinal upsets and skin rashes to disease of the liver, kidneys and nervous system, symptoms that parallel effects of exposure to blue-green algae toxins. Ours is not the only northern reserve that is experiencing these health symptoms.

Although some have tried to argue that blue-green algae are naturally occurring, it has been well established that human activity and intervention have been the main culprit in the spread and propagation of this serious matter that has brought with it dire health consequences for the surrounding communities.

As such, honourable senators, the onus is on us to embrace this opportunity and ensure that toxins from blue-green algae are addressed under Bill S-5.

As the proliferation of these toxins is largely attributable to human activity, it goes to follow that this issue would logically fall under section 46 of the CEPA legislation, which deals with "activities."

For context, colleagues, I would like to quote Mr. John Moffet, from Environment and Climate Change Canada, where he defines "activities" within the bill. He says section 46:

> . . . covers authority to gather information on a range of pollutant-related issues and covers all of the various authorities in the act: toxic substances, nutrients, intergovernmental water and air pollution, et cetera.

He goes on to say:

> What we are trying to do by adding (k.1) is to go beyond information on substances and gather information about activities themselves that may, when the activity is carried out, create pollution. Then we can have better information to devise risk management approaches focused on preventing pollution as opposed to just identifying it and managing it once it occurs.

And further:

> . . . the idea of (k.1) is to focus on activities related to pollution, and by that I meant activities that contribute to the kind of pollution that releases substances that are harmful to the environment or human health.

Colleagues, as Mr. Moffet has stated, this section has been specifically created to gather information on a range of pollutant-related issues, including toxic substances. I would like to point out that the Energy Committee's report on Bill S-5, adopted yesterday, added hydraulic fracturing and tailings ponds to this section already, establishing an important precedent.

MOTION IN AMENDMENT NEGATIVED

Hon. Mary Jane McCallum: Therefore, honourable senators, in amendment, I move:

> That Bill S-5, as amended, be not now read a third time, but that it be further amended in subclause 9(3) (as amended by the decision of the Senate on June 21, 2022), on page 5, by adding the following and repositioning and renumbering accordingly if required:
>
> "**(k.4)** activities that may cause or contribute to growth of blue-green algae;".

• (2020)

The Hon. the Speaker: Are honourable senators ready for the question?

Some Hon. Senators: Question.

The Hon. the Speaker: All those senators in the chamber who are in favour of the motion will please say, "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those senators in the chamber who are opposed to the motion will please say, "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: I see two senators rising. Do we have agreement on a bell?

An Hon. Senator: Fifteen minutes.

The Hon. the Speaker: The vote will take place at 8:36 p.m. Call in the senators.

• (2030)

Motion in amendment of the Honourable Senator McCallum negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Arnot	Marshall
Ataullahjan	Martin
Audette	McCallum
Batters	Oh
Boisvenu	Pate
Dagenais	Plett
Housakos	Poirier
Lovelace Nicholas	Smith
MacDonald	Wells—19
Manning	

NAYS
THE HONOURABLE SENATORS

Black	Klyne
Boehm	Kutcher
Bovey	LaBoucane-Benson
Busson	Loffreda
Campbell	Marwah
Carignan	Massicotte
Clement	Mégie
Cordy	Miville-Dechêne
Cormier	Moodie
Cotter	Omidvar
Dasko	Petitclerc
Dawson	Quinn
Deacon (*Nova Scotia*)	Ravalia
Deacon (*Ontario*)	Richards
Dean	Ringuette
Downe	Saint-Germain
Duncan	Seidman
Dupuis	Simons
Forest	Sorensen
Gagné	Tannas

Gerba	Verner
Gignac	Wallin
Gold	White
Harder	Woo
Jaffer	Yussuff—50

ABSTENTIONS
THE HONOURABLE SENATORS

Bellemare	Moncion
Galvez	Patterson—4

• (2040)

BILL TO AMEND—THIRD READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Kutcher, seconded by the Honourable Senator Boehm, for the third reading of Bill S-5, An Act to amend the Canadian Environmental Protection Act, 1999, to make related amendments to the Food and Drugs Act and to repeal the Perfluorooctane Sulfonate Virtual Elimination Act, as amended.

Hon. Dennis Glen Patterson: Honourable senators, I rise today to speak to Bill S-5, known by its short title of "Strengthening Environmental Protection for a Healthier Canada Act."

This bill marks the first significant changes to the Canadian Environmental Protection Act, or CEPA, since it was passed in 1999.

As I said when speaking to this bill on second reading and as I told the minister when he appeared before our committee, it seems totally illogical to pass a bill that enshrines the right to a healthy environment but postpones the elucidation of that right to a two-year process and the results of at least two current court cases on the issue. But I won't dwell on that today.

As you can imagine, many groups — from Indigenous governments to environmental non-government organizations and industry representatives — came forward to present their views on this bill, and to suggest additional amendments to CEPA.

The bill was introduced on February 9, 2022, and it was referred to committee on April 7. We held five hearings with witnesses and spent eight meetings going through clause by clause. The result of this relatively short study of a very complex bill is that we didn't have the time to hear as many witnesses as I would have liked on a variety of issues. Senator Galvez, my colleague on the Energy Committee, mentioned in her speech today the issue of radiofrequency radiation among issues that need further attention.

We did find time to hear one witness on the issue of radiofrequency radiation, also known as RF, which is the type of radiation that is emitted continuously by things like cell towers. Remember the advice to keep your cellphone away from your ears? That's what I'm focusing on in speaking to this bill.

Dr. Meg Sears, who co-authored a white paper by Prevent Cancer Now and Canadians for Safe Technology, was very critical of the limitations of Health Canada's current Safety Code 6, which is used to measure the dangers of human exposure to this radiofrequency radiation. Dr. Sears told the committee:

> . . . Safety Code 6 applies to human exposures, and it's based upon six-minute exposure times. There have been concerns that Safety Code 6 may not be protective of human health, but I'm putting that aside right now because when we looked at the regulatory framework for birds, bees and various insects, every kind of biota apart from humans is being affected by the radiofrequency radiation. There is no assessment, and this was confirmed by Environment and Climate Change Canada. They're not doing any research on this. So, we provided the Senate a white paper specifically on this issue.
>
> There are regulations. There is the Radiation Emitting Devices Act. That act and the regulations under it actually refer to CEPA and the Species at Risk Act and other environmental legislation, which is all completely silent on this issue. There is this recognition that there should be some kind of environmental protection for non-human species, but it's an empty basket. There is nothing there at all.
>
> In 2018, *The Lancet Planetary Health* published research showing that the ambient exposures — the peak exposures, which are kind of like the bullets out of the gun, so they are important — have gone up by a factor of a quintillion — that's a one with 18 zeros after it. It's unimaginable how much this radiation has increased, and the radiation can also work along with chemicals. It can magnify the effects of chemical toxicities. So while we are seeing rapidly decreasing populations of insects, birds and other small wildlife, and we're ascribing that to insecticides and chemicals, it's quite probable that radiofrequency radiation is an important contributor to what we're actually seeing in terms of biodiversity loss.

• (2050)

Honourable senators, I had no idea about the issue of RF waves and their negative effects not only on our health but on biodiversity in Canada, but I was particularly struck by Dr. Sears's data that linked RF radiation to a higher occurrence of cancer. This was alarming to me, and I believe that it warrants further study, and that is all I'm suggesting be done in an amendment that I will propose today.

Honourable senators, I'm simply asking for your support to approve an amendment that would expressly include radiofrequency electromagnetic radiation under section 46(1) of the act as subparagraph (k.2). Section 46 occurs under the heading "Information Gathering" and currently states:

> **46(1)** The Minister may, for the purpose of conducting research, creating an inventory of data, formulating objectives and codes of practice, issuing guidelines or assessing or reporting on the state of the environment, publish in the *Canada Gazette* and in any other manner that the Minister considers appropriate a notice requiring any person described in the notice to provide the Minister with any information that may be in the possession of that person or to which the person may reasonably be expected to have access, including information regarding the following: . . . .

So the goal is simply to add RF waves to that list of information that should be gathered and be readily available.

To be clear, colleagues, I am asking that we put in a mechanism that enables us to gather more data and information on the potential impacts of RF waves on humans and biodiversity in Canada. This is particularly important given the push to roll out 5G across the country and the exponential rise in exposure of humans, plants and animals to radiofrequency radiation.

In committee, we heard several arguments against this amendment, including that it was out of scope. Greg Carreau, Director General of the Safe Environments Directorate within Health Canada, told the committee that CEPA only deals with substances and that other acts, such as the Radiocommunication Act and the Radiation Emitting Devices Act, address the safe application of RF waves.

In response to those criticisms, I would point out that Prevent Cancer Now also provided senators with a link to a table showing that the referenced acts do not have provisions specifically dealing with protection of humans, plants and animals specifically from RF waves, nor are there any provisions relating to research and data collection. The Radiation Emitting Devices Regulations do not address cellular antennas and wireless devices, which do produce RF radiation, and the three safety standard regulations rely on the previously discussed flawed logic of Safety Code 6.

The other weak argument on scope put forward by the government witness said that the amendment was out of scope because CEPA deals with substances and that radiofrequency electromagnetic radiation is not a substance, even though this radiation is composed of ions — the same as other substances in the act.

Furthermore, radiofrequency electromagnetic radiation appears to fall within the definition of pollution in CEPA, which is broadly defined and, for example, defines pollution prevention as:

> . . . the use of processes, practices, materials, products, substances or energy that avoid or minimize the creation of pollutants and waste and reduce the overall risk to the environment or human health.

I would also point out to senators that CEPA, in section 2(1), states:

> In the administration of this Act, the Government of Canada shall, having regard to the Constitution and laws of Canada and subject to (1.1),
>
> **(a)** exercise its powers in a manner that protects the environment and human health, applies the precautionary principle that, where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation, and promotes and reinforces enforceable pollution prevention approaches; . . . .

Section 2(1)(j) repeats that the government shall:

> protect the environment, including its biological diversity, and human health, from the risk of any adverse effects of the use and release of toxic substances, pollutants and wastes; . . . .

Honourable senators, we need to address the fact that there is a pollutant, which experts are telling us has negative effects on human health and biological diversity. They are telling us that this warrants closer study and that our safety codes need to be updated with a view to higher exposure levels. They are telling us that we need to gather more scientific data, and that is all this amendment would aim to do: it would give us the mechanism to learn more about RF waves and their effects on humans, plants and animals.

MOTION IN AMENDMENT NEGATIVED

Hon. Dennis Glen Patterson: Therefore, honourable senators, in amendment, I move:

> That Bill S-5, as amended, be not now read a third time, but that it be further amended,
>
> (a) in clause 7, on page 4, by adding the following after line 33:
>
> "**(3.2)** The Ministers shall conduct research or studies relating to radiofrequency electromagnetic radiation, methods related to its detection, methods to determine its actual or likely short-term or long-term effects on the environment and human health, and preventive, control and abatement measures to deal with it — as well as alternatives to its use — to protect the environment and human health.";
>
> (b) in subclause 9(3) (as amended by decision of the Senate on June 21, 2022), on page 5, by adding the following and repositioning and renumbering accordingly if required:
>
> "**(k.4)** radiofrequency electromagnetic radiation;".

Thank you.

Hon. Stan Kutcher: Thank you very much, Senator Patterson. This is indeed a really important issue; there's no question about that. However, to say that the committee studied this when we had one witness who presented some evidence, but had no chance to study the topic at all, is not a reasonable way to bring in an amendment to a bill. It was not studied.

Also, the World Health Organization is currently doing many studies on the health impacts of radiofrequency electromagnetic radiation. There may be effects, but we really need to look at this carefully and not hear from just one witness in the committee.

Radiofrequency electromagnetic radiation is not a substance. We heard this very clearly from officials.

• (2100)

This bill deals with substances. It is not a substance. Wishing to make it so doesn't make it so. It is energy. It is not even an ion, sir. It is energy — energy that actually is non-ionizing. Another form of non-ionizing energy is visual light. That is also non-ionizing energy. That means it is energy that doesn't have the ability to change the electrical charge on an ion or a molecule. We're all made up of ions and molecules. Some of us have more energy than others. That's not the point.

There are acts which deal with this, and if we do the studies in the acts, we should do the studies in the acts where these things actually deal with this, and we should hear witnesses that deal with these issues carefully. The Radiocommunication Act is such an act; the Health Canada Radiation Emitting Devices Act is such an act. Those are the appropriate places to have discussions on this topic. Thank you. I would vote against the amendment.

Hon. Frances Lankin: Senator Kutcher, will you accept a question?

Senator Kutcher: Certainly.

Senator Lankin: Senator Kutcher, I have to say I'm very low on energy now myself, but I found that response incredibly helpful. We all know that we can make amendments at third reading, but it's difficult to know what the background is in terms of what the committee heard or saw. To have someone from the committee stand up and speak, and if there are alternative opinions from the committee, they should stand up and speak as well. It is an important part of the debate. I think, respectfully, people moving amendments should also, if they would, refer to how the committee responded, dealt with it or the reasons why. For example, I asked Senator Batters yesterday why there was opposition to your amendment. I understand as talk has gone on that the previous amendment that was defeated belongs to the scope of the Freshwater Fish Marketing Act and not this act because it is a natural occurrence —

The Hon. the Speaker: Sorry, Senator Lankin, it sounds as though you've entered debate. Are you asking a question?

Senator Lankin: I thought that's what I wanted to do, and I think you thought that's what I should be doing. Thank you.

Would you speak to whether this was ever discussed or ruled out of the scope of the bill? I'm talking about Senator Patterson's amendment. Thank you very much.

Senator Kutcher: Thank you very much for that question. We had a long discussion about radiofrequency electromagnetic radiation. Very clearly, this is not a substance. I would ask Senator Massicotte if he remembers better whether it was ruled out of scope specifically or not.

The Hon. the Speaker: It's not really appropriate.

Senator Kutcher: Oh, I can't ask the question.

The Hon. the Speaker: Are senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: If you are opposed to the motion, please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: All those present in the chamber who are in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those present in the chamber who are opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

(Motion in amendment of the Honourable Senator Patterson negatived, on division.)

BILL TO AMEND—THIRD READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Kutcher, seconded by the Honourable Senator Boehm, for the third reading of Bill S-5, An Act to amend the Canadian Environmental Protection Act, 1999, to make related amendments to the Food and Drugs Act and to repeal the Perfluorooctane Sulfonate Virtual Elimination Act, as amended.

Hon. David Richards: Honourable senators, I've been dealing with the problem of Atlantic salmon for 40 years and for the last five years in this Senate, and I've never received a credible answer from either representatives of Fisheries and Oceans Canada or any of the fisheries ministers — I think this is the third one — about our wild salmon stock and how it's depleted. They don't seem to have any answers. They have a lot of regulations, but they don't seem to have any answers at all.

In Bill S-5, they're called "living organisms," but there's nothing more spectacular than seeing a salmon move into a pool early in the morning or at evening for that matter. The idea of genetically altering this species is both dangerous and arrogant, and it's being done in the United States and in Canada with Atlantic salmon. It will not end well because sooner or later the

genetically altered species will enter our waterways, one way or the other, and I have no idea what will happen to our wild salmon if it does.

MOTION IN AMENDMENT NEGATIVED

Hon. David Richards: Therefore, honourable senators, in amendment, I move:

> That Bill S-5, as amended, be not now read a third time, but that it be further amended on page 28 (as amended by decision of the Senate on June 21, 2022) by adding the following before new clause 39.1 and renumbering the bill as required:
>
> "**39.01 (1) Subsection 106(1) of the Act is amended by striking out "and" after paragraph (a) and by adding the following after that paragraph:**
>
> **(a.1)** where the living organism is an animal having a wild counterpart, the information provided shows a demonstrable need for the living organism and that the living organism is not toxic or capable of becoming toxic; and
>
> **(2) Subsection 106(4) of the Act is amended by striking out "and" after paragraph (a) and by adding the following after that paragraph:**
>
> **(a.1)** where the living organism is an animal having a wild counterpart, the information provided shows a demonstrable need for the significant new activity involving the living organism and that the significant new activity does not render the living organism toxic or capable of becoming toxic; and
>
> **(3) Section 106 of the Act is amended by adding the following after subsection (8):**
>
> **(8.1)** Despite subsection (8), if the living organism is an animal having a wild counterpart, the Minister must provide
>
> **(a)** a public notice of the request for a waiver; and
>
> **(b)** opportunities for members of the public to participate in the assessment.".

Hon. Dennis Glen Patterson: Honourable senators, I rise today to speak in support of Senator Richards' amendment.

While participating in the study of this bill, I was struck by the story of a genetically engineered Atlantic salmon species being released into the wild without anyone really being aware of it. Mark Butler, a senior advisor with Nature Canada, spoke of "[t]he risk to wild salmon and the implications for Indigenous peoples' rights. . ." that such a species could have.

This amendment would ensure that until a proponent can demonstrate that a living organism that has a wild counterpart can be used safely, its development, manufacture, import or use is prohibited. To be clear, colleagues, I would underline for you all the term "with a wild counterpart." We're talking about, in this case, a fish, but it could include lobsters, rabbits and larger animals of that ilk and not microscopic organisms such as bacterial strains.

It is worth noting that similar recommendations have been made for chemical substances of very high concern to put a strong onus of proof on proponents to demonstrate the need. It is also in line with the precautionary principle that I referenced in my previous speech found in section 2(1)(a) of the Canadian Environmental Protection Act, or CEPA. The proponent should also have to demonstrate that the new living organism is needed.

I would also like to draw the attention of senators to part 3 of the amendment that seeks to ensure there is an increased level of transparency and accountability with regard to decisions undertaken by the government under the authority of this act concerning genetically modified organisms with a wild counterpart. This approval took place under the radar.

• (2110)

I know that some industry groups have argued that this places in jeopardy the confidential business information, or CBI, of current and future proponents. However, there are several protections in the regulations governing CEPA that would protect CBI, including the powers that exist under section 313(1) that states:

> A person who provides information to the Minister under this Act, or to a board of review in respect of a notice of objection filed under this Act, may submit with the information a request that it be treated as confidential.

This approach, as Senator Richards said, is based on the example of a company called AquaBounty. This is a company operating a land farm in P.E.I. as we speak that breeds genetically modified salmon, and they're selling that salmon with no label. In this instance, there is no requirement for genetically modified salmon to be clearly labelled, so concerned citizens have to dig for information on the potential health concerns of consuming this salmon.

Karen Wristen of the Living Oceans Society told us the story of AquaBounty. As a lawyer in the NGO space, she should not have been taken by surprise that a new species of salmon had been introduced into Canadian waters, but Ms. Wristen told our committee:

> In the complete absence of any public information in Canada regarding the risk assessment or the status of AquaBounty's application, the Living Oceans Society and Ecology Action Centre filed for judicial review of the decision to permit the manufacture and export of AAS. It would be fully a year before the government produced its record of decision and longer still until we were finally permitted to see the risk assessment.

Honourable senators, I was discomfited to hear about the details of their lawsuit, and I believe we have an opportunity here with this amendment to ensure that government decisions and all relevant information is released to the public in a timely and transparent manner. Some may know that I brought this amendment forward in the committee. It passed the first time we considered it at clause by clause, and then failed when we had to redo the votes due to a technicality. Senator Kutcher told the committee then that:

> I've learned that Environment and Climate Change Canada and Health Canada have now initiated a comprehensive review of the New Substances Notification Regulations (Organisms), which are a part of the regulations that implement part 6 of CEPA. As such, changes to those regulations will be examined closely during part of this review, and it would thus be premature to propose amendments to this part of the act before those consultations and subsequent regulatory modernization initiatives have run their course.

Trust us and wait. While a review and potential changes to the New Substances Notification Regulations (Organisms) would be welcome, regulations are not enough. Changes in the act are required to ensure that Canadian consumers are protected now. We have a chance to do this through this amendment.

The Assembly of First Nations, Congress of Aboriginal Peoples, Atlantic Salmon Federation — who knew nothing about the development of this new species until the court action I mentioned — the Living Oceans Society and Bob Chamberlin, a B.C. Indigenous leader, all endorsed this amendment when they either appeared as witnesses or submitted briefs to the committee. They feel it ensures the public is able to learn about and participate in the process of authorizing activities related to genetically modified organisms with a wild counterpart.

I'd like to thank Senator Richards for his devotion to the iconic Atlantic salmon, and I would urge all honourable senators to adopt this amendment. Thank you.

Hon. Pat Duncan: Senator Patterson, will you take a question?

Senator Patterson: Yes.

Senator Duncan: Thank you, Senator Patterson. This may also be addressed by Senator Kutcher. You made significant reference to Atlantic salmon. Was there any discussion of the impact of this proposed amendment on Pacific salmon and/or are there examples of the situation you described occurring on the West Coast?

Senator Patterson: I don't know of the occurrence of this genetically modified engineering on other species in Canada. As far as I know this is the first, and this was the only species that we were told about in committee.

With respect to Senator Kutcher, we had one witness. It's unfortunate we didn't have time for more, but this amendment basically ensures that if this kind of genetic engineering of wild species happens again, there will be some public transparency that did not exist in the AquaBounty case. Thank you.

Senator Duncan: As I heard your discussion of this amendment, you were referring to consultation and work that's under way by environmental protection and Health Canada. Is it possible that those two agencies are working with those individuals who are working with B.C. salmon? Is it possible that they have more information and are working with fish farmers, for example, on both the West and East Coasts? Is it possible that this additional consultation that they're proposing is actually required before we make such an amendment?

Senator Patterson: Thank you for the question. You've suggested in your question that concerned groups like the Living Oceans Society and the Atlantic Salmon Federation, as I understand it, could be working with Environment and Climate Change Canada and Health Canada, who have now initiated a review of the so-called new substances notification regulations, or SNAc — significant new activity — provisions, as they're called.

These organizations, Ecology Action and Nature Canada, had to sue the courts to even get information about the risk assessment that had been done by the department. They do not have a good working relationship with the department that is charged with reviewing these regulations. They had to sue them to find out what was going on, and it took a year. I don't believe that we should wait and trust the department to examine this issue in the fullness of time. We've waited some 20 years for these amendments to come forward. Governments don't move rapidly.

In the meantime, we have what I think is the alarming potential for an explosion of other genetic modifications that could threaten other species. So I don't think there is a potential for cooperation here. It certainly hasn't existed in the past. Thank you.

[*Translation*]

Hon. René Cormier: I must first say that I appreciate your argument. I support the concerns of Senator Richards in this area considering the impact of Atlantic salmon on our region, both environmentally and for tourism and food. The issue is very important and the GMOs are a source of major concern.

• (2120)

That being said, my question for you is simple. I believe that this is a completely legitimate concern, but is this bill the right bill and the right vehicle for addressing this issue? I ask the question since this is a bill on chemical substances and as Senator Kutcher said, we are dealing with GMOs, organisms.

[*English*]

Senator Patterson: Thank you for the question, Senator Cormier. I know you're from a region that cherishes the Atlantic salmon.

There's no question that this amendment is within the scope of the bill. The bill covers substances, including living substances that could pose a danger to human health, so this is the bill to deal with this. As Senator Kutcher said, the department is going

to be reviewing the regulations, and it's going to take care of it, the same department that is in charge of administering this bill. So we've got the right bill.

The question is: Do we wait for the government to do its regulations? Do we trust a department that secretly, apparently, at least without public consultation and notice, allowed these genetically modified species to be released into a fish farm on Prince Edward Island, which is now producing and selling, without labels, this genetically modified fish?

Let's act now and not wait for the government to move on this. Thank you.

The Hon. the Speaker: Senator Patterson, there are a few more senators who wish to ask questions, but your time has expired. Are you asking for five more minutes to answer questions?

Senator Patterson: No.

Hon. Fabian Manning: Honourable senators, my plan was to ask questions, but since Senator Patterson is not taking any more, I'll make a few comments.

I am very concerned about some of the discussion here this evening. I have several concerns, and I want to touch on a few of them.

If I followed correctly what has been said, there is a company on Prince Edward Island that I was not aware of, to be honest with you, producing a food product in our country and selling it with no label. I'll take your word about what you're saying.

That concerns me greatly. The Canadian Food Inspection Agency usually oversees the production and the selling of products, and licenses companies and distributors to sell products. Certainly, any food product in this country that is being sold without proper labelling — I mean, you can buy a muffin at the store now, and there is a label attached which shows the ingredients, inspections and whatever the case may be.

I'm also very concerned that, again, I'm unaware of the fact that there is a story of a genetically engineered salmon species being released into the wild without anyone being aware of it, as indicated by the comments Senator Patterson made earlier. That's of great concern for the simple reason that no one is aware of it. That is one part of the concern I have, that a species will be released into the wild and the fact that it's a genetically engineered salmon species that would then interact with the wild Atlantic salmon or whatever species that it would come into contact with.

These are very serious concerns, in my view, that we need to take a very serious look at.

I made some notes when Senator Patterson was speaking that Mark Butler, Senior Advisor at Nature Canada, spoke of the risks to wild salmon and the implications for Indigenous people's rights that such a species could have. Again, this is another serious issue that has been raised. Our Fisheries Committee is in the process of concluding a study into Indigenous fishing rights. This genetically engineered salmon species is a detriment to not only the Indigenous people's rights, but, indeed, for Canadians' rights in regard to interfering with any product in the ocean that is processed, at the end of the day, for food.

I'm very concerned with some of the things that have been brought forward here this evening in relation to this, Your Honour. What risk assessments are being done? Who's looking into it? What departments are looking into it?

This is about food. As we all know, we have a global shortage of certain food products for various reasons, whether it's COVID, climate change or whatever the case may be. Looking down the road at the future of food availability, we have to ensure that everything is being done to ensure that food is being grown properly, whether it's a vegetable, fish, animal, or whatever the case may be, and that it's being processed properly, that it's being labelled properly and that it's being sold with everybody's health, first and foremost, in their concerns.

I wanted to touch on a couple of things that were raised, Your Honour. I am very concerned about some of the discussion here this evening in relation to the safety of our food supply. Certainly, when you talk about genetically engineered salmon, if that is the case, if this is going on — I have no reason not to believe what is being put forward here this evening — the question is: What's next? What happens after? This company had to apply for some type of licence from someone, whether it was the provincial government of Prince Edward Island in this case or the federal government. It had to apply for a licence to be able to produce and process food. Maybe someone can enlighten me on what's going on here, but I certainly believe we have to take a second look at some of the concerns that have been raised here this evening. I want to ensure I'm on the record in saying that.

Thank you.

Hon. Stan Kutcher: Honourable senators, I want to thank Senators Patterson, Richards and Manning for raising these very important issues.

As someone from the Atlantic and someone who loves Atlantic salmon, I am very much in favour of ensuring that we study these issues carefully so that we actually know what we're amending. I think herein lies the rub.

We didn't hear from the Canadian Food Inspection Agency, so we don't know anything about the labelling. We heard some witnesses say something. We didn't hear the wider range. We don't know. We have to either accept it prima facie or we have to do a thorough study.

We didn't hear from DFO, so we don't know what the issues are around this. We didn't hear anything from AquaBounty, the company that has been pilloried in the chamber. We should hear from them if we have concerns. I think that's only fair. We didn't hear from Indigenous peoples on this issue, and this is a very important issue to talk about.

We didn't study this, and I would urge us to be very cautious about making amendments in the chamber at third reading on issues that we did not study.

We were told in committee by officials that Environment and Climate Change Canada and Health Canada have initiated a comprehensive review of the *New Substances Notification Regulations (Organisms)* — this is an organism; it's not a substance — which are regulations in Part 6 of CEPA. Bill S-5 deals with chemical management, not the regulation of living organisms. So a study is already under way to deal with this particular issue.

Frankly, I feel it would be premature to propose amendments to this part of the act before those consultations are done and before we have a fulsome study so we actually are fully informed when we take the step to make an amendment. I would vote against the amendment on that basis.

Senator Manning: Senator Kutcher, would you take a question, please?

Senator Kutcher: From you, Senator Manning, always.

Senator Manning: I hope you say that after I'm finished.

As we all know and as they tell us here, the committees are masters of their own destinies. Maybe you could elaborate for us. Why did you not hear from DFO? Why did you not hear from Indigenous groups? Why did you not hear from the Canadian Food Inspection Agency? Why did you not hear from AquaBounty? You may not be able to tell us, but I'd like to know the answer.

• (2130)

Senator Kutcher: I didn't select the witnesses for the committee, as the honourable senator would expect. The issue here is that the committee was studying substances. It was an act that addresses chemical substances management. There are other parts in CEPA where this can and should be brought forward because it's an issue that must be studied. You're absolutely correct that to expect a committee or our chamber to make decisions about something that the committee didn't study would be quite inappropriate.

[*Translation*]

Hon. Julie Miville-Dechêne: I want to quickly confirm what Senator Patterson said, namely, that Part 6 of the act deals with living organisms. Thus, we cannot say that the issue of genetically modified salmon is completely beyond the scope of this bill. I would go further. When studying this bill, there was a great deal of discussion about animals, especially animals used in experiments. We had many discussions and made many amendments. I can tell you that animals used in these experiments will be very well protected by the bill we studied.

Therefore, if that is the case for laboratory animals, I believe it is very clear that the issue of genetically modified salmon is a complex question and that there was no transparency on that issue. Clearly, you are right that the committee did not spend months studying this matter, but that is true for all the elements of Bill S-5. We summarily studied several extremely complicated things and tried to understand them by reading up on them, so you are right, not everything was discussed at committee.

I was, however, one of the people who voted in favour of this amendment the first time, and I plan to vote in favour of it a second time.

[*English*]

Senator Kutcher: Senator Miville-Dechêne, you mentioned we had studied animals. Did we study animals to understand the impact of testing of substances on the animal or did we just study animals?

[*Translation*]

Senator Miville-Dechêne: You're correct, Senator Kutcher, we did study animals as part of our study of this bill, because we did not want tests to be done on these animals. I think this issue is important because I consider salmon to be living beings as well. In this case, genetically modified salmon are absolutely within the scope of the bill, but what's even more important is transparency. During the study of this bill, I fought for transparency, for the ability to know what is in these substances, and now, we want to know whether these genetically modified organisms are toxic.

I don't think we should wait around for a study that will come at some unspecified time. As you know, this bill has not been amended or reviewed in 20 years, so it would be appropriate to include this amendment in the bill as a precaution, because we will eventually receive the studies that will have been conducted, but this will take time, and this bill will not be reviewed after they're received.

[*English*]

Hon. Percy E. Downe: Honourable senators, this company is well known in Prince Edward Island. AquaBounty is an American company, and they've been producing salmon in Prince Edward Island. In fact, their salmon is the first genetically modified fish to be harvested and sold in Canada.

Most of the discussion here this evening is public information in Prince Edward Island. It's been reported in the local media; it's been reported in the national media. All the comments Senator Patterson, Senator Richards and others have made are well known and well understood in Prince Edward Island. The issue is, in my mind, one of transparency.

If my colleagues want to Google this, they can see all the media stories and reports. There's nothing secret about this. AquaBounty announced how much genetically modified salmon they are producing. They've indicated that between the P.E.I. plant and their American plants, they have produced 84 tonnes of salmon recently. The genetically modified salmon from P.E.I. has only been sold in Canada. None of the genetically modified salmon produced in the United States has been sold in Canada. They're quite correct that the Canadian Food Inspection Agency has said AquaBounty's salmon has been evaluated by Health Canada and found to be safe for consumers, and can be sold in the country without labelling.

The problem, of course, is they won't disclose where this salmon is sold. When asked, they say they sell it through food distributors. But if you sit down in a restaurant in Canada or go to your grocery store and buy Atlantic salmon, you might like to know if it's genetically modified or not. I think that's the issue and I think others have stated that. Any action by the Government of Canada will take years, if not decades, to rectify a problem we can address this evening. I'm therefore voting in favour of the amendment, colleagues.

Senator Richards: I think that it's probably great for consumption, Senator Downe, but three years ago we tried to introduce 2,800 salmon that were spawned out of the head waters of the Northwest Miramichi —

The Hon. the Speaker: If you speak again, Senator Richards, it ends debate entirely. I understood that you were asking a question of Senator Downe. Are you asking a question?

Senator Richards: Your Honour, thank you very much. I will forgo.

The Hon. the Speaker: Thank you. Are honourable senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: I see two senators rising. Do we have agreement on a bell?

Hon. Senators: Now.

The Hon. the Speaker: Is there leave to have the vote now? If you're opposed to leave, please say "no." The vote will take place now.

Motion in amendment of the Honourable Senator Richards negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Arnot	McCallum
Ataullahjan	Miville-Dechêne
Audette	Mockler
Batters	Oh
Black	Pate
Boisvenu	Patterson
Cormier	Plett
Dagenais	Poirier
Downe	Quinn
Galvez	Richards
Greene	Ringuette
Housakos	Smith
Lovelace Nicholas	Tannas
MacDonald	Verner
Manning	Wallin
Marshall	Wells
Martin	White—34

NAYS
THE HONOURABLE SENATORS

Bellemare	Gold
Boehm	Harder
Bovey	Jaffer
Busson	Klyne
Campbell	Kutcher
Clement	LaBoucane-Benson
Cordy	Loffreda
Cotter	Marwah
Dasko	Massicotte
Dawson	Mégie
Deacon (*Nova Scotia*)	Moodie
Deacon (*Ontario*)	Petitclerc
Dean	Ravalia
Duncan	Saint-Germain
Dupuis	Seidman
Forest	Simons
Francis	Sorensen
Gagné	Woo
Gerba	Yussuff—39
Gignac	

ABSTENTIONS
THE HONOURABLE SENATORS

Lankin Moncion—2

• (2150)

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Kutcher, seconded by the Honourable Senator Boehm, for the third reading of Bill S-5, An Act to amend the Canadian Environmental Protection Act, 1999, to make related amendments to the Food and Drugs Act and to repeal the Perfluorooctane Sulfonate Virtual Elimination Act, as amended.

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, let me begin by apologizing for doing this at this late hour, but the government leader rightfully reminded me that we had agreed to finish this debate today. I will try to keep my remarks short. I will probably not entertain questions, just in case somebody wants to prolong it.

Let me begin my remarks by quoting something that Senator McCallum said during one of the many marathon clause-by-clause meetings on this bill. Her sentiments have become a constant refrain in this place when it comes to government legislation. In response to a comment from the chair that her intervention might mean the committee would have to sit again on the bill next week, she said:

> That's fine. We're supposed to do this with sober second thought, and I really don't appreciate how we have been rushed through this bill. . . .

Rushing a bill through the Senate has been a rather common event in this place, honourable senators. As the famous saying goes, the first time it happens, it's an accident; the second time is a coincidence; the third time is a pattern. I've lost count as to how many times this has happened with this NDP-Liberal government.

I have lost patience with it as well. This place is going to slide very quickly into irrelevance — nearly as quickly as the government expects bills to pass through here — if we don't do something more than express our outrage at it.

Senator McCallum was not alone in her frustration at the committee. Senator Seidman expressed similar frustration when she said:

> We are rushing through this like crazy, and we are receiving amendments that we have never really discussed at committee. We have never really heard proper witness testimony about this. We have never had time to really properly study. . . .

She was referring to one of the more than 65 amendments that were proposed to this bill, some of them proposed on the fly.

The context of Senator Seidman's observation was the real-world consequence of what happens when you are rushing through a bill of such complexity. As I mentioned, it is a situation that several senators from all sides — except the government, of course — complained about in committee.

Of course, the result was inevitable. Senator Patterson, on the last day of clause-by-clause consideration of the bill, felt compelled to propose an amendment to an amendment — an amendment that the committee had already voted to pass earlier in the week, something they did without fully understanding the ramifications. As Senator Patterson explained in moving his amendment, by replacing the word "may" with the word "shall" in clause 10.1 of the bill, Senator Miville-Dechêne's amendment would oblige the minister to require pollution prevention planning from any person who releases, manufactures or imports a substance listed in Schedule 1 of the Canadian Environmental Protection Act, or CEPA.

The problem with that, of course — and Senator Patterson can correct me if I have this slightly wrong — is that there are many innocuous substances in the schedule that require pollution prevention planning if the word "shall" is used.

For example, plastic manufactured items would target not only shopping bags and disposable straws, it would capture a multitude of everyday objects, manufactured or imported. Some can be made from other materials, but not necessarily.

The example Senator Patterson gave us was a light switch plate, which is made of plastic, is long-lasting and not an important source of plastic pollution. Yet in changing "may" to "shall," they would be subject to a pollution prevention plan.

Only days after approving Senator Miville-Dechêne's well-intentioned amendment, the committee felt compelled to reverse itself and, in effect, renege it.

That is unusual, to say the least, but it also raises the question of what other amendments will have similar ramifications that slipped unnoticed past the committee's lens. It is clearly symptomatic of the committee having to rush through their work without being able to pay the diligence due to the bill's various facets.

It is not the only one, as we will hear when we debate Bill S-6, an entire part of which was removed at the request of the government who inserted it in the first place. But I will leave that to the debate on Bill S-6.

Honourable senators, the committee had 12 meetings on Bill S-5. I'm sorry, they held 13 meetings on Bill S-5 because, as Senator Patterson said, there was a technicality — a technicality of a senator not being where a senator was supposed to be. That sounds like a lot. Seven of those thirteen meetings — more than half — were devoted to clause-by-clause consideration of the bill. Only five were devoted to hearing from witnesses and gathering testimony. It is fair to say that most of the committee's time was not spent on hearing from witnesses, but on hearing from each other on some 65 amendments that were proposed during clause-by-clause consideration of the bill.

Committee members had to sit outside their allotted sitting times for five of the seven meetings on clause-by-clause consideration to get this bill passed in time to meet the NDP-Liberal government's timeline.

Now, I am aware more than anyone that we have constrained hours for our committees. I have complained about it more than once, but that does not negate the fact that, once again, the government's poor planning became the Senate's emergency.

While I think the committee did an excellent job under very difficult circumstances and, indeed, went the extra mile to get this done, it is very telling when senators with environmental expertise admit they didn't have enough time to study all of its aspects. It is a very complex and technical bill, which means there was a lack of time to understand all the ramifications of what was being proposed. This, colleagues, is unacceptable.

Back when I spoke to this bill at second reading, I made a joke about the long title being a mouthful, so I referred to it by its short title, "Strengthening Environmental Protection for a Healthier Canada Act," as I also did today, if I had read the front page. But in a sense, that is doing the bill a disservice, because that short title misrepresents it as being solely about the environment. It is not. It is, as I said, a very complicated and technical bill, and it concerns more than environmental protection.

The full title is, "An Act to amend the Canadian Environmental Protection Act, 1999, to make related amendments to the Food and Drugs Act and to repeal the Perfluorooctane Sulfonate Virtual Elimination Act."

Minister Guilbeault, when he appeared before the committee, referred to the dual aspect of the bill. The first aspect being to recognize in the preamble the right to a healthy environment as provided under CEPA, and the second aspect aimed at strengthening the management of chemicals and other substances in Canada.

The bill proposes to address the first aspect — the right to a healthy environment — through the development of an implementation framework, which will set out how this right will be considered in administering the Canadian Environmental Protection Act.

The committee justifiably struggled with how the government was going to enforce a right that is in the preamble to the act and that is not a right like a Charter right. I am not sure they got the answers to that, at least to their satisfaction.

The second aspect of the bill — or as the minister put it, the second set of key amendments proposed by this bill — relates to the management of chemicals and other substances in Canada. It is here where the highly technical aspects of the bill come in and, in my opinion, where the rushing through of this bill has been most keenly felt.

Let me stress that I do not believe this is due to any shortcoming of the committee or its deliberations. This bill amends the Canadian Environmental Protection Act, and the committee, in the time it had, focused its attention on strengthening environmental protection — as the short title of the bill suggested it should. But I worry that those who would be directly affected by the chemicals management regulatory aspect got short shrift.

• (2200)

Many of the industry witnesses — people from the Chemistry Industry Association of Canada, Cosmetics Alliance Canada, Canadian Manufacturers & Exporters, Canadian Paint and Coatings Association and others — appeared as witnesses early in the committee's study at the second hearing on May 5.

They were followed in the succeeding weeks by the government officials who drafted the bill and by witnesses from various health and environmental associations and activist groups. In fact, the industry people who will be directly affected by the new regulations were outnumbered by a factor of more than 2 to 1 by the non-governmental organizations, or NGOs, and government officials.

I don't think it is unfair to say that the concerns of the industry with this bill — and they had very few concerns with it in its unamended form — were, perhaps, overwhelmed by the testimony of the disproportionate number of witnesses from those NGOs and the fact that most of the industry witnesses testified so early in the committee hearings. Given more time, perhaps more industry witnesses could have testified.

Since they couldn't, I thought I would read into the record some of the issues that many of those representatives from the industry raised in a letter concerning the amended bill as it emerged from the committee and arrived here in the chamber.

It states:

> The Bill, as introduced, advanced important updates to modernize the Canadian Environmental Protection Act, 1999 (CEPA) and prepare for the next iteration of chemicals management in Canada. The Canadian approach to chemicals management is heralded as the global gold standard for protecting the environment and human health. Canada's program relies on balancing precaution with a weight-of-evidence approach to risk assessments and risk management, focusing on eliminating exposures to chemical substances of concern. CEPA is a science-based statute.

The letter continues:

> It is worth highlighting that during the Minister's testimony on the Bill, he specifically lauded CEPA as a world leading program for the management of chemical substances, noting:
>
> > I am looking forward to hearing from Canadians as we develop the plan of chemicals management priorities and continuing the work on what has been recognized as a world-class chemical management program.

> In addition to altering the risk-based approach at the heart of the Act, it is our considered view that many of the Committee's amendments may also be outside of the legislative scope of the Bill.

That should concern all senators, since one of Senator Patterson's proposed amendments was defeated by the committee for being out of scope.

Finally, the letter says that:

> . . . to maintain the global gold standard in chemicals management that protects our environment and the health of Canadians, we urge the full Senate to reverse the amendments introduced by the Committee and pass Bill S-5 as it was originally introduced.

The letter was signed by seven industry associations, four of which did not even have the opportunity to appear before the committee. They are the Tire and Rubber Association of Canada, the Canadian Fuels Association, Responsible Distribution Canada and Electricity Canada.

Honourable senators, let me repeat one line from the letter I cited: "CEPA is a science-based statute."

When I spoke to this bill at second reading, I referenced two environmental chemical scares — Love Canal and the panic over Alar — that caused untold disruption, cost billions of dollars and were not based in science but rather were activist-driven panics, both of which turned out to be false alarms.

My reservations about many of the amendments made to Bill S-5 is that the balance of the testimony that the committee heard leading to many of the amendments was too heavily weighted in favour of the activist organizations. To repeat Senator Seidman's words that I quoted at the beginning of this speech:

> We are rushing through this like crazy, and we are receiving amendments that we have never really discussed at committee. We have never really heard proper witness testimony about this. We have never had time to really properly study.

The result has been a bill in which some 65 amendments were proposed, some of them from the very government that is responsible for the bill. As the saying goes, you reap what you sow. Thank you.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

(Motion agreed to and bill, as amended, read third time and passed, on division.)

CRIMINAL CODE
CONTROLLED DRUGS AND SUBSTANCES ACT

BILL TO AMEND—SECOND READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Gold, P.C., seconded by the Honourable Senator Gagné, for the second reading of Bill C-5, An Act to amend the Criminal Code and the Controlled Drugs and Substances Act.

Hon. Brent Cotter: Honourable senators, I rise to speak to Bill C-5 introduced by Senator Gold earlier this week and, if I may say so, spoken to in depth and with elegance.

I support the bill, but am hopeful that at committee we will have the opportunity to explore the bill and potentially go further.

Many colleagues will have a deeper empirical appreciation than I do of the implications of many aspects of this bill. I will not try to replicate those deeper understandings or appropriate them. Today, I would like to speak to the principles associated with two aspects of the bill and that I hope we will have the opportunity to study in depth.

The first relates to the removal of a series of statutorily imposed mandatory minimum sentences for approximately 20 criminal offences. As others have noted, including the sponsor of the bill, these offences represent a minority of the existing mandatory minimums in federal criminal law. I want to explore the principles upon which this initiative is based and will suggest that these principles are equally applicable to the sentences for the remaining 50 or so mandatory minimum sentences.

I want to suggest that there are two governing principles that underlie this aspect of the bill. The first is the principle of constitutionality and the consequences of unconstitutional laws on the books. As we have heard, a significant motivation for this amendment is that over 40 courts have struck down mandatory minimum sentences as unconstitutional violations of the Charter of Rights and Freedoms, either because of the imposition of cruel and unusual punishment or as an unjustified violation of the principles of fundamental justice.

The presence of mandatory minimums has created at least four problematic consequences. First, they have, in many cases, led to incarcerations that can only be viewed as harsh and unfair and, as we have heard, these harsh and unfair consequences have been disproportionately assigned to offenders from racialized and marginalized communities.

Second, consider the circumstances where you are charged with an offence that carries a significant mandatory minimum sentence. Even if you think you are not guilty of the offence, the sword of that mandatory minimum hanging over your head is liable to induce you to admit to a lesser offence just to avoid that sword. The coercive nature of mandatory minimums is unacceptably weighty, and consequently too susceptible to leveraging unfair plea bargains.

Third, for those who wish to challenge the constitutionality of a mandatory minimum sentence, they must launch and fund such a challenge on their own. Given that many who are caught up in the criminal justice system are of modest means, to say the least, absent the willingness of a lawyer or legal organization, the opportunity to launch such a challenge is minimal — unfairly minimal.

Fourth, the cases that challenge mandatory minimum sentences are complex and, in certain respects, unique. They consume an enormous amount of both court time and court cost. They require courts to develop imaginative approaches to analyzing the constitutionality of mandatory minimums. Indeed, one of our leading judges on these issues, Justice David Doherty of the Ontario Court of Appeal, is rapidly becoming the "emperor" of so-called "reasonable hypotheticals," a necessary, though unusual, technique to analyze mandatory minimums.

• (2210)

These questions of unconstitutionality are important to us as senators in relation to our responsibilities, and the implications of unconstitutional mandatory minimums have great significance for offenders, the system and the big issues of access to justice that deserve our serious consideration.

The second principle involved here with respect to the initiative to eliminate a number of mandatory minimums is an implicit statement of our confidence in our judiciary and their wise exercise of discretion. This is also really important. We are a society governed by law and, as we like to say, the rule of law. We, as senators, are part of that framework, but judges are at the centre.

Given the importance of the rule of law, it is surely an understatement to say that we repose enormous authority in, and responsibility upon, our judges. With rare exceptions, we try our best to pick the best people available to serve as judges. Once there, they have important work to do in ensuring that proceedings are fair; they hear and assess the witnesses; and they reach decisions, some of which are life-determining for the people before them — weighty decisions, to say the least.

That is no less true in cases where mandatory minimum sentences are at play.

But keep this in mind: Long before the sentencing decision and question arise, it is the judge who must oversee the proceedings and, in most cases, weigh the evidence in determining this most important question of whether the person before them should be convicted of the offence in the first place. So is it not passing strange that we parliamentarians have decided that these very judges are not capable of administering the next stage of justice; they cannot be fully trusted to impose a fair and just punishment?

Sentencing is a process itself that is guided by a body of law — the law of sentencing — that has been developed over the decades. At my law school, for example, we offer a popular course exclusively dedicated to sentencing in criminal law. So there is a thoughtful system in place.

If one thinks that the judge got it wrong in the application of those sentencing principles, the decision is capable of being reviewed.

It is a remarkably good system.

I don't want to be uncharitable to parliamentarians, and I have not studied the work of Parliament when mandatory minimum sentences were introduced over the years, but my guess is that this body of law — this law of sentencing — was not much studied at the time.

Regarding this bill, to the government's credit, the bill expresses the support for and endorses those two principles: a commitment to constitutionality and a recognition of the independence of judges and their exercise of judicial discretion in doing the difficult jobs we ask them to do. Each of those principles is applicable to the amendments before us that will remove some mandatory minimums.

But here is the rub for me and, I think, for others: Each of these principles also applies to those mandatory minimums left in place, not even moderated where exceptional circumstances exist and might justify them. Indeed, to the credit of Senator Jaffer and other colleagues in this house, the sponsorship of other bills would take those two principles to their logical conclusion and address the range of mandatory minimums in honourable and principled ways.

On that point, I want to end by observing that some may say that political expediency — half a loaf — is sometimes necessary; that is, half measures are required. I'm new to this kind of work, and I think I understand that principle in a general way, but we're talking about principles here that are deeply embedded in our law. We are a people who adhere to law, especially our Constitution, and we trust one of the best judiciaries in the world to deliver the law well, honourably and fairly.

My hope is that we will choose such principles over expediency and go further than Bill C-5 on this issue of mandatory minimums.

My second set of comments relating to Bill C-5 is focused on the diversion measures contemplated for inclusion in the Controlled Drugs and Substances Act. I support these measures but want to pose two questions or concerns. The first is contextual. Here I am borrowing and, to some extent, critiquing the observations that Senator Gold made in his speech with respect to the bill.

The bill proposes that prosecutions proceed on charges of simple possession only if the prosecutor is of the opinion that none of the alternatives — a warning, referral or alternative measures — is appropriate. That none of those other measures is appropriate is a requirement for a prosecutor to proceed. But by any other measure — and to some extent, Senator Gold referenced this — this is a description of prosecutorial discretion. All of this authority already exists for prosecutors, so the section seems redundant and unnecessary.

Furthermore — and this is a mystery to me, although perhaps this is already in place — nearly all the charges under the Controlled Drugs and Substances Act are prosecuted by federal prosecutors or their agents rather than prosecutors within provincial governments who prosecute most other criminal matters; that is, those who handle drug cases are agents of the Attorney General of Canada. The Attorney General can give this directive to prosecutors without one word of legislation. Although Senator Gold observed that this is helpful in provincial contexts, the fact of the matter is that provincial prosecutors do not prosecute these cases except in the most extraordinary of circumstances.

It feels like a redundancy. I support the concept, but it seems to me that it's unnecessary in legislation.

My second and, quite frankly, more serious concern with this part of the bill is the curious disconnect between what prosecutors are to do in the context of alternative measures — the process I have just described — and what is required of police officers.

This is a fairly significant dimension of the bill in real time. This is where the issues of individuals facing potential charges are encountered the most. In most Canadian jurisdictions, when the police officer has a reasonable basis on which to believe that a crime has been committed, they have the authority and discretion to lay a charge — in legal terms, "laying an information." The same is true particularly for charges of simple possession with respect to the Controlled Drugs and Substances Act.

You will recall that the proposed amendment for prosecutors requires that they proceed with a charge only when alternative measures are inappropriate. The way it works is that they take up the prosecution of the charges laid by the police officers and make a judgment. Hence, you would expect that, for police officers who initiate the process, the standard for laying the charge in the first place — that is, only when other options are inappropriate — would be the same. But it is not. Police officers need only consider whether it would be "preferable" to pursue an alternative measure. That is far less than a mandatory requirement: "prosecution only where no other option is appropriate."

You might be inclined to think, "This is okay. The prosecutor will clean things up." True, but that fails to take into account a number of observations, including ones Senator Gold made, about the consequences of being charged: if one thinks about it, the lost opportunity of an alternative measure; the embarrassment to an accused of a charge, though subsequently withdrawn, having been laid in the first place; and it doesn't take into account the waste of police, court and prosecution resources when matters are resolved later in the process than necessary.

If "only where appropriate" is the requirement for proceeding with a charge in court, surely it should be the requirement for laying the charge in the first place. That has to be addressed.

While I support the bill, in my view, it can be improved and expanded. I hope that those and other aspects of Bill C-5 will be carefully considered at committee and that a good initiative can be made even better.

Thank you, *hiy hiy*.

• (2220)

Hon. Denise Batters: Senator Cotter, I may well have misunderstood you, so I wanted to ask you about something. At one point in your speech, you seemed to indicate that when these particular bills — the bills that bring forward these mandatory minimums that were in place and which this particular bill seeks to remove — first came into place, parliamentarians may not have taken enough time to study them. In the sentencing aspect — I can't speak for the House of Commons, and I've only been here nine and a half years — I can tell you that during the time the Harper government was in place and during my time at the Senate Legal Committee, we brought forward many of those mandatory minimums and we absolutely, every single time, devoted diligent study to those particular mandatory minimums.

Is that what you were referring to? When you say "parliamentarians," of course that refers not only to the House of Commons but also to the Senate, and our Senate Legal Committee always does diligent study.

Senator Cotter: I didn't go back and study the record, Senator Batters, and I wasn't referring to the quality of examination of mandatory minimums. I was referring to the vast body of law in the law of sentencing, and my guess is that it was not extensively studied and adequately enough respected in this exercise. In my judgment, the introduction of mandatory minimum sentences imposes constraints on judges implicitly because of lack of confidence in them and the system they administer.

Hon. Kim Pate: Honourable senators, the government's goals for Bill C-5 are laudable. I repeat, they're laudable goals, and I support them. Regrettably, Bill C-5 will not significantly reduce the number of federally imprisoned Black or Indigenous people, most especially not Indigenous women.

In the 1999 *Gladue* decision, the Supreme Court declared the overrepresentation of Indigenous peoples in prisons a national crisis. At the time, Indigenous people represented 10.6% of the country's federal prison population. Today, that percentage has risen to 32%. Even worse, Indigenous women now make up half of all women in federal prisons, and 1 in 10 federally sentenced women are Black.

In 2015, Prime Minister Trudeau tasked the Minister of Justice with decreasing the number of Indigenous people in prison and repealing mandatory minimum penalties in accordance with the Calls to Action of the Truth and Reconciliation Commission, or TRC, which directed:

> . . . the federal government to amend the *Criminal Code* to allow trial judges, upon giving reasons, to depart from mandatory minimum sentences. . . .

This and reconciliation remain within the mandate of the Minister of Justice. Bill C-5 will not meet these goals and falls far short of the TRC Call to Action 32 and the subsequent Calls for Justice 5.14 and 5.21 of the National Inquiry into Missing and Murdered Indigenous Women and Girls.

Mandatory minimum sentences are a primary contributor to Indigenous and Black overrepresentation in prisons. As the Missing and Murdered Indigenous Women and Girls inquiry brought into stark relief, Indigenous women do not receive just, fair or equitable treatment under the law. This is Canada's legacy. The TRC and Missing and Murdered Indigenous Women and Girls inquiry traced Canada's history of abuse and mistreatment of Indigenous peoples from the ongoing effects of colonialism, including the legacy of residential schools, which reveals itself in the current realities of mass incarceration.

Clearly, urgent action is needed to address this crisis. Bill C-5 will remove mandatory minimum penalties for some drug offences, some firearm offences and one tobacco-related offence. But most mandatory minimums will remain on the books, including the mandatory life sentence for murder. By removing only some mandatory minimum penalties, we are effectively sanctioning continued injustice in Canada.

Retaining the vast majority of mandatory minimum penalties is said to be justified on deterrence grounds. This logic often resonates with people because of a view that long, mandatory sentences will prevent people from committing crimes. If this were true, punishment would not have been abandoned in virtually every other sphere, from parenting to educating. More to the point, if it were true, then we should expect that the United States — the leader in the proliferation of mandatory minimum penalties — would be the safest, most crime-free country in the world.

Yet the deterrent effect of mandatory minimum penalties has been debunked as a myth. The government's own research reveals that mandatory minimum sentences do not deter and are less effective than proportionate sentences reached through the exercise of broad judicial discretion. I want to thank Senator Cotter for outlining what exactly that means.

In 1952, the Royal Commission on the Revision of the Criminal Code concluded that all mandatory minimum sentences should be abolished. For at least seven decades, experts, commissions of inquiry, judges, community-based advocacy groups and reconciliation commissions have advocated for the repeal of mandatory minimums.

Instead, in this bill, we see the repeal of a select few mandatory minimum penalties. It will barely put a dent in the overincarceration of Indigenous and Black people, not only because it will apply to so few offences but also because mandatory minimum sentences add jet fuel to discrimination and discriminatory law enforcement and prosecutorial practices, magnifying the impact by preventing sentencing judges from addressing the context of offences and the ways in which the criminal legal system replicates and deepens discrimination.

Mandatory minimum sentences coupled with biased police response, investigation and charging practices create miscarriages of justice. For vulnerable populations, interactions with the police are often intimidating and traumatizing. Experiences of force and abuse from authorities begin at a young age for many Indigenous women, often in times when they need support and protection, and that abuse can continue into adulthood.

When police are called but disbelieve Indigenous women, not only are Indigenous women further traumatized, but too many are left to protect themselves. If they have used any force reactively — even defensively — they are likely to find themselves criminalized and imprisoned.

Too often, colonial attitudes held by members of the legal system regard Indigenous women as more blameworthy than others and deserving of harsh punishment by the justice system. This has been labelled as hyper-responsibilization and is a phenomenon experienced by many, particularly the 12 women recently profiled in our report.

As was also noted in *The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, the Canadian legal system:

> . . . criminalizes acts that are a direct result of survival for many Indigenous women. This repeats patterns of colonialism because it places the blame and responsibility on Indigenous women and their choices, and ignores the systemic injustices that they experience. . . .

— and which directly contribute to the behaviour for which they are criminalized.

Mandatory minimum penalties shackle judges, forcing them to impose sentences of incarceration that do not appropriately reflect the context, circumstances or legal blameworthiness of the accused or the abuse they may have experienced within the law enforcement process.

Mandatory minimums break with Canada's historical trust of our judiciary that granted them discretion in sentencing. Before the fervour for mandatory minimum sentencing started sweeping across our criminal laws in 1995, judges were entrusted to develop individualized sentences that balanced the gravity of the offence against the culpability and circumstances of the accused. When the Criminal Code was first enacted in 1892, it contained six mandatory minimum penalties. Until 1995, the number of mandatory minimums remained constant at around 10.

• (2230)

Now there are more than 70 offences carrying mandatory minimum penalties — this in spite of the fact that judicial discretion in sentencing is overwhelmingly supported by Canadians. In 2017, in a report commissioned by the Department of Justice, 9 out of 10 Canadians wanted the government to consider giving judges the flexibility to not impose mandatory minimum sentences.

The bill does not respond adequately to the judicial decisions that have found mandatory minimum penalties in violation of the Canadian Charter of Rights and Freedoms.

One glaring omission is the failure to deal with the mandatory minimums regarding parole ineligibility for murder, which is particularly important for reducing the overincarceration of Indigenous women. The sentence of mandatory life, in combination with parole ineligibility for at least 10 years for second-degree murder, and 25 for first-degree murder, was the trade-off for the abolition of the death penalty.

Even then, a key component of the parole ineligibility period was a provision allowing for a special judicial review and a five-step process to which a person may seek access after they have served 15 years of a life sentence. The provision was colloquially referred to as a "faint hope clause" of the Criminal Code.

The significance of the faint hope clause was considered by the Supreme Court of Canada in 1990 when the constitutionality of the mandatory life sentence was challenged. The Supreme Court at that time rejected the challenge and upheld the mandatory sentence on the basis that the faint hope clause preserved the constitutionality of the life sentence for murder.

In 2011, the Conservative government repealed the faint hope clause, thereby further limiting opportunities for parole and rendering the mandatory minimum unconstitutional.

Moving forward, we must consider that last year, on the first National Day for Truth and Reconciliation, Prime Minister Justin Trudeau gave a speech saying that:

> Today, we . . . recognize the harms, injustices and intergenerational trauma that Indigenous peoples have faced — and continue to face — because of the residential school system, systemic racism, and the discrimination that persists in our society.

Colleagues, it's time for us to do our job. Let's help the government along this path by making Bill C-5 fit for purpose.

Meegwetch, thank you.

[*Translation*]

CRIMINAL CODE

BILL TO AMEND—FIRST READING

The Hon. the Speaker pro tempore informed the Senate that a message had been received from the House of Commons with Bill C-28, An Act to amend the Criminal Code (self-induced extreme intoxication).

(Bill read first time.)

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the second time?

(On motion of Senator Gold, bill placed on the Orders of the Day for second reading at the next sitting of the Senate.)

[*English*]

CRIMINAL CODE
CONTROLLED DRUGS AND SUBSTANCES ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Gold, P.C., seconded by the Honourable Senator Gagné, for the second reading of Bill C-5, An Act to amend the Criminal Code and the Controlled Drugs and Substances Act.

Hon. Bernadette Clement: Honourable senators, I join my colleagues in speaking today on Bill C-5, An Act to amend the Criminal Code and the Controlled Drugs and Substances Act.

We have heard many excellent debates about this bill and on the topic of mandatory minimums and their effects on Canadians. But this is not just about mandatory minimums. This is about systemic racism.

It might surprise you to know that even though I'm a former mayor, a lawyer and now a senator, I am not beyond the reach of systemic racism. As I stand here addressing my peers, I want you to know that the privilege that we share does not shield me from the experience of racism.

No matter your path in life, you're in the skin you're in.

Now strip away my title as senator. Strip away my career. Strip away my health. Strip away my education, my supportive family and my friends. Let's take a minute to think about that. If I experience racism, imagine the experience of someone who does not have the privilege that I do.

This is how systemic racism works. As a Black person, you are always subject to the fear, the risk and the reality that there are still injustices that not only exist but are reinforced in places like our legal system, institutions and democracy.

[*Translation*]

For Black Canadians and members of other racialized communities, mandatory minimum sentences do not start and end at the time of sentencing. Like other inequities in our justice system, these sentences can be traced back and are related to realities, experiences and injustices members of these communities face every day.

[*English*]

When we look for solutions for these systemic problems and for a clearer understanding of how they tie into issues like mandatory minimums, I am drawn to the writing of community advocates like the Black Legal Action Centre. They wrote in their co-brief to the House of Commons Standing Committee on Justice and Human Rights:

> That the importance of Bill C-5, and the potential impact of their proposed changes to it cannot be separated from the systemic discrimination perpetuated by Canada's criminal justice system against marginalized people in Canada, and in particular against Black and Indigenous women in Canada.

[*Translation*]

Even if they continue to look at the statistics on the overincarceration and overrepresentation of racialized people in our justice system, it is obvious that systemic discrimination based on race, sex and income is closely related to this issue.

[*English*]

This analysis of systemic inequities is also echoed in the testimony of Mr. Brandon Rolle, senior counsel of the African Nova Scotian Institute, who spoke at the Standing Committee on Justice and Human Rights.

In his remarks, Mr. Rolle indicated that the disproportionate impact of mandatory minimums on custody rates for Black people is clearly outlined in the data, but we need to understand the context here.

First, there is a distinct overpolicing and oversurveillance of Black communities, which contributes to the likelihood of being arrested and charged, where Black Canadians are at a disproportionate risk of criminal liability for offences carrying a mandatory sentence.

Second, there is a disproportionate number of Black Canadians detained before trial, which places more significant pressure on them to plead guilty, including to crimes with mandatory minimum penalties.

Third, African Canadians have experienced a legacy of slavery, colonialism, segregation and racism that has led to this historic pattern of disadvantage, which includes overrepresentation in custody, involvement in certain offences, being denied bail and receiving longer jail sentences and subsequently serving harsher time while in custody.

Honourable senators, in understanding that systemic racism is the underlying cause of issues like the overincarceration of racialized people, and is inseparable from practices like mandatory minimums, I will return to the refrain you have heard time and time again.

Mandatory minimums do not work. They do not deter crime. They do not make our communities safer. They do not reduce recidivism and, most of all, they do not bring us toward a more equitable and just Canada for all Canadians. The Black community has been telling us this for decades, and the data reflects this too.

Canada's federal correctional agency indicates that most Black Canadians accounted for 7.2% of federal offenders in 2018 and 2019, while comprising only 3.5% of Canada's population. Nearly 1 out of every 15 young Black men in Ontario experiences jail time. That's compared to 1 in about 70 young White men. These statistics are alarming and disheartening. But, as I have been saying, they only represent one part of the picture.

• (2240)

Mandatory minimums are not merely an issue that affects our numbers and percentages. They are also tools that distance our judicial system from seeing offenders as people with diverse circumstances, perspectives and lived experiences, and are disadvantaged under a racist and discriminatory system.

As I consider these factors and the substantive and data-based responses already outlined by my colleagues, I'm hesitant in my support of Bill C-5. Many advocates, legal professionals and Canadians have waited for so long to finally see this move forward. Bill C-5 does make some progress — it does — in bringing back fairer sentencing by our judges, sentencing based on individual circumstances that slowly turn our eyes to the human, social and financial costs of imposing mandatory minimum sentencing.

[*Translation*]

However the fact remains, honourable senators, that Bill C-5 eliminates only 20 of 73 mandatory minimum sentences, which means there are still 53 others that will continue to contribute to the overincarceration of racialized Canadians. There are still 53.

[*English*]

Our communities know how long it takes to get these changes and how many suffer during those years of waiting, advocating and pleading.

Bill C-5 and the entire movement to remove mandatory minimums deals with the systemic racism that continues to ruin so many lives, that robs people of options and possibilities and that prevents people from returning to the healing and rehabilitation potential of their communities.

I acknowledge that mandatory minimums are one piece of the puzzle, and we must do more. We need programs, initiatives with comprehensive community infrastructure and a racialized community-focused justice approach to building real solutions for Canadians. We need efforts further upstream in the justice system that address the root causes of offending behaviour, not just measures that address sentencing after these offences. Colleagues, most of all, we need to be looking at this from the eyes of Canadians who live with and are impacted by our judicial system every day.

In his speech this Monday, Senator Gold stated that for many of us criminal law is personal, and he is so right about this.

[*Translation*]

Every day, our justice system and our correctional institutions have an impact on the lives of Canadians, whether through their own experiences, those of their loved ones or as part of their duties as professionals or advocates in our justice system.

[*English*]

I believe we should always treat this as a personal issue, a human issue, that permanently impacts the lived experiences, opportunities and prosperity of real Canadians, not just on our data, statistics and bottom lines.

[*Translation*]

Mandatory minimum sentences are dangerous tools in our justice system and they do not work. They harm Canadians, particularly those from racialized communities who are already fighting against a system that is still riddled with systemic inequalities, racism and discrimination.

[*English*]

So while from a political and legislative perspective Bill C-5 is a good step in the right direction, from a human and personal standpoint, I'm under no illusion here. We have not gone far enough. This is why I look forward to the opportunity for a robust committee study this fall when we will have the chance to see where and how we get more for Canadians; why I am eager to hear more about Bill C-5 and how it will tie into the government's Black Canadians Justice Strategy, as stated in the mandate letter of the Minister of Justice; why I'm focused on what more Bill C-5 can do in advancing change in our justice system.

Laudable, yes, we heard that. Bill C-5 is a laudable effort, but it is not shooting for the moon. It is not shooting for the moon, the stars or any other type of distant goal that hangs high above the realities and needs of Canadians. Repealing mandatory minimums is within reach, not out of this world. It's one small step in the right direction. The first step makes me feel both concerned and hopeful.

I'll end on hope — hope that the path ahead offers substantial solutions for the racism experienced by Black Canadians in our justice system. Thank you. *Nia:wen*.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

(Motion agreed to and bill read second time, on division.)

REFERRED TO COMMITTEE

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

(On motion of Senator Gold, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

(*At 10:46 p.m., the Senate was continued until tomorrow at 2 p.m.*)

APPENDIX

DELAYED ANSWERS TO ORAL QUESTIONS

AGRICULTURE AND AGRI-FOOD

SUPPORT FOR FARMERS AND PRODUCERS

(*Response to question raised by the Honourable Brian Francis on April 5, 2022*)

Canadian Food Inspection Agency

The Government of Canada has supported the sector through the $28 million Surplus Potato Management Response plan. Business risk management programs such as AgriInsurance, AgriStability, and AgriInvest also remain available to potato producers to manage business risks. A producer with an AgriInvest account may also draw upon funds to support a transition to other crops.

As an additional tool to enhance compliance restrictions and reduce the risk of spreading potato wart, Prince Edward Island producers who are required to dispose of their seed potatoes may be eligible for compensation under the *Potato Wart Compensation Regulations* if they meet the eligibility criteria provided in the regulations. A grower can submit their compensation application once disposal of potatoes is verified.

Details on the compensation application process for seed potato growers were shared at a meeting held by the Government of Canada on April 22, 2022. The Government of Canada is scheduled to meet with P.E.I. growers on June 16, 2022, to further discuss this topic.

HEALTH

COVID-19 PANDEMIC—LONG-TERM EFFECTS

(*Response to question raised by the Honourable Stan Kutcher on April 26, 2022*)

Public Health Agency of Canada (PHAC)

The federal health portfolio, in collaboration with various partners, is addressing the issue of post-COVID-19 conditions through investments in research and surveillance, sharing of the latest scientific evidence and the development of information and guidelines to support affected health professionals and Canadians.

The Public Health Agency of Canada (PHAC) is collaborating with paediatricians across Canada and with the Canadian Paediatric Society (CPS), who works closely with various countries through the International Network of Paediatric Surveillance Units on a surveillance study of post-COVID-19 conditions. PHAC is also collaborating with the United Kingdom National Institute for Health and Care Excellence to share evidence and preferred practices, and with impacted Canadians to inform the development of evidence-based guidelines and tools. Through Budget 2022, PHAC committed approximately $17 million in the development of these tools for health professionals and citizens. The Canadian Institutes of Health Research (CIHR) has invested over $410 million to fund targeted short- and long-term research studies on post-COVID-19 conditions that span biomedical, clinical, health systems and services and population health topics.

Additionally, the federal government will be part of discussions regarding international cooperation in addressing this issue at the G7 Science Ministers meeting in June 2022.

INFRASTRUCTURE

INFRASTRUCTURE PROJECTS

(*Response to question raised by the Honourable Mary Coyle on May 10, 2022*)

Infrastructure Canada (INFC) is committed to continuous improvement of all of its infrastructure programs and tools, including the Climate Lens.

INFC is developing a detailed action plan for implementation of its responses to the recommendations in the commissioner's report. INFC is continuing to improve the Climate Lens by integrating climate considerations directly into project applications, enhancing its review process of climate outcomes, and developing user-friendly guidance for applicants, including sector-specific guidance.

These actions will start as soon as this summer, with the publication of sector-specific guidance and documentation of the internal review process in more detail.

As new programs are developed, INFC will continue to integrate clear requirements to provide information on greenhouse gas (GHG) emissions and resilience outcomes in the program application process.

The commissioner's report highlighted some very positive progress that has been made under the Green and Inclusive Community Buildings (GICB) Program. This includes the integration of clear requirements to provide information on GHG emissions and resilience outcomes, and the requirement to use a standardized tool to estimate energy savings and GHG emissions reductions.

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Wednesday, June 22, 2022

P20709

This is Exhibit “E” to the affidavit of **Mallory Kelly,** affirmed
remotely and stated as being located
in the city of Gatineau, in the province of Quebec,
before me at the city of Ottawa in the province of Ontario,on
July 4, 2025, in accordance with
O. Reg 431/20, Administering Oath or Declaration Remotely.

HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

44th PARLIAMENT, 1st SESSION

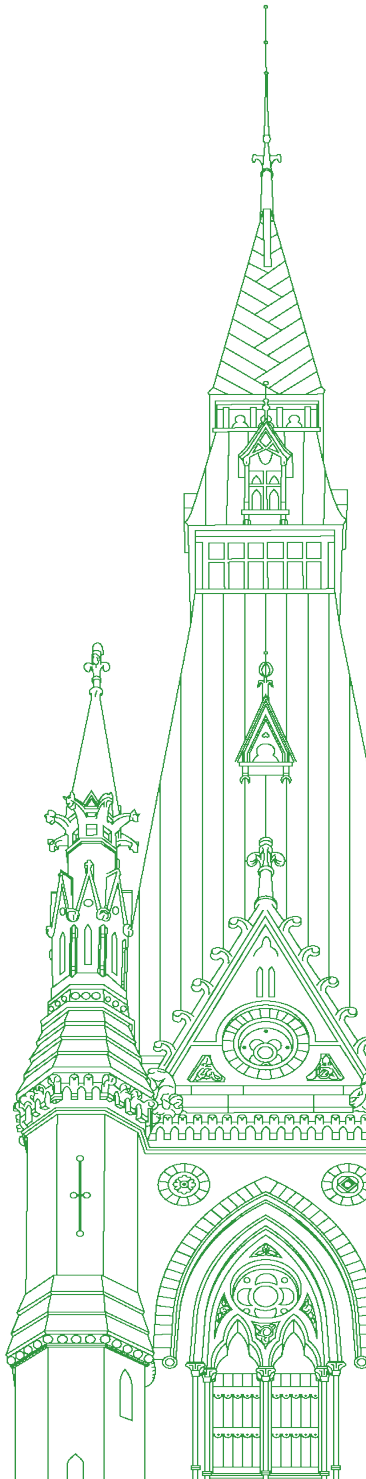
House of Commons Debates

Official Report

(Hansard)

Volume 151 No. 223

Monday, September 25, 2023



Speaker: The Honourable Anthony Rota

HOUSE OF COMMONS

Monday, September 25, 2023

The House met at 11 a.m.

Prayer

● (1100)

[*English*]

APOLOGY BY THE SPEAKER

The Speaker: Before beginning our proceedings today, I wish to make a brief statement.

[*Translation*]

On Friday, in my remarks following the address of the President of Ukraine, I recognized an individual in the gallery. My intention was to show that the conflict between Russia and Ukraine is not a new one, that Ukrainians have unfortunately been subject to foreign aggression for far too long and this must end.

[*English*]

I have subsequently become aware of more information which causes me to regret my decision to recognize this individual. I wish to apologize to the House. I am deeply sorry that I have offended many with my gesture and remarks.

I would also like to add that this initiative was entirely my own, the individual in question being from my riding and having been brought to my attention. No one, including you, my fellow parliamentarians, or the Ukraine delegation, was privy to my remarks prior to their delivery.

[*Translation*]

I thank all members for their attention.

[*English*]

Hon. Karina Gould (Leader of the Government in the House of Commons, Lib.): Thank you, Mr. Speaker, for that apology.

I am parliamentarian, a Canadian of Jewish origin and a descendant of Holocaust survivors. A majority of my family walked into Auschwitz-Birkenau and only my grandfather and his brother walked out. I think this hurt all of us in Parliament. Personally, I feel particularly hurt by this.

As parliamentarians, we place our trust in you, Mr. Speaker. There are many times when we recognize people in the gallery, and we do so on your good advice and your good offices. All of us here did that in the chamber on Friday, because we trusted you on that.

This unfortunate situation has been deeply embarrassing for Canada's Parliament. It has been deeply embarrassing for Canada. It was deeply embarrassing for the President of Ukraine, who came here in friendship, who came here because we are a strong ally, and who came here because he trusted Canadians.

I appreciate that you are taking responsibility, Mr. Speaker, because this was your initiative, and you have confirmed that neither the Government of Canada nor the Ukrainian delegation had any prior knowledge of this individual being invited to the House or that he would be recognized.

However, given this deeply embarrassing situation, for all of us as parliamentarians on all sides, it is very important that we collectively work together to strike this recognition from the record. I will work with my colleagues to do that.

For all those who have loved ones who were in the Holocaust, for Jewish Canadians, today being Yom Kippur, the holiest day in the Jewish calendar, a day of atonement, a day to prepare for the year ahead, we stand with you, Mr. Speaker, in this. We recognize this was a deeply hurtful moment. Many of us in this chamber feel that hurt acutely.

I want to ask all colleagues, particularly those in the Conservative Party of Canada, to please ensure that we do not politicize this issue. I do not think it helps anybody. We need to ensure that we move forward, recognizing this mistake and standing in solidarity together to reiterate our commitment to Jewish Canadians, but also to Ukrainian Canadians and the people who are fighting for freedom, peace and justice in Ukraine right now.

● (1105)

[*Translation*]

Mr. Peter Julian (New Westminster—Burnaby, NDP): Mr. Speaker, it is with great sadness that I rise today to respond to the statement that you just made and to address what happened in the House on Friday.

[*English*]

Every day members of Parliament entrust the Speaker to guide this Parliament through challenging circumstances. You, Mr. Speaker, have done an admirable job doing just that through COVID-19, the occupation of downtown Ottawa last winter and the putting in place of a hybrid Parliament.

This bill may need minor additions, and certainly I am open to having those amendments made at committee. I urge members to support Bill C-323 for the sake of the 20% of Canadians struggling with mental health issues at this current time.

● (1235)

The Deputy Speaker: It being 12:36 p.m., the time provided for debate has expired. The question is on the motion.

If a member participating in person wishes that the motion be carried or carried on division, or if a member of a recognized party participating in person wishes to request a recorded division, I invite them to rise and indicate it to the Chair.

Mr. Stephen Ellis: Mr. Speaker, given what happened this morning, I ask that this motion be adopted on division.

Mr. Kevin Lamoureux: Mr. Speaker, we would request a recorded vote, please.

The Deputy Speaker: Pursuant to Standing Order 93, the division stands deferred until Wednesday, September 27, at the expiry of the time provided for Oral Questions.

GOVERNMENT ORDERS

[*English*]

AFFORDABLE HOUSING AND GROCERIES ACT

Hon. Chrystia Freeland (Deputy Prime Minister and Minister of Finance, Lib.) moved that Bill C-56, An Act to amend the Excise Tax Act and the Competition Act, be read the second time and referred to a committee.

She said: Mr. Speaker, before I begin, I would like to seek unanimous consent to share my time with the member for Guelph.

The Deputy Speaker: Is it agreed?

Some hon. members: Agreed.

[*Translation*]

Hon. Chrystia Freeland: Mister Speaker, I am pleased to rise today to introduce Bill C-56, the affordable housing and groceries act.

I would like to explain why it is so important that we work together to pass this bill. This bill includes urgent measures to make life more affordable for Canadians, including removing the GST on the construction of new apartment buildings, which would help get more rental homes built faster.

The bill would also enhance competition across the economy, with a focus on the grocery sector to help stabilize food prices for Canadians.

[*English*]

Specifically, this legislation would increase the GST rental rebate from 36% to 100% and remove the existing GST rental rebate phase-out thresholds for new rental housing projects. That means for a two-bedroom rental unit valued at $500,000, our plan would deliver $25,000 in tax relief. This is about encouraging developers to build homes that otherwise would not get built. It is a game-changer for housing in our country. Mike Moffatt, one of Canada's leading housing experts, called this “a fantastic transformative step.” and Toronto's former chief city planner, Jennifer Keesmaat, said that this measure could be “the beginning of a sea change."

This is the newest measure in our ambitious housing plan, one that is about building more homes faster, cracking down on unfair practices by investors and ensuring that Canadians can afford a safe place to call home. Our plan includes the new tax-free first home savings account, which is already helping tens of thousands of Canadians save up to $40,000 tax-free toward that first down payment. Our plan also includes the $4 billion race-to-the-top housing accelerator fund, which is already breaking down barriers and encouraging municipalities to build more homes.

With Bill C-56, we are doing even more with provinces like Ontario, Newfoundland and Labrador, and Nova Scotia already following our lead by eliminating provincial taxes on new rentals. We will build even more of the rental homes that Canadians need.

● (1240)

[*Translation*]

This bill also seeks to amend the Competition Act to give more power to the Competition Bureau so that it can investigate price gouging and price fixing.

It would put an end to anti-competitive mergers that drive up prices and limit Canadians' choices. It would also enable the Competition Bureau to ensure that big grocery stores cannot prevent smaller competitors from opening stores nearby. Our government is relentlessly focused on building an economy with stable prices, steady growth, and abundant, well-paying, middle-class jobs.

There are currently 980,000 more Canadians in the job market than before the pandemic. Both the International Monetary Fund and the Organisation for Economic Co-operation and Development predict that, on average, Canada will see the strongest economic growth in the G7 this year and next. DBRS Morningstar also confirmed our AAA credit rating earlier this month.

Since we were elected, 2.3 million Canadians have been lifted out of poverty. In 2015, 14.5% of Canadians were living in poverty. By 2021, that number had dropped to 7.4%. Our affordable Canada-wide early learning and child care system is supporting a record labour force participation rate of 85.7% for working-age women. It is also helping to grow the economy and make life more affordable for families from coast to coast to coast.

Furthermore, whether by enhancing the Canada workers benefit or by creating the Canada child benefit or the new Canada dental care plan, we have strengthened the social safety net that millions of Canadians rely on, while ensuring that Canada maintains the lowest deficit and the lowest debt-to-GDP ratio in the G7.

[*English*]

We are working hard for Canadians, but we know we have more work to do. Bill C-56 will deliver real, concrete solutions. More competition will help with the sticker shock at the grocery checkout counter. Eliminating the GST on rental housing will get more homes built faster, so that more Canadians have an affordable place to call home.

Bill C-56 is an important step in our plan to continue delivering on what matters most to Canadians, and I encourage my colleagues to support its swift passage.

Mr. Jasraj Singh Hallan (Calgary Forest Lawn, CPC): Mr. Speaker, three years ago, the finance minister said that interest rates would stay low for a very long time. Then she dumped hundreds of billions of dollars of fuel on the inflationary fire, giving Canadians the most rapid interest rate hikes seen in the last three decades.

In November she said she would balance the budget and would be careful not to pour fuel on the inflationary fire that she started. She then turned around and dumped a $63 billion jerry can on it.

Two months ago, she was doing victory laps, saying that she stopped inflation. It has gone up 43% since then.

Now her deficits have fuelled inflation and put Canadians most at risk in the G7 for a mortgage default crisis. When will she balance the budget so Canadians will not lose their homes?

● (1245)

Hon. Chrystia Freeland: Mr. Speaker, I would like to point out that the question has absolutely nothing to do with the legislation we are presenting. However, let me take a moment to clarify some of the incorrect assertions embedded within it.

It is really important to be honest and truthful with Canadians. The truth is that Canada has an AAA credit rating, which was reaffirmed by DBRS Morningstar this month. It is also important to be clear with Canadians that we have the lowest deficit in the G7 and the lowest debt-to-GDP ratio. Those are the facts. Everything else is a partisan muddying of the waters.

When it comes to our legislation, it speaks to the immediate needs of Canadians today: getting more rental housing built now and bringing more competition into the economy, including the grocery sector, to keep prices down.

[*Translation*]

Mr. Maxime Blanchette-Joncas (Rimouski-Neigette—Témiscouata—Les Basques, BQ): Mr. Speaker, I commend the Deputy Prime Minister on her speech, which seemed to be full of good intentions.

The Canada Mortgage and Housing Corporation, or CMHC, released some alarming and very troubling statistics. By 2030, Quebec will need 1.1 million housing units. It will be the hardest-hit region of Canada. The Government of Quebec also released some statistics. Homelessness has gone up 44% in the past five years. Those are the numbers. We are in the midst of a housing crisis, but for the past six months, the federal government has been withholding $900 million and taking a paternalistic and irresponsible attitude. In the midst of a housing crisis, the cities, which the federal government is once again accusing of dragging their feet, are unable to submit applications to build new housing projects.

I would like the Deputy Prime Minister to explain to us today why the government has been withholding money for new housing projects for six months, if housing is truly one of its priorities.

Hon. Chrystia Freeland: Mr. Speaker, I agree with my hon. colleague from the Bloc Québécois that there really is a housing crisis. That is why we introduced our bill last week, the first week after the summer break. We are absolutely certain that this bill is urgent. We agree that there needs to be more housing. We agree that more rental housing needs to be built and that it must be done quickly.

I hope that every member in the House, including the members of the Bloc Québécois, will support us because I agree with them that Quebec also needs more housing and more rental housing.

[*English*]

Mr. Daniel Blaikie (Elmwood—Transcona, NDP): Mr. Speaker, New Democrats are very aware of the fact that we need non-market solutions, as well as market solutions, in order to address the housing crisis. The minister, in her remarks, mentioned three planks of the government's housing plan: a tax-free savings account for down payments; the housing accelerator fund, which talks a little bit about affordability but does not talk about social housing or make affordability a requirement of the program; and this bill's GST measure. All these things have in common that they are largely market-based initiatives.

The NDP has called for a non-profit acquisition fund and a replenishment of the coinvestment fund. These are things that really ought to happen hand in hand with any market-based measures. Therefore, what measures is the government planning on presenting this fall alongside the legislation that will lead to the creation of new social and affordable housing units in Canada?

Hon. Chrystia Freeland: Mr. Speaker, I would like to thank the member for Elmwood—Transcona for the work that he has been doing alongside our government, together with me, on the housing crisis. I believe that this measure of lifting the GST on all rental construction would help all Canadians with housing, including affordable housing. The fact is that we need to add to supply. That is what this measure would do, and this would have a positive impact on everyone who rents, as well as on people looking to buy.

● (1250)

Mr. Lloyd Longfield (Guelph, Lib.): Mr. Speaker, it is a pleasure to rise in the House for the first time this session to discuss the very important bill that we have in front of us.

This summer, I spoke to many constituents of mine in Guelph who had concerns about the price of housing, the price of groceries and big business taking over the marketplace in many areas. I am really pleased that the first piece of legislation of the session that we have in front of us to talk about is Bill C-56, the affordable housing and groceries act.

The government understands that many Canadians are struggling to make ends meet in these times of high inflation. Many measures that we have been introducing have been to help people who are unfairly affected by the inflationary winds that are blowing globally right now. We need to do more than we have been doing in terms of targeted support. The bill in front of us today addresses what we could do to help build more rental housing, as well as to try to curb the inflation that we see in the grocery market in particular.

Families across the country are relying on parliamentarians to do what we can to help with measures such as those we have outlined in Bill C-56 and the ensuing debate that we will have.

Making housing more affordable is something that we need to look at, including where the federal government can influence the activities within the marketplace, so that young people, young Canadians, have the dream of owning a home again. Right now, it is increasingly out of reach, and paying for rent has become more expensive across the country. This is really affecting younger Canadians, as well as people who are just trying to get their foot into the market.

The housing crisis has an impact on our economy. When people are not succeeding, our economy does not succeed. Without more homes in our communities, it is difficult for businesses to attract the workers they need to grow and succeed. When people spend more of their income on housing, it means less money is being spent in our communities for necessities such as groceries. This has a direct impact on small business.

Bill C-56 would enhance the goods and services tax rental rebate on new purpose-built rental housing; this would encourage the construction of more rental homes, including apartment buildings, student housing and seniors' residences across Canada. The enhanced rebate would apply to projects for which construction began on or after September 14, 2023, and on or before December 31, 2030, with construction completed before 2036.

Working on the supply is an important part of what the federal government could do to help. For a two-bedroom rental unit valued at $500,000, for a developer, the enhanced GST rental rebate would deliver $25,000 in tax relief to incent the developer to make the numbers work. This tool could help create the necessary conditions to build the types of housing that we need and that families want to live in. This, in turn, would open up the opportunity for renters to have a reduction in the cost they are paying for the units that are constructed.

The measure also removes a restriction on the existing GST rules to ensure that public service bodies, such as universities, public colleges, hospitals, charities and qualifying not-for-profit organizations, could build or purchase purpose-built rental housing and be permitted to claim 100% of the enhanced GST rental rebate.

The government is also calling on provinces that currently apply provincial sales tax or the provincial portion of the harmonized sales tax to rental housing to join us by matching our rebate for new rental housing. It was very encouraging to hear that Ontario, the province where my riding exists, will be participating in this program.

We are also requesting that local governments put an end to exclusionary zoning and encourage building apartments near public transit in order to have their housing accelerator fund applications approved. I know that Guelph has worked hard on this application. We have had many community discussions around this, but sometimes the numbers just do not work. In those cases, programs such as the one we are initiating today, through this bill, would help the numbers to work.

● (1255)

Launched in March 2023, the housing accelerator fund is a $4-billion initiative designed to help cities, towns and indigenous governments unlock new housing supply, targeting about 100,000 units across the country; speed up development and approvals, like fixing out-of-date permitting systems; introduce zoning reforms to build more density; and incentive development close to public transit. Last week, the government announced that London, Ontario is the first city to benefit from this fund. Of course, Guelph is watching that very closely. The fund also supports the development of complete low-carbon and climate-resilient communities that are affordable, inclusive, equitable and diverse. Every community across Canada needs to build more homes faster so we can reduce the cost of housing for everyone.

We are also looking at how we can help Canadians with their grocery bills, and we need to stabilize the price of groceries in Canada. Through the one-time grocery rebate in July, we delivered targeted inflation relief for 11 million low- and modest-income Canadians and families who need it the most. It was up to an extra $467 for eligible couples with two children and up to $234 for single Canadians without children, including seniors. This support was welcomed by Canadians, but we knew that more needed to be done to address the rising cost of groceries. The interim measure was really to address the increase in groceries and not actually the groceries' being purchased at a higher price every week. This is why we are taking immediate steps to enhance competition across the Canadian economy, with a focus on the grocery sector, to help stabilize costs for middle-class Canadians.

Through Bill C-56, the government would be introducing a first set of legislative amendments to the Competition Act, intended to provide the Competition Bureau with powers to compel the production of information in order to conduct effective and complete market studies and to remove the inefficiencies defence, which is currently allowing anti-competitive mergers to happen if the corporate efficiencies are being used as a reason for them to go forward. Canadian customers would still pay higher prices even if these efficiencies are realized. The bill would empower the bureau to take action against collaborations that stifle competition and consumer choice, in particular, in situations where larger grocers prevent smaller competitors from establishing operations nearby.

This bill would build on our other measures that have been introduced to make life more affordable for Canadians. These include delivering the automatic advance payments of the Canada workers benefit, starting July 2023, to provide $1,518 total for eligible single workers and $2,616 for an eligible family, split among three advance payments and the final payment after a person has completed their 2023 tax return. We are also supporting three and a half million families annually through the tax-free Canada child benefit, with families this year receiving up to $7,437 per child under the age of six and $6,275 per child for children aged six through 17. Increasing old age security is another measure we have taken, including indexing that to inflation. We have also reduced fees for regulated child care by 50% on average, moving towards the cost of $10 a day by 2026, with six provinces and territories already reaching that goal.

We are looking at what we can do to influence the market to help people who are facing these costs. We are working on helping Canadians put food on their table, pay the rent and be successful within their communities. We want to ensure that Canada remains the best place in the world to live, work, go to school and raise a family. Making life more affordable is a key part of that.

I urge hon. members to support this legislation, and I am open to questions.

● (1300)

Mrs. Stephanie Kusie (Calgary Midnapore, CPC): Madam Speaker, I was very honoured in June 2022 to host a round table on housing in Calgary, where I welcomed such individuals as Craig Dickie from Anthem United; Kory Zwack from Calgary Housing; Michele Ward from Homes by Avi; Cliff Stevenson and Jackie Stewart, both from BILD Calgary; and Brian Hahn from BILD Calgary. I apologize; Cliff Stevenson is from CREA. Of course, there was my favourite councillor, Dan McLean, from ward 13. To share with my colleague, since we are both working on solutions together to solve the housing crisis, the problems identified at that time included lack of supply due to land release, approval timing and not enough lead time or certainty for those who wish to build homes. There was also the cost of utilities, with the carbon tax now really adding to that.

I would like to ask my colleague why the government always does too little too late.

Mr. Lloyd Longfield: Madam Speaker, we have had similar discussions in Guelph, with round tables that have the service providers, the builders and the community agencies focused on housing solutions. In fact, similar to Calgary, we have identified supply as being one of the major issues, as well as approval. How can we speed up the approvals process? The housing accelerator fund will be addressing the approvals process by providing funds for communities to increase their support for the approvals process. This bill in particular is looking at supply. In particular within that, it is looking at supply of rental housing, and within rental housing, making sure that 30% of the rental housing is affordable.

[*Translation*]

Mr. Xavier Barsalou-Duval (Pierre-Boucher—Les Patriotes—Verchères, BQ): Madam Speaker, I did not have a chance to ask the Minister of Finance a question earlier when she made her speech. Since my colleague across the way is from the same party, I assume he may be able to answer my question.

In her speech, the Minister of Finance mentioned that the proposed cut to the GST on housing construction with the rebate system would help lower the cost of building a housing unit. For example, for a housing unit valued at $500,000, the rebate would be $25,000.

The cost of building a home will be reduced for the person building it, but after that, the housing unit will be sold to the person who will start renting it out.

What incentive does that person have to lower the rent if the market price remains the same? We know that if the market price for rent is $2,000 to $3,000—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): The hon. member for Guelph.

[*English*]

Mr. Lloyd Longfield: Madam Speaker, reducing the cost of a $500,000 unit by $25,000 would really give a developer the opportunity to move forward with plans it has to create more supply. Creating more supply in a marketplace such as ours would reduce the cost, because of supply and demand. We have a demand that is right now not being met by supply. If we meet supply with more units, automatically the market would adjust itself accordingly.

Mr. Brian Masse (Windsor West, NDP): Madam Speaker, from my colleague's previous work on the industry committee, he knows there would be some improvements in the bill from the competition bureau. The concern I have that I would like the member to talk a bit about is whether he thinks the bill goes far enough. Would we see some improvements? As he knows, grocery CEOs fixed the price of bread and had to be caught. They have also ended pandemic pay, all at the same time. Technically they did not violate the law, but they got together and almost colluded to do it at the same time. Last, most recently, the CEOs met with the minister privately, but I am not sure how successful that is going to be, because most recently the competition bureau has been ordered to pay nine million dollars just doing its job challenging the Shaw-Rogers merger.

Does my colleague have confidence that the bill would actually resolve some long-standing challenges?

● (1305)

Mr. Lloyd Longfield: Madam Speaker, the review we have done, starting in 2022, has been a public consultation on the Competition Act. A couple of things we heard about are finding their way into this bill, but there is a lot more on the website to show the other things we have heard that we need to address with future legislation.

Mr. Ryan Williams (Bay of Quinte, CPC): Madam Speaker, before I begin, I would like to request unanimous consent to split my time with the hon. member for Calgary Forest Lawn.

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): Does the hon. member have the unanimous consent of the House?

An hon. member: No.

Mr. Ryan Williams: That is okay, Madam Speaker. I have all the time in the world today.

Canadians pay some of the most punishing prices in the world at the grocery store. Canadians pays double the rent they did only a few years ago. Canadians have it really tough, and inflation is the culprit, fuelled by the government's reckless spending and a punitive carbon tax. It has increased prices significantly over the past year, almost 18% for groceries alone. Inflation is rising in faster in Canada than in the United States, and has risen over 43% in the last two months. This is after the government said it was gone.

It is also a story about a lack of competition and competition laws to look after the consumer, the people, and to boost competition in the industry. After eight years of the Liberal government, we are finally seeing some results. We are finally seeing some competition law changes in a government bill. I will be the first to admit this is a really good idea, especially to eliminate the efficiencies defence, which, of course, right now allows any companies to merge if they find efficiencies. A lot of times those have been in job losses. Superior Propane used it not just once but three times because it is such a good law.

I say it was a great idea, because it was actually my idea. For the first reading of the efficiencies defence in Bill C-339, I read in the House on June 8, and we were supposed to go to debate in November, but I digress. This is a great idea, and I give credit to the government where credit is due for taking this great idea. It is a good start. That is combined with the Leader of the Opposition's idea only a few weeks ago to eliminate the GST in purpose-built rental housing, which is a great idea. I want to congratulate the Leader of the Opposition on his first piece of government legislation. Just wait until we form government. It is going to be something.

This is a big one. As much as we can shrug and say this bill would do some of what we want to do to tackle grocery prices in Canada, this bill misses one of the biggest, most pressing actions of all, which is to remove the carbon tax, which is added for farmers with no rebate. The median price is $150,000 per farm. Where does that price go? It gets added to what the consumer pays. What about the carbon tax for the trucker who picks up the food from the farm? Where does that price go? There is no rebate; it gets added to what the consumer pays. The carbon price is added on the cold storage facility that stores the food. Where does that carbon tax go? It gets added to what the consumer pays.

Where does the carbon tax to the grocery store go? It is added on what the consumer, who drives to the grocery store and picks up the groceries, pays. The carbon tax adds cost after cost to what the consumer pays. It punishes farmers and consumers. At the end of the day, when we look at what is missing from this bill, when talking about trying to tackle grocery prices, we are missing the deletion of the carbon tax, which is something that the Conservatives really support.

Additionally, Canadians can buy food across Canada from really only five competitors. Let me tell everyone this right now. If anyone has ever visited No Frills, Provigo, Zehrs, Fortinos, Valu-mart, Dominion, Superstore or Shoppers Drug Mart, they have shopped at Loblaws. For those who have ever gone to Farm Boy, Lawtons, Foodland or Longo's, and my favourite, the Canadian Federation of Independent Grocers, which is not independent, they are all owned by Sobeys. Those who have ever gone to Jean Coutu, Super C, Food Basics or Brunet have gone to Metro.

Three Canadian competitors plus Walmart and Costco makes five competitors controlling 80% of all the grocery retail in Canada. By comparison, Americans have 10. At least they have dealt with it. The Americans are not perfect, but at least they are there. When we compare Canadian grocery prices to American ones, the Americans have no carbon tax, there are more competitors and the prices are lower. If Canadians are buying $40 or $50 worth of groceries, Americans are paying only $25 to $30. Sometimes it is really great to have these American neighbours so we can compare what they have and what we do not have.

How big is Loblaws? Let us talk about that for a moment. This is really neat to me. Loblaws sells 62% of Coca-Cola in Canada. Let us think about that for a minute. Loblaws is so big that it controls the whole market for Coca-Cola.

● (1310)

Why is that important? Take an independent like Freson Bros. Freson Bros. is Canada's largest independent grocer in the great province of Alberta and they have independent grocers. Freson Bros. is so great. As an independent supplier in rural Canada, they have Red Seal butchers and Red Seal bakers.

They employ really great individuals in their local independent stores. These are really, truly independent stores that pay good wages in rural areas, and yet they have to pay more for Coca-Cola because Loblaws holds the monopoly.

That is what monopolies do. They hold dominance and they control prices. When one has less choice as a consumer, then the monopolies win. If it was not for Coca-Cola having dominance through Loblaws, maybe that would be something that we could pay less for.

That example can be used over and over again when it comes to products that consumers try to buy every day in their stores. We call it abuse of dominance and it is prevalent among our big five major grocers.

Worst of all, Canadians are paying increases on food that is actually shrinking. Shrinkflation is the phenomenon of buying products that are actually decreasing in size. A lot of Canadians are not even aware of this. When one goes to the grocery store and one buys a pack of, let us say, granola bars for our children, normally there would have been six in a box. Consumers are now finding that there are five.

When parents go to put those granola bars in their students' lunches, they are paying a little bit more for a product that is smaller. That phenomenon is shrinkflation. That is coming because of inflation, because of this dominance of monopolies.

All the while, Canadians are seeing food prices that are actually going up. Food prices in all of Canada, this year, increased 6.8%, almost 7%. The two-year increase is 17%. Meat had a 6.5% increase this year. Over two years, it was 13.5%. Eggs increased around 3% this year. Over two years, it was 20%. Breakfast cereals increased 10% this year. Over two years, it was 25%. Fresh vegetables increased 9% this year. Over two years, it was 19%. Coffee, and we all need coffee, especially, sometimes, in the House, increased 8% over one year. Over two years, it was 24%.

Food purchases by restaurants increased 8% this year in costs, and 14% over two years. Think of a lot of these restaurants, these small, independent local businesses that took on loans during the pandemic and now have to try to pass these costs off to consumers. It is really difficult for consumers who want to go out for a meal.

From seed to source in Canada, there is also little choice. We talk about what has come into Canada. We talk about the growing influence of Walmart and Costco. Decisions made by the Competition Bureau over the last 20 or 30 years allowed, in one instance, one grocery store to buy another; and allowed a major chain, Amazon, to buy Whole Foods, which I think will have a dominant effect in the future, even though it has decreased stores lately.

We think of where we have Amazon warehouses. If we look at the next 50 years, we may not even be using grocery stores any more. When we look at automation and the increase of innovation, grocery delivery could be all in the form of warehousing. When we look at what that impact of Amazon, an American company, not a Canadian company, has, it is pretty significant, when we look at what it could mean over the next 20 or 30 years.

When we look at the consolidation, the actual competition laws that exist, yes, we have had some pretty bad decisions by the Competition Bureau, but it was all the result of a bad Competition Act.

We allowed Sobeys to buy IGA. This one is amazing to me. The Independent Grocers Association should be independent and was formed as being independent. Sobeys now owns IGAs. They say half are independent. I do not really believe that. They are owned by a major corporation.

Metro bought A&P. Loblaws bought Shoppers Drug Mart. I think, at the time, when the Competition Bureau looked at it, it said, look, we have a pharmacy, we are not going to have an impact for consumers.

Now, as we look at it, Shoppers Drug Marts, which are open sometimes to midnight, are the only grocery store in some of these rural towns across Canada. What I am hearing is that they are making as much as 20% profit on fresh produce. Let us think about the costs already. Again, it is based on supply and demand, but we allowed this under our laws. We allowed Loblaws to buy Shoppers Drug Mart. Sobeys bought Longo's. It bought Farm Boy, and again, there is less independence. We have allowed this through our existing competition law.

The result has been that if one walks into any store, it is an illusion that it is not part of the big three. It is also a consolidation that gives Canadians little choice. We talk about freedom. It is the freedom of Canadians to decide where their money is going to go, where their paycheques are going to go. The illusion has been, through this lack of competition, that Canadians have choice.

● (1315)

The reality is that Canadians have little choice. Even with the Loblaws brand of Your Independent Grocer, it is no more independent than any other grocery store or any other business.

I want to tell a little story also about Kleenex in Canada. We can no longer buy Kleenex in Canada. Is that not sad? At the end of the day, Kleenex is beholden to the big brands. Loblaws, for instance, because it has a monopoly, decides where it wants to put certain brands. It says to suppliers that if they are going to lower prices, this is where they need to lower them to. If they are going to drop five or 10 cents, this is where it is at. Right now, that is held by Kruger paper in Canada, and that is the Scotties brand, with the funky boxes and great colours.

The problem with that and the story of Kleenex leaving Canada is this. As we did last week, we have a "perp" walk and bring all the five grocers in. The government officials told them to lower prices and that they are going to impose a tax on them. We know that, with these companies being big conglomerates and publicly traded companies, a tax will only go to the consumer. We know this in a capitalist society. It is simple economics. Everyone knows this. The conglomerates put pressure then on the manufacturers.

Let me say this. I have a Kruger paper manufacturing facility in Quinte West in my riding, which employs 120 employees. If the companies feel the pressure to decrease prices, they start to find savings in other areas of that business, which means layoffs and shorting shifts, hurting Canadian workers. That is the power that these big monopolies have. With respect to competition laws and how we have to fix them, we need to fix the dominance that these big monopolies have. It is Kleenex today and we do not want it to be Kruger tomorrow. That is really important. Big players cannot control smaller players. We have to make sure small players have their say when it comes to the Canadian economy because then it is really the consumer who has the say.

I want to talk about shrinkflation. It is really fascinating. It is the process of shrinking product sizes while keeping the prices the same or even increasing them. In essence, people are getting less for the same amount of money. This trend is becoming more prevalent in the grocery industry and its consequences ripple through our households.

Let us start with the grocery stores themselves. As people walk through the aisles, they might notice that their favourite products do not seem as big as they used to be. A cereal box, a bag of chips or a carton of ice cream all appear slightly smaller. Manufacturers are reducing the quantity of the product. It is often in subtle ways, like reducing the number of cookies in a pack or slimming down the width of a candy bar. I have some examples of this. A year ago, a jar of Nutella was 400 grams and now it is 375 grams, which is a 6.3% reduction. Campbell's Chunky soup was 540 millilitres and now it is 515 millilitres, which is a 5% reduction. Crispers used to be 175 grams and is now 145 grams, which I noticed the other day when I was picking up some groceries for my children for school. This is a reduction of 17%.

With respect to a family on a budget, I talked to somebody the other day who said that for their family, because of the increases in rent and mortgage and bringing home less of a paycheque, they make a dinner for the family and they make something else for their children. They cannot afford to give the same meal to the children as they do for their family, and it might be a grilled cheese sandwich. Even with Kraft Singles, before, a package was 24 slices and now it is 22 slices. When people are making lunch or dinner for their family, that is a big deal; It is a reduction of 9%.

We have Chewy granola bars. A box used to contain six bars and now it contains five bars. A bag of Tim Hortons fine-ground original blend coffee used to be 1,000 grams and now it is 930 grams, which is a reduction of 7%. That is pretty sad.

When I talk about a box of granola bars that went from six bars to five bars, there is something else significant that happens with that reduction. That is the imposition of a new tax, called the snack tax, that goes onto everyday grocery items. Not a lot of Canadians know this, but there is a snack tax that goes on many items like cookies, chips, ice cream or granola bars, which maybe sometimes is the only thing we can put in our child's lunch bags. When the manufacturer uses shrinkflation and decreases prices, that snack tax is automatically implemented. This means that because of inflation, because of dominance of our monopolies and now because manufacturers are shrinking their products, we actually have government tax going on some of these items in the grocery stores. The government is now making money on items because of inflation and that is really sad.

● (1320)

When we take this to committee, this is something we are obviously going to study. I know my colleague before me from the NDP talked about some other elements. How sad is it that the government is making money on certain elements of what is happening in the grocery store? That is what is happening when it comes to shrinkflation.

When it comes to looking after the consumer, who looks after rent and groceries, we certainly have a lot of ideas we need to implement that are going to help the consumer. A lot of these ideas came from this side of the House but also from a lot of great committee work from members on this side of the House. We need to be very cognizant when we are putting all this forward that we are doing the best we can for consumers, the families who every day need to make decisions for their households at the grocery store.

This bill is equivalent to the shrug emoji. We can support it, but it needs a lot more to actually make grocery prices affordable in Canada. After eight years, the tired Liberal government is out of ideas. There are a few good ideas in here thanks to Conservatives, but it fails for the most part to follow through with better ideas to address the major oligopoly in Canada, which gives Canadians little choice and has them paying more at the grocery store for less.

Shrinkflation and the taxes that follow are eating more of Canadians' paycheques. The carbon tax takes a chunk from farmers, those who deliver the food and of course the consumers who buy the food.

Competition Act changes are good, but we must go further to stop the abusive dominance provisions that exist in the Competition Act. The provisions that are the most prevalent include those that allow monopolies to take advantage of Canadians, of consumers, and most importantly, of manufacturers and farmers in the whole process.

Most of all, we need more competition in Canada from food manufacturers and farmers to ensure Canadians have freedom of choice. When they have freedom of choice, they will decide best where to put their money, where to put their hard-earned paycheques. We need more competition to bring lower prices home for Canadians and their families.

Mr. Lloyd Longfield (Guelph, Lib.): Madam Speaker, there were a couple of things I was listening for but did not hear, so maybe the hon. member can help clarify them for me. One is in terms of external competition. In August, Saudi Arabia cut a million barrels a day of oil out of production, which was about a 20% cut of the supply of oil. When one reduces supply, one increases prices, and that is what we are seeing now with nine billion barrels a day as current production driving up the price of oil. I did not hear much about external competitive factors.

Also, I was really hoping to hear something about the Competition Bureau and the role that independent organization plays in Canada to enforce the act we are discussing, as well as how having an independent review is such an important part of the process. Quite often I hear the other side saying it is all the government's fault, but really we have an independent review through the Competition Bureau. Maybe he could discuss that.

Mr. Ryan Williams: Madam Speaker, to the first question, if we just cut the carbon tax, it would at least eliminate 14¢ or 15¢ right now and about 60¢ later, so that is a good idea. We are full of great ideas.

Second, yes, the Competition Bureau is important, but it needs to have the right laws in order to enforce them. Right now, we look at different examples, but the Rogers-Shaw merger for one, was allowed to go forward. By the way, it would have gone forward regardless because of the efficiencies defence.

The Competition Bureau needs to have the right tools and the right powers in order to look at competition and to stop some of the mergers I mentioned that happened in the grocery industry. Five or six of those mergers probably should never have been able to happen, so much so that we had an Independent Grocers Association owned by a major monopoly in Canada. How bad is it than an independent grocer is not independent at all? We need to strength those laws and we look forward to making those changes.

● (1325)

Mr. Gord Johns (Courtenay—Alberni, NDP): Madam Speaker, it was refreshing to hear the Conservatives finally identify that corporate greed is driving inflation when it comes to food prices. We saw Conservatives in Great Britain, for example, charge an excess profit tax on the outrageous amounts of excess profits on oil and gas.

Here in Canada we have excess profits on oil and gas, at the grocery store and at the big banks. We cannot even get Liberals in Canada to charge an excess profit tax. In fact, what I heard from my colleague is the need for improvement when it comes to competition in the Competition Act. I am hoping he will support our leader, who has tabled a bill that would ensure we have a comprehensive package to break apart monopolies and improve competition.

When he talked about the carbon tax, greedflation is about 20-fold the impact on grocery store prices compared to the carbon tax. Will my colleague support our leader's bill for the NDP and will he support an excess profit tax on these corporations?

Mr. Ryan Williams: Madam Speaker, a tax is a tax, and a tax that is imposed on companies is always passed onto consumers. We want to ensure there is no more tax.

When it comes to an example of that, we just have to look to the utility sector in Great Britain in the late nineties when there was a windfall tax imposed on the utility companies. In the studies that came out 10 years later, every company that had a windfall tax increased their prices and those who bore those prices were the middle class. The middle class will always pay the higher prices imposed by any windfall tax or tax in general.

We on this side of the House are for no new taxes.

Mr. Adam Chambers (Simcoe North, CPC): Madam Speaker, we heard it here first. History was made when someone entered a shrug emoji into the Hansard. I commend the hon. member for that.

I want to talk about process for a second. The government tables legislation twice per year as major money bills. For some reason, the government is now touting this bill as a marquis bill that would make a massive difference in the lives of consumers, except it neglected to do it a few months ago in the budget. What has changed? Maybe a couple of members of Parliament put ideas forward. In fact, one was from the NDP and the other two were from Conservative members, which the government stole.

Could the hon. member talk about the process? Why was this not in the budget? How are Canadians supposed to believe that the government will have solutions to problems it did not believe existed until a week ago?

Mr. Ryan Williams: Madam Speaker, I agree. After eight years of the government we see that it is out of ideas. Obviously, we are waiting for the next government and the next prime minister of Canada for those ideas. Where was the government eight years ago when it had all the opportunities? Every year there is a new budget and new measures announced.

Four years ago, the government was denying there was a problem with inflation, even though this side of the House was proclaiming what would certainly happen. We speak with Canadians. We are the ones who have spoken about the issues that have come up. The government is just catching up, but it is too little too late. We look forward to forming government and being able to fix these problems once and for all.

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, I would like to follow up on the member's very last comments. He said that the Conservatives were looking forward to forming government to fix the problems, but in a good portion of his speech he talked about Loblaws and Shoppers. All one has to do is google that merger. Who do members think was in government when that happened? When those two giants merged, everyone was saying that it was going to be like the Walmart of Canada. When that came to be, it was under Stephen Harper. I do not mean to pop the member opposite's bubble, but at times the Conservative Party needs a reality check.

My question is on the other aspect of the bill, which the member did not spend much time on, and that is with respect to the need for Canada to increase our rental housing stock. I wonder if he could provide his thoughts on why we are now witnessing provinces coming on board and duplicating what we are doing at the national level with respect to giving that tax break so we can see more apartments being built. Is it not a good thing to see the provinces on side?

● (1330)

Mr. Ryan Williams: Madam Speaker, first, Sobeys bought Farm Boy and Metro bought Jean Coutu. That was done under the Liberal government. I love how the Liberals try to blame everything on us when it is happening under their watch. They are the ones in government right now.

Our leader has some great speeches, and I know members are going to hear a lot of good speeches today on our housing measures, and, of course, removing the GST from purpose-built rentals. There are a lot of great changes our leader has come up with that the government has not. I am sure we are going to be talking about those great ideas.

We do not focus on building penthouses, but making sure we are building affordable housing. This means that the everyday Canadians, whose paycheques are stretched and are unable to buy things at the grocery store, will be able to afford an apartment. We are focused on everyday Canadians.

Mr. Ted Falk (Provencher, CPC): Madam Speaker, the member touched briefly on the compounding effect of the carbon tax. The carbon tax is very different than the GST. The GST has input tax credits and the tax itself, so the consumer only ends up paying a one-time 5% tax. However, the carbon tax is a compounding tax: tax on the carbon tax, then carbon tax on carbon tax. Could the member explain a bit more on how that has a very damaging effect on Canadians and really propels inflation?

Mr. Ryan Williams: Madam Speaker, it has a very profound effect. We just have to talk to the manufacturers and farmers who have had it implemented upon them.

The Canadian public only sees the rebate, which they still pay more of on their side, but farmers, manufacturers, truckers, cold storage facilities and grocery stores do not get a rebate at all with the carbon tax. Every time that cost is imposed on a business, it has no choice but to pass it down to the consumer. When that is done one, two, three, four or five times, the result is seeing that price increase five times. The consumer pays it. At the end of the day, Canadians are suffering.

[*Translation*]

Mr. Xavier Barsalou-Duval (Pierre-Boucher—Les Patriotes—Verchères, BQ): Madam Speaker, I have been listening to the speeches from the Conservatives, who seem to delight in reminding us that removing the GST from housing was their idea. Whether the idea came from the Conservatives or the Liberals, ultimately, will it actually make a difference?

I sincerely wonder, because in the end, the money will not go back into the pockets of those who rent housing, but rather into the pockets of those who build it. This sends a message to builders that they will be able to build homes for less. As the Minister of Finance said, it will cost them $25,000 less to build a $500,000 building. If the building is valued at $800,000 on the market, why would someone sell it for $25,000 less? It will be sold at the same price and the builder will simply make more profit.

I am having a hard time understanding how this magic solution will suddenly solve the problem.

[*English*]

Mr. Ryan Williams: Madam Speaker, we all know about the housing crisis we are in. It is the worst in the world. I know all of us, as parliamentarians, want to fix that. We all agree that we need more supply, and I think the debate in the House is how to get more supply.

How do we work with those municipalities and the provinces in getting more supply? There will be different ideologies on how to do that. Taking the GST off of purpose-built rentals is a great idea, as is working with municipalities to make sure we get permits approved faster. That is what our leader is all about, and it is a great idea. Let us work together to make sure we get houses built so Canadians can finally afford a home.

[*Translation*]

Mr. Jean-Denis Garon (Mirabel, BQ): Madam Speaker, I would ask for the consent of the House to share my time with the hon. member for Shefford.

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): Does the hon. member have the consent of the House?

Some hon. members: Agreed.

Mr. Jean-Denis Garon: Madam Speaker, I want you to know that I am very critical of this bill. Obviously, it does not set out any harmful measures. It sets out some mini-measures and some relatively important things. It is clearly not a panacea, but we will support it because we cannot be against it. However, when I read the bill, I could not help but be very critical of it for the following reasons.

We are dealing with a government that is incapable of thinking long term or seeing past the end of its nose. We have been in a housing crisis for two, five, 10, 15, 20 years, yet never has there been any long-term action except for a failed national housing strategy. We are in a situation where food prices have increased exponentially. Still, it took a Liberal caucus meeting where backbenchers were probably so angry at the government that something had to be done.

What was the centrepiece of its action? No joke, the Minister of Innovation, Science and Industry decided he was going to do something. He decided he was going to call up the people who represent 80% of Canada's grocery retail market for a meeting. He picked up the telephone and then realized there were only five of them: three big chains, Costco and Walmart. It took him 30 seconds to make the calls.

Economics teaches us that industries find ways to concentrate. Some are more complex than others. However, when there are so few players controlling the grocery market that they could all tee off together, the industry concentration is obvious. The Conservatives are no better. Concentration has been an issue for years. Everything had to blow up before the Minister of Industry decided to invite them over for a coffee. There are so few of them that they would only need one Nespresso pod.

What has happened since 1986? Steinberg and A&P closed down. Loblaws acquired Provigo. Sobeys acquired IGA. Metro acquired Adonis. In the 1980s, there were 13 grocery chains. That was already a small number, but now we are down to three. Now we have to include Walmart and Costco to say there is some competition. The Minister of Industry was never interested in this. It is funny: The Liberals are suddenly seeing that an election may be looming. It is funny: All of a sudden they are seeing their poll results. It took polls for them to realize that their constituents would like to eat three meals a day.

This serves as a very sobering reminder of how out of touch the Liberals are. I would remind the House, however, that this all began under the Conservatives, and no one did anything. We know what happened. Are the Bloc Québécois members the only ones saying this? Not necessarily, although we have been proposing measures for 20 years to improve competition and ensure that consumers come first. The Competition Bureau is also saying these things. More and more mergers and acquisitions are happening. No one is stopping them. The profit margin on products is increasing.

What does that mean? It means that it costs companies less thanks to economies of scale and additional savings when they merge. At the same time, they are charging more for their products. Between those two things, they are earning an excess of profits due to a lack of competition. These people are lining their pockets. No matter what the Conservatives say, it is not the result of free enterprise and the genius of capitalism. It is the result of less competition.

We therefore need to seriously rethink how this market is organized, because a market that works is one where consumers can go and see a competitor, where people can say that if the price is too high at company A, they will go and purchase from company B. Those companies would then have to compete with one another. This is no longer the case in Canada. When five individuals sitting in a room control 80% of the market, we no longer have a healthy grocery market.

As I said, Bill C-56 proposes measures that the Bloc Québécois has been requesting, not for two years, not for five years or eight years, not just since the Liberals came to power, but for 20 years. That is a verifiable fact. We care about the middle class and purchasing power, even between election periods.

There are some good things in this bill. It gives the commissioner real investigative powers. Instead of just conducting small studies and giving his opinion, as he is currently being forced to do, he will be able to compel people to testify. He will be able to ask for documents. A competition bureau needs to be able to investigate. In Canada, the commissioner's powers are limited.

● (1335)

The bill broadens the range of anti-competitive activities. Right now, we have a model that is unique in the world, but we are not the best country in the world. Members know what I think about that. When companies want to merge, the Competition Bureau lets them as long as doing so will generate efficiency gains, because that will lower costs.

However, the commissioner cannot say that the result will be less competition and therefore fewer reductions, higher prices and more money in the pockets of company shareholders because of a lack of competition. The commissioner cannot prevent that. Today, we will be able to take a step toward doing so. That is good, but it is just a start.

We will support the bill, but we are not commending the government for this, far from it. The government is congratulating itself on this. However, the members on the other side of the House have some soul-searching to do, as do the Conservatives. There is still a lot of work to be done. We need to review the notion of abuse of dominance. We need to prevent the big players from abusing their large share of the market. That is just a start. This bill is disappointing, but we cannot be against it.

Let us talk about housing. Right now, there is a flaw in the market: It is not housing the poorest. That is a serious problem. Canada is still part of the G7. The market is not housing the poorest. The market is not building co-operative housing. The market did not build the Centre d'hébergement multiservice de Mirabel, which helps people who hit a rough patch, such as a separation or substance abuse problems. The market is not putting people back to work, and that is what is needed. While we should be talking about this, while it should be our primary concern, while there are 10,000 homeless people in Quebec, while there are people sleeping in tents, the Leader of the Opposition and the Prime Minister are in a kind of intellectual symbiosis all of a sudden. They have become buddies. They are both attacking municipalities.

Instead of helping to release the $900 million for Quebec, they go on about the national housing strategy because Ottawa wants to put a Canadian flag on the corner of the cheque. Suddenly, there are too many regulations. They are against protecting farmland, even though food is supposedly important to them. They are against protecting our architectural heritage. They are against harmoniously organizing our municipalities. They are against housing.

In the meantime, this is what is going on in my riding. When land was expropriated to build the Mirabel airport in the 1970s, the stolen land eventually had to be returned. At the time, airport easements were implemented. Today, there is one runway. At the time, there were plans for six. Today, for much of the land in Mirabel, which is zoned residential, federal regulations prevent the municipality of Mirabel from building housing, from housing people.

It is funny. The federal government does not care about those regulations. They are within its jurisdiction. Rather than doing what it needs to do, it is going after mayors. It is going after municipal consultants and cities. When Mirabel made the request in 2007, it never heard back. It never heard back in 2014, either. In 2022, at committee with the minister and again with the deputy minister, not a word came from Ottawa. I wrote to the Minister of Transport about this over the weekend. I urge him to review those easements.

The problem is, Quebec is being blackmailed by Ottawa, which is imposing conditions on releasing the funds. Meanwhile, real people, real families are on the street, living in tents or giving birth in their cars.

I want to say one last thing. We need to think about the demand. It takes four seconds to increase an immigration target, but it takes time to build housing. Even if the federal government's plan to eliminate the GST worked, it applies to housing starts in 2030, which will not be complete until 2035. The National Bank and the TD Bank have the same message: The immigration plan is poorly thought out. As usual and as with the GST rebate, no studies were done. That is what we were told at the briefing. We were told that the market is buckling under the demand.

That is because the Liberals are always busy coming up with stunts to win votes. They continue to invite the grocery stores, increase immigration targets, come up with poor plans for housing, impose conditions and turn a blind eye to their own federal regulations that hinder the creation of housing. With the attitude of this government and the Conservatives, I predict that this crisis will be even worse in 10 years.

● (1340)

[*English*]

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, I do not think that spending literally billions of dollars is a political stunt. It is a reality.

I do not believe that the first-ever national housing strategy is a political stunt. I believe these are attempts by the government to ensure that we are able to address this as best we can. The national government needs to play a strong leadership role. We can understand the issues out there that need to be dealt with. However, other levels of government are also required to be equally engaged.

For the first time in a generation, we are seeing different levels of government coming together to address this issue. When the member talks about homelessness that on the streets, it is more than just having a shelter. There are all sorts of issues around that.

There is no one level of government that needs to be engaged, and not only governments, but also non-profits and other stakeholders, are needed to resolve the issue of housing before us. Would the member not agree with that?

● (1345)

[*Translation*]

Mr. Jean-Denis Garon: Madam Speaker, let us deal with the parliamentary secretary the way we have to deal with the Conservatives on social media, in other words, let us set the record straight.

When it comes to the $900 million in the national housing strategy that is stuck in Ottawa's coffers—it is in fact stuck in Ottawa's coffers—if it were not for the Bloc Québécois bringing this up during every question period in the House, no one would be talking about it.

It took three and a half years to negotiate with Quebec because under the national housing strategy, Quebec, in its own jurisdiction, wants to have the money that is just sitting in Ottawa. This is not fiction. It is fact.

The airspace easements that are preventing thousands of people in my own riding from getting housing fall under federal jurisdiction. Funnily enough, the Liberals do not question that. What a coincidence.

If the government really wants to house people, then it will get on with it and show leadership. When I look up the word "leadership" in the dictionary, I do not see a federal government that drags its feet for three and half years before paying out the money and needs to be prodded every question period just to give Quebec its funding when all the other provinces have already received their share.

When I talk about leadership, I am not talking about a program where the government boasts that is has invested a certain amount, but more than half of the funding comes directly from Quebec City and the provinces are subject to federal conditions.

If that is the kind of leadership the parliamentary secretary is offering us, we can do without it.

Mr. Adam Chambers (Simcoe North, CPC): Madam Speaker, I thank my colleague for his speech.

[*English*]

I agree with some of what my colleague has said with respect to unchecked capitalism creating market failure. On that, I think we should all listen to the member. He is very well versed in economics when it comes to that issue.

I want to ask the member two questions. First, does he think it is a problem when the CFO of Pepsi brags, on national television, that they can sell their product for whatever they want? It seems as though we are focused on just the grocers, but there is a whole supply chain before the grocers that is completely absent from this discussion.

If the member does not want to answer that question, could he say why the government waited so long to get dragged into doing something?

[*Translation*]

Mr. Jean-Denis Garon: Madam Speaker, earlier, the previous Conservative member was supposed to speak for 10 minutes. The Green Party objected and he got 20 minutes. He did not even talk about housing. He focused on the price of a bag of chips.

Now my Conservative colleague, who deals with economic matters, is talking about the price of Pepsi. I find that a little unusual. Earlier I mentioned all the mergers and acquisitions that have happened since 1986. As a result, today we have a handful of people who probably belong to the same private club and control 80% of the market price.

The Harper government did nothing about it. There was nothing about that in the Conservative platform. There has been nothing about that in the Conservatives' questions in the House. Today, as the price of food continues to rise, there is still a significant lack of details.

My colleague asked why the Liberals have not done anything. It is for the same reason that successive Conservative governments did nothing.

[*English*]

Mr. Gord Johns (Courtenay—Alberni, NDP): Madam Speaker, we keep hearing from the Liberals and the Conservatives that this development-driven model is going to solve the affordable housing crisis. Nowhere in the world has a developer in the private sector model solved an affordable housing crisis.

Right now, 3.5% of the housing stock is non-market housing. We just need to go outside these doors to see what it looks like for every large or medium-sized city in this country. It is homelessness.

We have an urgent need. Hopefully my colleague could speak about the sense of urgency in Mirabel, his community. Does the member agree that the federal government needs to urgently step forward with non-market housing?

[*Translation*]

Mr. Jean-Denis Garon: Madam Speaker, Quebec is the only province with ongoing social and co-operative housing construction programs. Because it does not understand Quebec's programs, the federal government is incapable of negotiating this quickly and correctly.

I agree with my colleague on the substance. The market does not house those who need it most, those with fewer financial means. We need to correct that market with social housing.

However, it is important to remember that the construction of housing falls under Quebec's jurisdiction and, unfortunately, we are not the right Parliament to be talking about this issue. The money needs to be transferred to Quebec.

● (1350)

Ms. Andréanne Larouche (Shefford, BQ): Madam Speaker, I rise today to speak to Bill C-56.

As the member for Shefford, I have had a lot of people talk to me about the issue of social housing and homelessness. The town of Granby has been hit hard by this crisis and, as the critic for seniors, during my tour of the four corners of Quebec, I was also made aware of the housing challenges that seniors face.

We cannot remain indifferent and believe that a wave of a magic wand will fix all this. We have a duty to be conscientious. The issue of housing is constantly in the news right now, so we cannot be against the idea of studying this bill in committee.

In my speech today, I will summarize the bill. I will then talk about the importance of respecting what each level of government can do. Finally, I will present the Bloc Québécois's proposals.

First, let me first remind the House that Bill C-56 essentially contains four measures. The first is a GST rebate for the construction of new rental apartment buildings. As everyone knows, this will not really bring prices down, no matter what the Minister of Finance says. During recent briefings, we asked for the studies on which the Deputy Prime Minister based her claim that prices would go down. No one was able to confirm that assertion. She did not have an answer and wanted to check the information and get back to us later. I think it is unlikely that she will ever get back to us.

Clearly, this does not replace the Marshall plan for low-cost housing that the member for Longueuil—Saint-Hubert, our critic for social programs, is calling for. My colleague was kind enough to accept my invitation to come and speak with the community organizations involved in these issues in my region, in collaboration with the Groupe Actions Solutions Pauvreté and its two subcommittees on social housing and homelessness. Their expertise is so valuable and deserves to be recognized more.

However, to return to the GST rebate on new rental apartment buildings, some developers may be swayed by profit-related concerns to build rental apartment buildings rather than condos, and this could ease the pressures driving the cost of market-based housing higher.

According to the Société d'habitation du Québec, although roughly 40% of Quebec households are renters, only 14% of new construction between now and 2030 is expected to be rental housing. This means that the current shortage will worsen in the years to come. If Bill C-56 can raise that percentage, at least it will help reduce the shortage.

Part 1 of the bill, which amends the Excise Tax Act, proposes giving builders of rental properties a GST rebate equal to 5% of the selling price. The rebate would apply at the time of sale, or deemed sale if the builder becomes the owner. However, the rebate will only apply where the purchaser has already been fully exempted, such as a government agency or municipality, or partially exempted, such as a non-profit organization or housing co-operative. Thus, Bill C-56 will have no impact on the cost of social or community housing projects. It only covers private housing. Even so, this is the kind of change that will need to be considered in committee and studied.

Another aspect of the bill is that it proposes three amendments to the Competition Act. One proposal is to give the Competition Bureau of Canada real power to conduct an inquiry when it studies a sector. We regularly proposed this type of measure prior to 2011 in bills on gas prices. The proposal makes it harder for companies to merge. We were already asking for this. Another proposal is to broaden the concept of anti-competitive practices. It is worth looking at.

Right now, when a company wants to buy out a competitor, the Competition Act provides that the bureau will allow it only if the company can show that the buyout will lead to gains in efficiency, even if the merger lessens competition. This provision promoting concentration is unique in the industrialized world and is repealed in Bill C-56.

The Bloc Québécois, including the member for Terrebonne, called for this measure. The Bloc will stick to its way of doing politics: It will be a party that makes suggestions. It will continue to make suggestions throughout this session, while also avoiding spreading disinformation.

For a long time, the Bloc Québécois has been saying that the provinces and municipalities are best placed to know the housing needs in their jurisdictions. The federal government should not interfere. Let us not forget that housing is the exclusive jurisdiction of Quebec and the provinces. Need I remind our colleagues that sections 92(13) and 92(16) of the Constitution state that property and civil rights and matters of a local nature are provincial legislative jurisdictions? This means the federal government has no standing to interfere.

The numbers speak for themselves. Bill C-56 is just one drop in an ocean of needs. With the rise in demand, Quebec will need 1.1 million extra housing units within the next six years. Homelessness is rising in every region of Quebec. The homeless population has jumped by 44% over the last five years to reach an estimated 10,000.

● (1355)

The housing shortage and the resulting high cost of available apartments are playing a direct part in this crisis. The Bloc Québécois already has a wide array of suggestions and comments concerning possible solutions to the housing crisis currently raging across Quebec and Canada.

We initially took a favourable view of the Canada-Quebec housing agreement signed in 2020. The agreement is worth $3.7 billion, half of it provided by the federal government. However, we were dismayed that the negotiations leading up to the agreement took three years. Funds intended for Quebec were frozen until the two levels of government could find common ground. The Bloc Québécois is concerned about the federal government's constant need to dictate how Quebec should spend its money.

Once again, Quebec wants its share transferred to it without conditions. Had this been done back in 2017, Quebec could have started building and renovating numerous housing projects, including social housing, three years sooner, which would certainly have alleviated today's rampant housing crisis. Unconditional transfers would significantly streamline funding processes, whereas the various agreements add to the red tape involved—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): I must interrupt the hon. member because the hon. Leader of the Opposition is rising on a point of order.

[*English*]

Hon. Pierre Poilievre: Madam Speaker, I believe if you seek it, you will find unanimous consent for the following motion to address what came to light on Sunday, which was that a Nazi Waffen-SS officer was in attendance during the Ukrainian president's visit to Parliament.

Hon. Karina Gould (Leader of the Government in the House of Commons, Lib.): Mr. Speaker, again, I would invite my colleagues on the Conservative benches to rely on the facts. You have laid out both in a statement as well as in an apology to the House that it was you who decided to invite this individual. You decided to recognize him in this place without informing the government, the Ukrainian delegation or, indeed, any parliamentarian.

I think we are all profoundly hurt and embarrassed by this as are Canadians. We need to take this seriously and not politicize it. We need to make sure that we are bringing Canadians together during this difficult time.

* * *

THE ECONOMY

Mr. Francesco Sorbara (Vaughan—Woodbridge, Lib.): Mr. Speaker, my constituents in Vaughan—Woodbridge are feeling the pressure of increased housing costs and grocery prices. This summer, I heard them loud and clear, from the skilled trades workers who are building our homes and critical infrastructure to the workers creating made-in-Canada products in the manufacturing sector and the seniors who helped build our country. That is why I was pleased to see our government introduce Bill C-56, the affordable housing and groceries act, as the next phase of our government's plan to bring down the cost of living for Canadians.

Could the Deputy Prime Minister and Minister of Finance tell my residents what this bill would do?

Hon. Chrystia Freeland (Deputy Prime Minister and Minister of Finance, Lib.): Mr. Speaker, I would like to thank the MP for Vaughan—Woodbridge for his hard work for his constituents and all Canadians.

Canadians need more homes built faster and they need affordable groceries. Bill C-56, which the government tabled last week, would help to provide both.

With this bill, we would remove the GST from the construction of rental housing to build more homes faster. We would empower Canada's Competition Bureau to help small grocers compete. We are demanding CEOs of Canada's largest grocers to present a plan to stabilize prices.

We are going to continue to move forward with a serious plan to help Canadians.

* * *

● (1510)

AIR TRANSPORTATION

Mr. Taylor Bachrach (Skeena—Bulkley Valley, NDP): Mr. Speaker, there is now a backlog of over 57,000 air passenger complaints before the Canadian Transportation Agency. Canadian travellers have had their lives upended. Many are out thousands of dollars. For those who have managed to navigate a complex complaint process, they are having to wait well over a year to have their complaints heard.

The government is on its third attempt to fix this debacle. Will the minister apologize to Canadian travellers for failing so utterly to stand up to the big airlines?

Hon. Pablo Rodriguez (Minister of Transport, Lib.): Mr. Speaker, our government was the first to protect the rights of travellers, and we will make our passenger rights regime even stronger by making compensation mandatory for disruptions, putting the onus on airlines, not passengers, and ensuring an improved standard level of service during any disruption. We have also invested in the Canadian Transportation Agency so it can resolve cases faster. It will be much faster.

* * *

[*Translation*]

TAXATION

Mr. Alain Rayes (Richmond—Arthabaska, Ind.): Mr. Speaker, on December 2, February 15 and March 23, I asked the government about a 30-year-old tax law whereby Canadian companies are penalized by our tax system, despite the fact that they use only local and healthy ingredients.

The government told us that it wanted to quickly introduce legislation to help people with the exploding cost of groceries. Tackling this situation would encourage people to buy healthier, less expensive food, and put an end to this injustice that unfairly pits Canada's small businesses against multinationals. This is a direct way to help Canadian families and make it cheaper for them to eat better.

Does the government intend to make any changes?

Hon. Chrystia Freeland (Deputy Prime Minister and Minister of Finance, Lib.): Mr. Speaker, we take the health of all Canadians seriously, especially that of our children. Our tax system is data-driven, as is our health care system. We will always implement taxes and health rules based on facts and expert advice.

* * *

[*English*]

RICK O'BRIEN

The Speaker: I understand that there have been discussions among representatives of all parties in the House and that there is an agreement to observe a moment of silence in honour of the fallen RCMP officer in Coquitlam, British Columbia.

[*A moment of silence observed*]

Hon. Karina Gould: Mr. Speaker, I rise on a point of order.

I would like to ask for unanimous consent to adopt the following motion.

OPIOIDS

Mr. Gord Johns (Courtenay—Alberni, NDP): Mr. Speaker, it is an honour and a privilege to present this petition. I hope you had a wonderful summer in your riding. I was fortunate to go to Portugal and learn about the toxic drug crisis, so it is timely that I present this petition on behalf of constituents of mine who are calling basically for the same model and approach that Portugal took in terms of a health-based response to the toxic drug crisis.

The petitioners are looking for a compassionate, integrated and coordinated approach to respond to the toxic drug crisis with a timely plan and resources to respond to it, including just-in-time treatment, recovery, prevention, education and resources to support that, a safer supply of substances to replace the toxic drugs on the street, and decriminalization. As we know, the evidence says that criminalizing people who use substances causes more harm.

The petitioners are asking for the federal government to table a plan and respond to the toxic drug crisis.

● (1530)

CLIMATE CHANGE

Mr. Mark Gerretsen (Kingston and the Islands, Lib.): Madam Speaker, I rise today to present a petition on behalf of members of my community who are calling to the government's attention the most recent report of the Intergovernmental Panel on Climate Change. Specifically, they are asking the government to move forward immediately with bold emissions caps for the oil and gas sector that are comprehensive in scope and realistic in achieving the necessary targets that Canada has set to reduce emissions by 2030.

PUBLIC SAFETY

Mr. Dan Mazier (Dauphin—Swan River—Neepawa, CPC): Madam Speaker, I rise for the 11th time on behalf of the people of Swan River, Manitoba, to present a petition on the rising rate of crime. The people of Swan River are sick and tired of the Liberal government's excuses on the rising rate of crime. The reality faced by local businesses is grim. They are forced to either spend their hard-earned money on security or risk shutting down. Businesses are struggling because of the constant crime by repeat offenders who plague the community.

The people of Swan River demand that the Liberal government repeal its soft-on-crime policies that directly threaten their livelihoods and their communities. I support the good people of Swan River.

MEDICAL ASSISTANCE IN DYING

Mr. John Williamson (New Brunswick Southwest, CPC): Madam Speaker, I have the honour to present a petition regarding Canada's euthanasia regime, otherwise known as MAID.

The petitioners note that legalizing the state-sanctioned killing of people with mental health challenges will undermine suicide prevention efforts. Consequently, they call on the government to provide treatment and recovery to persons with mental illness.

In addition, they call on the government to reject the proposal to allow for the killing of infants under Canada's euthanasia regime, as was proposed by the Quebec college of physicians.

Government Orders

QUESTIONS ON THE ORDER PAPER

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, I ask that all questions be allowed to stand at this time.

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): Is that agreed?

Some hon. members: Agreed.

* * *

POINTS OF ORDER

ALLEGED DUPLICATION OF PRIVATE MEMBER'S BILL

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, I rise to respond to a point of order raised on Thursday, September 21, by the member for Bay of Quinte regarding the Private Members' Business item Bill C-339.

As members will know, the Subcommittee on Private Members' Business is scheduled to review the votable status of the 15 items that were added to the order of precedence last week. It is for the subcommittee and for the Standing Committee on Procedure and House Affairs to review the votable status of these items of Private Members' Business, including the bill brought forward by the member for Bay of Quinte.

I submit that it would be premature for the House to consider the matter raised by the member until the subcommittee and its parent committee undertake their work, pursuant to Standing Order 91.1, and table their report in the House.

GOVERNMENT ORDERS

[*Translation*]

AFFORDABLE HOUSING AND GROCERIES ACT

The House resumed consideration of the motion that Bill C-56, An Act to amend the Excise Tax Act and the Competition Act, be read the second time and referred to a committee.

Ms. Andréanne Larouche (Shefford, BQ): Madam Speaker, I was about to explain, when I was interrupted by the Leader of the Opposition, that the Bloc Québécois deplores the federal government's constant need to dictate to Quebec how to spend its money.

First, we want the government to transfer Quebec its share with no strings attached. Had the government done so starting in 2017, then Quebec would have been able to begin building and renovating a number of housing projects, particularly social housing projects, three years sooner, and that definitely would have helped to mitigate the current housing crisis. Transfers with no strings attached would make the funding process much simpler, since the various agreements complicate the associated bureaucracy and increase the wait times before the amounts in question are actually allocated. That is important, particularly since the programs put in place by the Government of Quebec are often innovative and effective.

Second, the Bloc Québécois reiterated the importance of federal funding targeting first and foremost the many needs in the area of social and deeply affordable housing because those are the most pressing.

This is what we proposed during the last election campaign. We proposed that Ottawa progressively reinvest in social, community and truly affordable housing amounting to 1% of its total annual revenues, to ensure constant and predictable funding, instead of having ad hoc agreements. We proposed that every surplus federal property be repurposed for social, community and very affordable housing to help address the housing crisis. We proposed the creation of a property speculation tax to prevent artificial market inflation. We proposed a reform of the home buyers' plan to account for the different realities of Quebec households and increasingly diverse family situations. We also proposed that the federal government proceed with a financial adjustment of the different programs stemming from the national housing strategy to create an acquisition fund. Implementing this fund would enable co-operatives and non-profits to acquire housing unit buildings that are currently accessible in the private market, to keep them affordable and turn them into social, community and very affordable housing. We proposed that Quebec receive its share of funding with no strings attached from federal homelessness programs while calling for the money allocated over the last year during the pandemic to be made permanent.

I had the opportunity to test all these ideas because I was proud to represent the Bloc Québécois in the Eastern Townships in a debate on housing, but the Liberals and the Conservatives were absent from the debate in the Eastern Townships during the election campaign in 2021, on an issue as critical as that. It really struck me at the time. Social housing and homelessness organizations noted the Bloc Québécois' good ideas and the absence of the other two political parties.

In conclusion, we will continue to call for a real housing policy, but there is nothing overly terrible about this bill. Consequently, we would like to see it go to committee for further study.

I would like to add one last thing. It is undignified to leave so many people deprived of a basic need like housing. It is undignified to let women be raped in the street or give birth alone. It is disrespectful to those who built our society to let seniors lose their homes and find themselves without a roof over their heads. They have a right to want to age with dignity. We must put aside partisanship and take action on this all-important issue of social housing and homelessness.

● (1535)

[*English*]

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, what we see within the legislation is a very positive step that would lead to the construction of thousands of new homes. One of the things that reflect well on this particular legislation is that we have now seen other provinces adopt the same principle in terms of providing the same break, which would complement the policy that much more. I wonder if my colleague across the way would acknowledge, as I have done, the importance of recognizing not only the need and that Canadians want the government to do this, but that it is also important that the different levels of government and stakeholders work together to best address the overall issue of housing shortage.

[*Translation*]

Ms. Andréanne Larouche: Madam Speaker, I think I was fairly clear in my speech. Ottawa has no business dictating our fiscal policy to us. This was precisely Quebec's response. Quebec is asking for its share because social housing and homelessness are part of its jurisdiction and it wants to take action.

I clearly demonstrated why Quebec, the provinces and the municipalities should not be browbeaten, as certain other parties tried to do during this debate. Rather, they should be empowered to act.

I saw no shortage of innovative ideas among community groups when I led a round of consultations with my colleague from Longueuil—Saint-Hubert. Community groups want to put these ideas into practice.

Let Quebec take action.

Mr. Daniel Blaikie (Elmwood—Transcona, NDP): Madam Speaker, we know that not enough new social housing is being built. However, is it not also true that one of the most serious problems surrounding the housing crisis is the loss of existing social housing?

Does my colleague think that creating an acquisition fund for non-profit organizations could help slow or even stop the loss of social housing?

Ms. Andréanne Larouche: Madam Speaker, I talked about this in my speech, but I thank my colleague for giving me the opportunity to come back to this much-vaunted acquisition fund.

In 2021, during the election campaign, when I spoke about the acquisition fund during the Eastern Townships housing debates, organizations very much in touch with the needs of the community said that it was a promising idea that would allow community groups and co-operatives to carry out social housing projects. These groups embraced the notion of an acquisition fund.

There are some very interesting models in my riding of Shefford, including a seniors' co-operative that celebrated its 20th anniversary and even appeared before the World Health Organization to show that it is possible to have different housing models for seniors.

Let us allow these organizations to benefit from this acquisition fund and let us get some buildings out of the private speculative market so we can give the power back to the organizations.

● (1540)

[*English*]

Mr. Blake Desjarlais (Edmonton Griesbach, NDP): Madam Speaker, it is always a good day when we can speak to the challenges that are facing many Canadians. Right now, with respect to housing, it is no secret that the shortage of supply is making it difficult for folks to keep up, whether that is their mortgage or rent.

I enjoyed the member's speech because we have a lot in common and we believe the solutions are the same. Could the member speak to how important it is to build non-market housing and to the fact that the existing housing market has not delivered the results that Canadians deserve? It is seeing high prices and high competition with huge mega-corporations. Can the member speak to why non-market housing, social housing, is so important?

[*Translation*]

Ms. Andréanne Larouche: Madam Speaker, as I was saying to my colleague, we need to look at what should be done with private housing and find the best solution.

Beyond what is proposed in this bill, the Bloc Québécois also wants to debate it in committee in order to make suggestions, ask more questions and work with all the other political parties to come up with the best solutions. We realize that this bill is not perfect, but we have a duty as elected representatives to set partisanship aside when the time comes to debate an issue as crucial as social housing. When the bill is studied in committee, we will be able to continue working on it and propose improvements.

At the end of the day, people are waiting to have a roof over their heads. The right to housing is absolutely crucial. These people are counting on us and are watching us. We have a duty to act with dignity. We owe it to them to study this bill in committee.

Mr. Daniel Blaikie (Elmwood—Transcona, NDP): Madam Speaker, everyone knows that times are really tough for Canadians. Housing and grocery prices are higher than ever and continue to rise. There is a real need for the government to intervene and adopt public policies to try to create circumstances in which those prices are more affordable for Canadians.

Bill C-56 sets out what the government is proposing to accomplish that. There are some good ideas about the Competition Bureau. However, I would say that more could be done. The bill introduced by the leader of the NDP goes even further with regard to the Competition Bureau. For example, it seeks to impose harsher penalties on companies that fix prices and to make the companies in the industry that are planning a merger responsible for showing that they are not doing something that would be harmful to Canadians. Right now, it is up to the Competition Bureau to prove that a company merger would be harmful to Canadians.

We think that the burden of proof should fall on the companies, that they should have to prove that their activities are in the interest of Canadians. The status quo that we have had for so long has not served Canadians well. There are some good ideas in the bill, but we must do more.

When it comes to housing, we in the NDP think that it is very important to not rely solely on market-based solutions, should we have to use them. If we truly want to resolve the housing crisis that has been growing for decades in Canada—under Liberal and Conservative governments alike—then we need solutions that come from outside the market as well as within the market. We have made several proposals, including an acquisition fund for non-profit organizations to give them the opportunity to buy affordable social housing when the organizations that run them decide to sell them.

All too often, large corporations are the ones buying these buildings. They renovate them, only so they can kick out the existing tenants and take on new ones who can afford to pay higher rents. If we are going to implement market-based solutions, we think it is important that the government adopt policies that will help address the critical shortage of social and affordable housing. We do not see anything like that in Bill C-56. We know that there are opportunities to work with the government and the other parties to ensure that Canada takes a strategic approach that includes non-market solutions, but we are not there yet.

● (1545)

[*English*]

I am really happy today to speak to Bill C-56. I think it is an interesting bill. We know that it is a really hard time for Canadians and that it has been for some time now. The costs of housing and food are higher than they have ever been, and they continue to go up.

There is no doubt in our minds, as New Democrats, that some kind of public policy intervention is required in order to try to get a handle on this situation.

In both cases, we have reached this moment of crisis because, for 30 years now, we have had Liberal and Conservative governments that have largely said to leave all this to the market. The market has not produced solutions around affordability.

It is not that the market does not have a really important role to play in the building of housing, for example, or in the delivery of groceries. However, we know, from what we have seen over the past number of years, and in the case of housing, for decades now, that if we just leave it to the market, then we are going to continue to end up in a worse and worse situation. The fact of the matter is that there are a lot of housing needs in Canada that will never be met by the market, because it is not profitable enough for the market to meet them.

That is why we need a strategy that pushes private actors into making available, as part of their holdings, affordable suites. It is why we need governments to take responsibility again, as governments did from the 1940s all the way up to the 1990s, when the federal Liberals of the day cancelled the national housing strategy that was in place.

Unless we get governments back to the table and taking responsibility for the creation of social housing, we are not going to see an adequate resolution to the housing crisis. We are going to see it continue.

I have more to say about that. I will carry on with the housing piece, because I think the evidence has been that we have a pretty unified approach between the Liberals and Conservatives. What we have seen this fall already, and, in fact, if we looked back over the last 30 years, is that it is largely a market-based approach to the housing sector.

That is one of the things that changed significantly in Canada in the 1990s, whereas before, we had governments that said that there is a responsibility and an obligation to be investing in social housing and to be maintaining and expanding social housing stock. Really, in the 90s, a decision was made to say that, actually, we are going to leave housing entirely to the market. This has been consistently followed by every government we have had after Chrétien.

This is not done in the other G7 countries. In fact, of our G7 comparators, Canada has one of the lowest percentages of social housing in its housing stock. Canada has really dropped the ball because of this "market-think" that has dominated both Liberal and Conservative governments.

I rush again to say that it is not that the market does not have a role. It is not that there is not going to be market-based housing. It is that a whole other pillar, which was social housing and affordable housing, evaporated; we are living with the consequences of that now. Affordable housing, in some cases, can be provided through market mechanisms if one has the right rules in place, set by public policy.

The problem with Bill C-56 is that the government has not proposed the next stage for meaningfully building social and affordable units, whether in the bill or alongside it. This means that it is an incomplete strategy.

There is a risk of just adding to the public policy that prefers market solutions and puts money back in the pockets of developers without being upfront with Canadians about what the plan is or presenting a plan for a really aggressive social housing building strategy.

That can be the government building social housing. It can be meaningfully engaging the non-profit and co-operative sectors to build social housing. The real point is that we do not see it here.

There is an affinity with the Conservative leader's presentation of a housing plan last week as well. He also talks about taking the GST off purpose-built rental. He does talk a little bit about some affordability conditions in his bill, but they are not defined. When he talks about how it has to be rented below market, we really need a definition of what he means by that. If one charges just 1% below the market rate, we are not really helping Canadians.

● (1550)

I think it is noteworthy that, when the Conservative leader talks about using federal land in order to build more housing, there is no talk about affordability conditions in that part of his bill. That is actually where developers stand to make the biggest gains and make the most money. Therefore, it is really important to have some kind of affordability or social housing framework in respect of the forfeiture of federal lands for housing.

If those conditions are in place, it can be a very good thing to use federal land to develop for housing, but not in the absence of those criteria. In Ontario, we recently saw a Conservative government that decided to allow for the sale of protected lands in order to build more housing; however, it did not establish good rules about that, and it subsequently had to backtrack completely.

Canadians are watching this file very closely. They are not interested in seeing politicians abuse the housing crisis to make money for their developer friends. This is why the conversation that we have around affordable and social housing conditions here in Parliament as we discuss Bill C-56 is so important.

For instance, I think of the NDP's call for a non-profit acquisition fund to try to stop one of the important contributors to the housing crisis. This is that, where there have been apartment blocks with affordable and social units in them, non-profit housing providers or co-ops that have been running them for decades decide they cannot do it anymore, and they put them up on the market. When and if this happens, we have seen a lot of real estate investment trusts or big corporate landlords swoop in and buy those buildings. They have fast access to capital, and they have a lot of money in reserve that they can use to buy these places. They renovate, ask for exceptional rent increases, kick out all the people who were there before and get new tenants who can pay higher rents.

What that means, and some have calculated this, is that for every unit of social affordable housing we are building in Canada right now, we are losing 15. That is not sustainable. It means we are not on track. That is why it is not enough to just propose new market mechanisms to get developers to build new housing, rental or otherwise.

We really need to have a concerted and strategic effort to make sure that we are building a lot more affordable social units and that we are not losing the ones we already have, particularly in communities where there are experienced and competent non-profit or co-operative agencies to take those places over and continue to offer them as units with either affordable or social housing rents, which are calculated as a percentage of one's income, so those who have a lower income pay a lower rent. That is really important.

I have to add that one of the reasons why there have been so many of those buildings come on the market in the last 10 years or so and why real estate investment trusts and big corporate landlords have been able to scoop up so many existing affordable housing units, is the Harper Conservatives. The federal government, in the heyday of its involvement in housing, used to offer operating grants that would help subsidize the rents for these buildings that were tied to the mortgages. In some cases, the mortgages were 40- or 50-year mortgages, and when they came up for renewal, the federal government had to renew that operating funding.

The Harper government, while the leader of the Conservatives was at the table, made a decision not to renew those operating agreements. That is why so many buildings across Canada ended up for sale. The current operators could not continue to offer what they had been offering before, which was affordable rents, or properly, social housing, because the federal money that made that possible went away as a result of the decisions of the Harper Conservatives.

The Liberals ran in 2015 on renewing those operating agreements, and then they did not. There was some talk about coming up with an alternative arrangement, but the evidence is that it was not successful, so the operating grants were not renewed and there was not really a successful initiative that replaced that money to make sure that those units could continue to be offered on an affordable or social basis. Therefore, in the Harper years, we lost 600,000 units of social housing. The leader of the Conservatives, who gets up and talks a lot about housing, how much housing we have lost and how expensive it has become, sat at the table while his government refused to renew funding agreements that, in some cases, had been in place for 40 or 50 years to make sure those units could continue to be affordable.

Also, we saw big profit-seeking interests come in and buy up those buildings, kick out the tenants, fix them up a bit and then charge exorbitant rents. We cannot allow that to continue, and we really need to see, alongside or in this legislation, depending on the mechanism that parties can come to some agreement about, either conditions on this GST rebate or something like a non-profit acquisition fund.

Certainly, the housing co-investment fund was the only real housing initiative under the new national housing strategy the Liberals announced and have been working on in various ways over the last seven to eight years. Although I think most people feel it has not been very effective, it was what got some social housing built. That fund has been depleted, and we need to see it replenished so the organizations that do have plans in their community on how to provide affordable and social rents, with some help from government funders, can get down to doing that work instead of being held up.

When it comes to grocery prices, we in the NDP do not think the Liberals' approach of calling in CEOs for a meeting and wagging their finger has a likelihood of success. If a wagging of the finger was all that corporate executives needed to lower their prices, goodness knows the Liberals should have done it a long time ago. They should not have waited those 20 months while grocery inflation was outpacing the regular rate of inflation, at a time when grocery store profits were neither standing still nor diminishing. What we saw over that time was that they were making far more money than they did prepandemic.

● (1555)

The Conservatives would have us believe that the carbon tax is the only thing driving up grocery prices, but if that were the case, then their profits would not be growing. If all they were doing was passing on the increased costs that grocery stores have experienced as a result of the carbon tax, their profits would not be growing. However, they are growing, which means those companies are increasing their prices by more than the increase in input costs. Any government or any party that wants to form a government with some sense of seriousness about addressing the challenges that Canadians have been facing at the grocery store has to recognize the role of corporate greed in the equation, or they will be unable to do this.

For a long time, going back to during the pandemic when we saw big grocery retailers and other big box retailers making way more money than they had in the years just prior to the pandemic, the New Democrats have recommended a windfall profit tax along the lines of what governments in some other countries, including some places where they have conservative governments, have done. We think that one of the best ways to ensure that corporate greed is not unduly affecting grocery prices is to have something in place that says to grocery retailers that, if they are price gouging, they are not going to get to keep it. That is the best way to make sure that they are not gouging Canadians at the store. We think that is called for because not only have grocery store profits gone up but also even the margins for groceries have gone up.

We would say to those who say that traditionally the grocery sector is a small-margin industry compared to other industries and that again it is the same thing as we see in housing, where Conservatives and Liberals want to treat housing as if it were any other good. This is where they say, “Oh, do they need a house?” Although I should not say “need” because that does not capture the market approach. It is, “Oh, do they want a house? Do they want a Nintendo game? Do they want a new pair of shoes? Do they want to eat at a fancy restaurant?” All these things are just things that people want, ultimately, from a market point of view.

New Democrats are here to say that, when it comes to food and housing, these are not just commodities like anything else. These are things that people have a right to because they are essential to live a dignified and healthy existence, and we have an obligation as a country to make sure that people are housed and fed at reasonable prices they can afford. More and more, we see those prices getting away on us. This is why, alongside effective market mechanisms, such as taking the GST off purpose-built rentals, if the goal is just to build more rental apartments, we also need mechanisms with non-market solutions to make sure not only that are we getting more units that Canadians will not be able to afford anyway, but also that we are getting more units that those who can afford them can access, while also ensuring that we are building units that those who cannot afford the options on the market are also able to access because everyone should be able to access a home here in Canada.

● (1600)

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, I appreciate a number of things the member made reference to. I want to pick up on the point that the legislation that we have before us today is great because, when it comes to homes, thousands of homes would be created. We have seen, as I mentioned earlier, other provincial jurisdictions now doing what Ottawa is doing to further enhance it.

However, I want to pick up with the member how important it is that we continue to work with different levels of governments and stakeholders and just emphasize the important role of organizations such as Habitat for Humanity. The member is very familiar with Habitat in Winnipeg, and I believe it has built over 500 homes over the last number of years. Organizations can actually make a difference. This is one of the tools that is being used, but it is important that not only the national government but also governments at different levels work together to build more homes for all sectors of our society.

Mr. Daniel Blaikie: Madam Speaker, the member for Winnipeg North is absolutely right that obviously it takes a lot of different kinds of organizations to properly attack the housing crisis and get a handle on it. I am very familiar with Habitat for Humanity. I have had the pleasure of volunteering on some Habitat projects. In fact, not long after I was elected, we did that as an office-building exercise. We went out to a Habitat site.

However, with a number of the programs out there, whether it is Habitat or others that we have seen produce some really great infill housing in, for instance, the city of Winnipeg, one of the real challenges is that the housing market is running away on them so much that being able to acquire the property they need to have successful projects using the financial model that gave birth to the organizations is seriously strained and put in jeopardy. It is why things that are, strictly speaking, just market mechanisms cannot just go ahead on their own without a clear strategy by government to ensure that those non-market pieces are being addressed as well. The problem that we have here this fall is that the government has singled out a market mechanism that it wants to move forward on without saying more to Canadians about the other piece that has to follow, which is the social and affordable housing piece.

Mr. Dan Mazier (Dauphin—Swan River—Neepawa, CPC): Madam Speaker, it is really too bad that my colleague from Manitoba is taking this intervention from his home in Manitoba when this is a very important subject of affordability.

● (1605)

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): It is best to not make references to where members are speaking from. Virtual proceedings are the norm now. We do not mention where people are making their statements from.

Mr. Charlie Angus: Madam Speaker, on a point of order, we know that Parliament has recognized virtual. We know that the Conservatives participate virtually. This is an inappropriate attack—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): I just addressed the issue.

The hon. member for Dauphin—Swan River—Neepawa.

Mr. Dan Mazier: Madam Speaker, it is really too bad. This is part of the problem of the abuse of the virtual system.

Meanwhile, we have a provincial election going on back in Manitoba. I am sure the member is helping out there.

Mr. Mike Morrice: Madam Speaker, on a point of order, there is nothing abusive about using virtual Parliament. In the Standing Orders, it is made very clear that sitting in the House or virtually is seen as the same. I think it is important for you to make that very clear.

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): I absolutely agree with the hon. member. That is the way we proceed in the House. It is now the acceptable way of the House to proceed. We make no references to which site the member is speaking from.

Mr. Dan Mazier: Madam Speaker, the member went on quite extensively about the rising costs of food. He seems to have a very good grasp of it.

Could the member acknowledge, though, that the carbon tax does in fact increase the price of food?

Mr. Daniel Blaikie: Madam Speaker, I do not think there is any doubt that, through the supply chain, the carbon tax is obviously something that is a factor for pricing of food. It is why the NDP has been concerned and has proposed so many affordability measures.

We want to make dental care accessible to Canadians. That is why we proposed the dental care plan. For so many families that rely on child care, we have fought for years and years. We ran on a $10-a-day child care program in 2015, when I was first elected, because we recognized that there are a lot of things that affect the prices Canadians pay for the various things that they cannot do without. There are a lot of things that put pressure on their household budgets.

Parliament is a very appropriate place to talk about the ways we could help control the cost of things that people cannot do without. That is a debate I have always been quite willing to show up for, both in person and virtually, whenever—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): We will do without the references.

The hon. member for Mirabel.

[*Translation*]

Mr. Jean-Denis Garon (Mirabel, BQ): Madam Speaker, Bill C-56 includes measures to eliminate the GST on new rental housing. In the long term, this could impact supply, at least theoretically. However, this is for housing that will be built a long time from now, housing that will be started in 2030 and completed in 2035. Meanwhile, during a briefing, we learned that the government had not commissioned any analysis or study on how much this measure will cost or what impact it will have on new housing construction.

I would like to know if this way of doing things worries my colleague. Once again, this is a quick pre-election ploy of creating a measure without knowing how much it will cost or what the outcome will be. The Liberals did the same thing when it came to increasing the immigration target with their friends at McKinsey.

Has the government's tendency to propose legislative changes without doing the necessary calculations become problematic?

Mr. Daniel Blaikie: Madam Speaker, I think it would be good if the government did its research before announcing these kinds of measures. Yes, I think it is important for us to have that information.

It seems as though this was decided very quickly, perhaps at a caucus meeting where people were unhappy and asked the government to do something about the housing crisis. This is the only component in the Liberals' social and affordable housing strategy. We are going to need more than that if we really want to address the housing crisis. Yes, there are signs indicating that the government acted quickly, on the spur of the moment, rather than taking a more strategic approached based on good research.

● (1610)

[*English*]

Mr. Mike Morrice (Kitchener Centre, GP): Madam Speaker, one of the elements of the member for Elmwood—Transcona 's speech that I really appreciated was his honesty about the decades of underinvestment in social housing that have contributed to the crisis we are seeing now across the country.

Could the member speak to how important this is? If we were even to double our social housing stock, we would still be just in the middle of the pack of the G7. Can he speak to how the CMHC, for example, could get back into the business of building affordable housing across the country?

Mr. Daniel Blaikie: Madam Speaker, when I was first elected, one of the things I did in Elmwood—Transcona was to bring together a group of organizations in the riding that had an interest in the housing question, because there was a lot of talk then about a new national housing strategy and I thought that we should be ready in Elmwood—Transcona for when the strategy hits the ground.

In that effort, I spoke to some folks who used to work for the federal government and the provincial government kind of prior to the cancellation of the national housing policy by the Liberals in the 1990s. One of the things they said was that because the offer for funding every year was reliable, people could plan. Someone could say that they did not have the capital right now, but they could access funding to create a plan to scout out some of the land that they might be able to acquire in order to have a budget and, over the course of six or seven years, deliver a project in a community.

For so long, we have not had that despite some of the offerings in the national housing strategy. The co-investment fund was depleted. Nobody knows when it is going to be replenished. Nobody knows when people will be able to make a request under that program again. It is very hard for non-profits that are not sitting on a pile of cash to be able to do the planning work to be able to deliver housing. That is one of the ways the cancellation of the national housing project strategy, and the ad hoc approach since, has really cost us getting affordable and social units.

Mr. Charlie Angus (Timmins—James Bay, NDP): Madam Speaker, I would like to follow up on that last question. It is worth pointing out that prior to 1980, the notion of homelessness simply did not exist in Canada. There were certain inner city skid rows with local charities, but housing began to be the crisis in the 1980s as the government began to underfund, and then, of course, when Paul Martin cut the national housing program which gave the green light to multiple provinces. We have seen a slow-moving hurricane finally touch down in real time over the last 30 years, such that now upwards of 280,000 Canadians are touched by homelessness in any given year. That is a staggering number.

I want to ask my hon. colleague about the importance of making it a priority to get housing, to get non-market housing and co-operative housing, built so we can have homes for seniors, for single mums and for families. We need to make this a national priority to make up for the years of disregard from both the Liberals and the Conservatives on the fundamental right to housing in our country.

Mr. Daniel Blaikie: Madam Speaker, yes, absolutely we need to build those things. The problem is that a philosophical decision was taken in the 1990s that government did not belong in housing, that housing would be a commodity and that only the market would build housing in Canada. It was a philosophy shared by Liberals and Conservatives and that, I think we see a lot of evidence suggests, continues to be shared by Liberals and Conservatives, largely. That is why we cannot trust those parties to fix the housing crisis.

Hon. François-Philippe Champagne (Minister of Innovation, Science and Industry, Lib.): Madam Speaker, I feel the enthusiasm in the House. I feel everyone at home should have the same sentiment. Every day is a good day to fight for Canadians. That is what we are doing today with the affordable housing and groceries act. I was encouraged, I would say, by the comments I heard from colleagues.

[*Translation*]

I am very pleased to rise in the House today to speak to the affordable housing and groceries act. This new bill contains a number of necessary and timely amendments to the Competition Act. I am sure that my colleagues have heard many commentators say that the Competition Act is long overdue for a reform. This is exactly what we are doing today.

[*English*]

There is no doubt that Canadians are facing a very challenging increase to their cost of living at the moment. That is why, this morning, I summoned the large international food manufacturers to come to Ottawa. First, I expressed to them the frustration of millions of Canadians. I told them how difficult it is for colleagues and for Canadians from coast to coast to see the price of food. I can report to the chamber that the bottom line is that they have agreed to help the government stabilize prices and be part of the solution. We are going to continue to fight for Canadians every step of the way.

We have been working hard to advance solutions. Like I said, I not only met with the international food manufacturers, but I also met last week with the five largest grocery retailers in this country. I told them in very simple terms that we want to see actions. I am very pleased to see that they have also agreed to work with the Government of Canada and with parliamentarians to stabilize the price of food here in Canada.

We are also committed to advancing long-term structural solutions to drive affordability, and the best way to do this is to promote competition across the Canadian marketplace. The reason I am here today is to talk about the bold and decisive actions we intend to take in order to have a landmark reform of competition in this country.

● (1615)

[*Translation*]

A more effective competition system would generate positive spinoffs for Canadian consumers by stimulating innovation, which in turn could lower prices and encourage better product quality and selection for people across the country. It would allow the country to reap the many benefits of more dynamic markets. I can tell the House that, this morning, people reported other situations in other countries where competition had increased supply and lowered prices. These benefits are not just theoretical. They are extensively documented in the economic literature and proven in markets across the world. I would also argue that we all intuitively understand that less consolidation and more competition leads to lower prices. All Canadians know it.

[*English*]

The Competition Act is intended to promote greater competition and a fair marketplace by addressing various forms of harmful corporate conduct. These include anti-competitive practices, such as price fixing and mergers that lessen competition, to name just a couple. The act is administered and enforced by the Competition Bureau, an independent law enforcement agency.

[*Translation*]

I would like to provide a bit of context. Although the COVID-19 pandemic and the rising cost of living have reinforced this trend, Canadians have long been uncomfortable with corporate concentration and the seemingly unbalanced distribution of economic power in the country. Our government understands these concerns and has taken a series of concrete measures to address them over the past few years.

[*English*]

In 2021, we reinvigorated the Competition Bureau, whose budget had been stagnant for way too long in this country. The government provided a much-needed injection of funding to help the agency renew its personnel and the tools at its disposal to take on the challenges of a fast-changing world. Next, we introduced a number of amendments in the 2022 budget legislation that addressed some pressing issues in the law. These included making sure that wage fixing agreements between employers—

[*Translation*]

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): I must interrupt the hon. minister to remind him not to make too much noise with his papers because that is interfering with the microphone and bothering the interpreters.

The hon. minister.

[*English*]

Hon. François-Philippe Champagne: Madam Speaker, as a member who has been sitting in the House for many years, I should know that. My apologies to the interpreters and to all those who felt the inconvenience.

As I was saying, we have provided additional funding to the Competition Bureau. In 2022, in the budget legislation, we included additional amendments to make sure that wage fixing agreements between employers would be illegal, and there would be an increase in maximum penalties so unfair practices could no longer be absorbed by the largest firms as simply a cost of doing business.

[*Translation*]

Before introducing these amendments, we undertook a formal review of the act and its enforcement regime through an extensive consultation process in order to get feedback from Canadians on possible fundamental reforms.

In keeping with that promise, in November 2022, I launched the consultation on the future of competition policy in Canada. As part of this process, we received more than 130 submissions from stakeholders and more than 400 submissions from members of the general public, whom I would like to thank.

● (1620)

[*English*]

We spent the last several months listening to Canadians and carefully analyzing their submissions. We are now responding with an initial set of amendments to rebalance the marketplace. While it is only the first response to the consultation, these amendments strike at the core of the country's competition law regime and will undoubtedly empower the Competition Bureau to better serve the public and improve competition. I would like to thank it for all its work while I am delivering these remarks to the House.

As part of its mandate, the bureau conducts market studies to identify relevant regulations, business practices or other factors that may impede competition in a given sector. However, unlike many competition authorities around the world, the bureau does not have formal investigative powers to compel information. Rather, it must rely on what information is already in its possession, publicly available or provided voluntarily by stakeholders. Because the bureau cannot compel information, it has become apparent that it can rarely get a complete picture, leaving knowledge gaps and potentially casting doubt on the reliability or completeness of the information it gathers. This means that the recommendations the bureau can provide to the government and Canadians are not as complete and as impactful as they could be.

We therefore propose to grant the bureau the authority to conduct market studies in which it can seek to compel the production of information. This was highlighted as a very important issue by the bureau's retail grocery market study and was formally recommended by the Standing Committee on Agriculture and Agri-Food.

[*Translation*]

I would also underscore that the proposal to create a formal market study framework was broadly supported by stakeholders during the public consultations. However, many stakeholders emphasized the need for safeguards to prevent fishing expeditions or investigations that place a heavy burden on companies or the government.

We considered these comments carefully and came up with a proposed framework aligned with international best practices. I think this will ensure that any burden placed on the companies is limited to what is strictly necessary to achieve public policy objectives.

[*English*]

We have a quite unique feature in our competition law regime that has been the subject of much debate and criticism throughout the law's existence, known as the so-called efficiencies exception or efficiencies defence. It currently protects a merger that harms competition from being successfully challenged, so long as the efficiency gains that it generates for the companies involved will exceed the harm to competition and therefore, supposedly, the harm to consumers.

The provision has been cited as a significant obstacle to competitive markets by a broad cross-section of stakeholders for many years, and particularly so during the public consultation. This exception makes it nearly impossible for the bureau to successfully challenge anti-competitive mergers, so much so that it rarely tries to do it.

[*Translation*]

Many stakeholders have argued that the act is too narrowly focused on gains in efficiency that benefit specific companies over the short term, but that ultimately lead to industry concentration that hurts consumers over the long term. We are proposing to eliminate the efficiencies exception, which would mean that if a proposed merger were considered anti-competitive, it could be reviewed despite any efficiency gains generated for the companies.

Repealing this exception would give priority to competition and bring Canada in line with international standards.

[*English*]

Of course, if a proposed merger creates efficiencies that strengthen competition in a sector, the tribunal would be able to consider them in its deliberations.

Let me talk about vertical collaborations. The act already recognizes that certain collaborations between competitors may result in significant harm to competition, even if they fall short of the true cartel practices like price fixing or bid rigging. Currently, only agreements between competitors, or so-called horizontal collaborations, can be addressed under the act in most cases. However, agreements between non-competing entities, such as a landlord and a tenant, are known as vertical agreements and are outside the scope of the bureau's review of potentially anti-competitive agreements, even if they result in less competition.

As identified in the bureau's recent retail grocery market study, cases have emerged about property controls made between commercial landlords and tenants to exclude potential competitors from a rental property, sometimes even after the tenant has left. One can understand why we are focusing on that. At the same time as we are talking to the CEOs of grocery chains to say they have to help Canadians, that they have to be part of stabilizing prices, we want this landmark reform on competition because we need to address these issues.

● (1625)

[*Translation*]

In some cases, controls like these have prevented independent grocers from moving into the only shopping centre in a community. In other cases, discount retailers were prevented from selling certain products near large supermarket chains renting from the same landlord.

We are proposing to amend the provision to allow for the review of vertical collaborations that essentially seek to limit competition, even if the agreements are not between competitors. It would also open the door for the Competition Bureau to look at other forms of collaboration, beyond property controls that can harm competition.

[*English*]

In conclusion, the consultation revealed a strong appetite for further reforms to strengthen the law and its enforcement. I would say it is about time that we had landmark reform of competition in this country, at a time when Canadians want to see less consolidation, more competition and lower prices. Now is the moment to act. I hope everyone in this House will join us, because this is about Canadians. This is about Canada. This is about our competitiveness around the world.

As the next step in our continued efforts to modernize the law, these proposed amendments directly contribute to addressing the most immediate concerns of Canadians about the rising cost of groceries, while we continue to consider further reform to ensure that Canadians and small businesses can benefit from fair marketplaces across Canada.

Let us improve competition in Canada, increase innovation and lower costs for Canadians. With that, I hope that all members in this House will support Bill C-56 so that we can show Canadians, not only as government but as parliamentarians, that we will act to help them in times of high costs.

Mr. Jeremy Patzer (Cypress Hills—Grasslands, CPC): Madam Speaker, we heard from my Conservative colleague, the member for Bay of Quinte, about how this bill actually incorporates a few Conservative ideas.

The minister just acknowledged that maybe there are some further reforms that could be needed, so I have a couple more great Conservative ideas that he could maybe incorporate into this bill. One would be to use some federal buildings that are vacant and turn them into affordable housing units. If he does not want to do that, the second one he could maybe do is another great idea of ours, which would be to sell off the CBC, take the $400 million in real estate holdings that it possesses and turn that into prime real estate for affordable housing in downtown Toronto. That would be a fantastic idea. Does the minister agree?

Hon. François-Philippe Champagne: Madam Speaker, members know by now that I have enormous respect for colleagues on both sides of the aisle, because we are all parliamentarians.

Canadians are watching at home, and I know many are watching these debates. In times of need, at a time when they are asking for help, I think Bill C-56 is really addressing the most pressing needs of Canadians. One is around competition, one is around more housing and one is around the CEBA loans extension.

I am always open to listening to members of this House. I am always open, obviously, to listening to Canadians. I hope that what I hear from the member is going to be strong support for Bill C-56, because Canadians are watching and they expect all parliamentarians to be on their side and to lower costs in this country.

[*Translation*]

Mr. Jean-Denis Garon (Mirabel, BQ): Madam Speaker, I know that the hon. minister is delighted that I am here for his speech. I thank him for his clarifications.

It is true that the current Competition Bureau regime focuses on efficiency when analyzing mergers and acquisitions, sometimes to the detriment of consumers. As a result, over the years, many large grocery groups have formed. This enabled them to lower their costs while raising prices. Consumers did not benefit from that.

Now, with regard to mergers and acquisitions in this market in Canada—the minister knows about this because there were just five CEOs in his office the other day, which is not a lot of people—we have basically come to the end of the exercise. It is not clear whether, in this market, the measures in Bill C-56 will allow us to reverse course and have new entrants.

I know he is an energetic and creative man. What solutions does he have for bringing new entrants into this market, because five is not enough?

● (1630)

Hon. François-Philippe Champagne: Madam Speaker, I like my colleague's ideas, and I have a great deal of respect for him. He always has good ideas for getting things done.

I met with a group known as the Canadian independent grocers, who represent 6,900 small grocery stores across the country. They told me that the most important thing is the whole issue of competition reform, because that is what will help them.

Let me give a very concrete example. As we have seen, in shopping centres in small communities like the ones in our ridings, there are often clauses in certain leases that prevent competitors from setting up shop within a certain radius of kilometres. This kind of practice has a direct impact on smaller grocers who would like to set up shop near the major chains.

To answer my colleague's question directly, I think competition reform will certainly make some of the major international chains take more interest in Canada. I intend to have discussions with Carrefour, as well as some grocers across the border on the American side, to see how we can work together to increase competition here in Canada.

[*English*]

Mr. Brian Masse (Windsor West, NDP): Madam Speaker, I thank the minister for Bill C-56. Some movement on the Competition Bureau is very important, and I appreciate his efforts.

It is the 1386 “Yeoman's Tale” that the phrase “better late than never” comes from. It is good to see the efficiency defence being looked at.

This was previously a motion in committee, an amendment to the previous Competition Bureau work we did, which was actually defeated by the Liberals. Since that time, we have also seen greater mergers. Are they really committed long-term to this? We opposed the Rona takeover by Lowe's, which was approved by the Liberals, Zellers being taken over by Target, Future Shop by Best Buy, and most recently the Rogers and Shaw merger. Is this actually going to be a change in behaviour for the long term from the Liberal Party of Canada to increase competition?

Hon. François-Philippe Champagne: Madam Speaker, my colleague is a member of the industry committee and always comes with valuable input in the work of this House, and certainly we listen.

It is always a good day to fight for Canadians. I think everyone in this House would agree that our job is to keep fighting for Canadians at every step of the way. The landmark reform we are seeing, with more power to the Competition Bureau, goes exactly to what we heard at committee, which is that the market studies on grocery were less than adequate because we could not have full information. We need transparency and full accountability by businesses in this country that are subject to a market study, to be required to provide full information.

Also, with respect to the so-called efficiencies defence, we are a modern economy. We are a mature country. It is about time we got rid of something that was put in the books in 1968. We want less consolidation and more competition, which will bring lower prices.

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Madam Speaker, there are a number of things that could continue to reduce prices for Canadians and continue to open up more housing. There are literally thousands of ideas, but there is one I am attracted to. New York City has recently taken action, which others have been afraid to do, with taking on Airbnb. We know a substantial portion of Canadian housing is now taken up in short-term vacation rentals, to the benefit of this large offshore corporation.

New York has said Airbnbs can be operated but apartments cannot be rented out, or a full residence, for less than 30 days. We will see how this works out, but it is something for our Canadian housing minister to look at, although the way we react is obviously multi-jurisdictional. Short-term housing rentals, being consumed as we know they are, take properties out of circulation for Canadians who need homes.

We should also look at a guaranteed livable income so Canadians can afford their groceries and no one lives in poverty. Are there any comments from the minister?

Hon. François-Philippe Champagne: Madam Speaker, the member is a great member who is always contributing to the debate in this House. I think she would find comfort in the fact that in Bill C-56 we are not only addressing issues around groceries and stabilizing the price of food in this country but also addressing the issue of housing.

She is quite right that there is always more we should be looking to do. The fact that we are going to be removing GST on the construction of rental housing is a step in the right direction. The fact that we will have a landmark competition reform is a step in the right direction. The fact that we are continuing to fight for Canadians to stabilize prices is a step in the right direction. I welcome her suggestions. This is something that should be studied in committee, and we always listen very carefully to what committee members have to say.

● (1635)

Mr. Adam Chambers (Simcoe North, CPC): Madam Speaker, I appreciate the comments from the minister today, but I also listened to the press conference the minister gave with four other ministers last week, where he said that these are some of the most fundamental changes to the Competition Act that are being made. I want to focus on process. Why were these changes not made in budget 2022, when at that time the minister said that these are the most monumental changes being made to the Competition Act? Why did the government not fast-track the two opposition member bills, one from the NDP and one from the Conservative Party of Canada, that called for the elimination of the efficiency defence? We would have fast-tracked that right away.

How come this monumental legislation was not in this past budget or in the budget last year? How come it shows up in a government bill just after opposition members table the idea?

Hon. François-Philippe Champagne: Madam Speaker, first of all, I am very grateful for the question from the member; he knows I like him very much.

Talking about fast-tracking, I think Canadians watching are going to hear that the Conservatives are going to fast-track Bill C-56 because, as they claim, a lot of their good ideas are in it. I suspect what I am hearing very loudly now is that the Conservatives are going to support and even fast-track this bill. What a great gift it would be to Canadians struggling if there was unanimous consent, something that rarely happens here, to send Bill C-56 to the Senate so that we can help Canadians.

We did something in budget 2022, but what we are proposing today, I would say, would more particularly affect the grocery sector. It is always the right day to do something great, so why do the Conservatives not unite with the NDP and Bloc, give unanimous consent, send Bill C-56 to the Senate and show Canadians that we all care about what they are going through?

[*Translation*]

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): It is my duty pursuant to Standing Order 38 to inform the House that the questions to be raised tonight at the time of adjournment are as follows: the hon. member for Sherwood Park—Fort Saskatchewan, Democratic Institutions; the hon. member for Leeds—Grenville—Thousand Islands and Rideau Lakes, Democratic Institutions; the hon. member for Saanich—Gulf Islands, Emergency Preparedness.

[*English*]

Mr. Jasraj Singh Hallan (Calgary Forest Lawn, CPC): Madam Speaker, before I start, I want to inform you that I will be splitting my time with my good friend, the very hard-working member for Simcoe North.

"It was all a dream", as the late Notorious B.I.G. put it. After eight years of the Liberal-NDP government, that is exactly what home ownership has turned into, just a dream. When we talk about the Canadian dream that many newcomers come here for, when they have sometimes left some of the hardest conditions in the countries they are from, that Canadian dream is much more broken now than it has ever been before after eight years of the incompetence of the Liberal-NDP government.

It took until now for the government to even admit there is a housing crisis. It was only months ago when the former housing minister would refuse to stand in this House and even admit there was a housing crisis. It was the current Prime Minister who just months ago refused to say that housing is even his responsibility. We are glad the Liberals finally moved out of that frame of mind and admitted there is a major housing crisis.

How did we get here? How is it possible that a place like Canada has such a bad housing crisis? After eight years of the NDP-Liberal government, hundreds of billions of dollars have been flooded into the Canadian economy, which has resulted in too much money chasing too few goods, including homes. The CMHC warns that Canada will see a 20% decline in the number of new homes being built this year. The government's record is to do less, spend more, and put it on the backs of Canadians. That is exactly what is happening right now.

Toronto has the worst housing bubble in the world. Vancouver is the third most overpriced market globally. Canada has the fewest homes per capita in the G7, this despite having the most land to build on. It just does not make any sense.

We saw the finance minister just three years ago tell Canadians, along with the Prime Minister and the Governor of the Bank of Canada, to go out and borrow as much as they want because interest rates would stay low for a very long time. What these borrowers did not expect was for this out-of-touch, out-of-control Liberal-NDP government to throw hundreds of billions of dollars of fuel on the inflationary fire that it started. What did that do? It gave Canadians rapid interest rate hikes not seen in the last three decades.

It was just two months ago when the finance minister said that she solved inflation, she stopped it, she put the brakes on it. The problem was solved. She started to pray. It has gone up 43% since then to a whopping 4%, and now there is a risk of another interest rate hike. That is another interest rate hike that Canadians just cannot handle because, after eight years of the Liberal-NDP government, housing costs have doubled, rents have doubled, mortgages have doubled. When it used to take 25 years to pay off a mortgage, that is what it takes today in Toronto just to save up for a down payment on a house. This is the housing record of the Liberal-NDP government, which by the way committed $89 billion, the most expensive housing budget ever in the history of Canada, to doubling housing. It does not make any sense.

Back in November, the finance minister said there were two things she would make sure were in her failed budget. The first was that she was going to be very careful not to add fuel to the inflationary fire. The second was that she was going to balance the budget by 2027-28. She blew right through those promises, just like every promise the government has made before that and has promised that she will balance the budget in the year never, and poured a $63-billion jerry can of fuel on that inflationary fire, putting a debt of $4,200 on the head of each and every Canadian household.

● (1640)

The Liberals also made the housing crisis and cost of living crisis worse with their failed carbon taxes. Both of these scams are going to cost each and every Canadian household an average of $2,000 a year extra, in gas, groceries and home heating. So, not only have they doubled all the costs of housing, but the things that go into a house, like gas, groceries and home heating, have gone up because of their failed carbon tax scams.

Now where are we at? According to the IMF, Canada is most at risk today for a mortgage default crisis. Those rapid interest rate hikes happened so fast, which had not been seen in the last three decades, and have made it impossible for people to keep up with their mortgage payments. When Canadians went with the advice of this finance minister and Prime Minister that they could borrow because interest rates would be low for a really long time, they did not expect this government to turn around and throw all of that fuel on the inflationary fire, increasing their monthly payments and reducing what they take home every month. On top of that, there are the other taxes, like the carbon tax, which take more and more out of their pockets.

Have members ever seen, in the history of Canada, international students and refugees living under bridges, in tents and not being able to meet their payments? Now, even reverse migration is happening in some cases. One in five newcomers are saying that they want to go back to where they came from and the number one reason is because of the high cost of living, and number two is because their credentials do not get recognized. This is eight years of this NDP-Liberal Prime Minister and his absolute failures on every single front.

What else are the Liberals doing? Even on their housing accelerator fund, CMHC says that Canada will still be over three million new homes short of building enough homes by the end of 2030.

Well, I have good news for Canadians. It was not like this before this NDP-Liberal Prime Minister and it will not be like this after this Liberal-NDP Prime Minister, because once the member for Carleton, the Conservative leader, becomes prime minister of Canada, we have a plan to get more homes built, bring home lower prices and bring home more powerful paycheques for our Canadians.

Unlike the Liberals, the Conservatives have a plan right now on the table that goes far beyond this limited bill. We have a clear plan where Conservatives would bring home more homes that Canadians can afford. Our leader's common-sense legislation, the building homes not bureaucracy act, would do just that.

We will incentivize municipalities to build. The more they build, the more they would get. The less they build, the less they would get. We need to incentivize these municipalities that this Prime Minister continues to fork over hundreds of billions of dollars to, with failed results.

Unlike the Liberals, the Conservative plan would fire the gatekeepers and get NIMBYism out of the way. We would sell off 15% of federal buildings and acceptable land so that homebuilders could turn it into homes people can actually afford and get more supply into this country, which is so needed. We would make the GST rebate for new rental housing make homes and apartments people can actually afford. The Liberals will just make it easier for developers to build more expensive homes for their ultra-rich friends and donors.

The Conservative plan would cut bonuses and salaries of the gatekeepers at CMHC who are slowing down new home construction and keeping Canadians out of affordable homes. We would rein in government spending to bring down inflation so that the Bank of Canada lowers interest rates and mortgages can come down.

It is just simple math that this NDP-Liberal government still does not understand. It was its out-of-control deficits that fuelled inflation, which made interest rates go up and put Canada most at risk in the G7 for a mortgage default crisis. It needs to reverse course. The Conservatives would rein in the spending so that the deficits will come down, inflation will come down, interest rates will come down and Canadians will be able to keep a roof over their head. We are going to bring it home.

● (1645)

Mr. Mark Gerretsen (Kingston and the Islands, Lib.): Madam Speaker, I would note that this piece of legislation goes to amend, once again, the Competition Act.

A number of years ago, when Stephen Harper was the prime minister, we saw the merger of Shoppers and Loblaws. Now, Loblaws consumes a giant share of the market when it comes to groceries. Some of the measures that we see in the bill are looking to ensure that companies do not get into a position to be able to do that. I wonder if the member can comment as to whether or not he thinks that those measures in the bill are appropriate.

Mr. Jasraj Singh Hallan: Madam Speaker, I hope the member is charging Stephen Harper rent for living so free, in his mind, for so many years.

After eight years of the Liberal-NDP government, everything has gotten worse. There has been less competition and less growth. Our Conservative plan, once the member for Carleton becomes prime minister, would actually lower costs. Today, under the Liberal-NDP government, Canada's GDP per capita is the worst in all developed nations.

Investors do not want to invest in Canada because of the high regulations made by the government and economic uncertainty that the Liberal-NDP government is responsible for. We need to ignite our economic power in this country so people want to invest, get more competition so we can bring prices down and axe the failed carbon tax.

Mr. Charlie Angus (Timmins—James Bay, NDP): Madam Speaker, I was very interested in my hon. colleague's comments and I want to point to one very crucial part of his speech where he talked about the government only being there to help its friends, its "very rich donors". I think he is talking about the Conservatives of Ontario and Doug Ford.

What did Ford run on? He ran on promising people a buck a beer, but what did he deliver? He delivered $8 billion for his insider crony pals. Here is the thing. I know the Conservatives all get whiny whenever their record as a party is questioned, but the mysterious Mr. X, who has been named by the integrity commissioner for being involved in this, is also a friend of the Conservative leader, the member for Stornoway.

I would like to ask the member if he would have any of the discussions between Mr. X and the member for Stornoway made public so we could know what kind of backroom deals the party is already making.

● (1650)

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): I would remind the hon. member that there is no such thing as the member for Stornoway, so it is not possible to answer that.

The hon. member for Timmins—James Bay.

Mr. Charlie Angus: Madam Speaker, I would like to withdraw that comment. He is the member who lives in Stornoway. He is not the member for Stornoway. I thank the Speaker for that.

Mr. Jasraj Singh Hallan: Madam Speaker, I do not know if the member is launching his bid for provincial politics. Once the good people of Timmins—James Bay fire him in the next election for his party supporting the corrupt and inept Liberal government, he is not going to have a job anymore. It is because he refuses to stand with the hard-working people of Timmins—James Bay and continues to prop up the inept, corrupt Liberal government. Not only does it want to create more bureaucracy and red tape, it wants to blow up the public service and give less and less service to Canadians.

What Conservatives want to do is fire the gatekeepers so we can actually get more built in this country for people who are in his riding and all across Canada. That is what Canadians deserve, not more of the tired Liberal-NDP government.

Mr. Martin Shields (Bow River, CPC): Madam Speaker, I know my colleague from Calgary has experience in the construction industry and the building industry. He worked from the ground level up in this industry when he came to this country. I think he would understand what it takes to build in this country.

From the member's own background, could you relate to us how you know that this needs to happen because of your past experience in the construction industry?

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): I certainly do not, but I expect the member for Calgary Forest Lawn can answer.

Mr. Jasraj Singh Hallan: Madam Speaker, I must acknowledge that I am still jealous of the member for Bow River's mustache.

He is absolutely right. I come from the construction industry where many people, including newcomers, get started. There is one consensus in that industry, which is that, just like any small business, people want less government in their businesses, not more. We have seen, after eight years of the Liberal-NDP government, the problem is that it creates more government and more bureaucracy. The government wants to put its hand in the candy jar, leave it in there and take more and more from people.

Small business owners, newcomers, anyone who wants to open a business needs to have less government intervention. There are so many brilliant newcomers to this country, immigrants who come here, want to work hard and—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): Resuming debate, the hon. member for Simcoe North.

Mr. Adam Chambers (Simcoe North, CPC): Madam Speaker, it is a pleasure to be here with you today. I happen to rise one more time to talk about this important issue. I had an opportunity to get some questions in. It was nice to hear from the minister how much affection he has for me.

Perhaps I will save members the suspense. I can be persuaded to vote for this bill, not to fast track it all the way to the Senate, because maybe we have some amendments. As the member mentioned, there are a couple of ideas the government plagiarized from other parties in the House, both the Conservatives and, dare I say, even the NDP.

I have lots of questions and I want to focus on process for a minute. Typically, a government introduces significant money bills twice per year. It tables a budget in the spring, and then there are important measures included in a budget bill in the spring. Then it has a budget bill usually sometime in the late fall, and we typically pass it before everyone goes home for the winter break and Christmas holidays. Five ministers did a press conference last week at the national press gallery, where they all exclaimed that this bill is so important in order to address problems in the country. That is nice. They are finally waking up, but if these ideas were so amazingly brilliant and needed, why did the government omit them from the budget?

The government spends 12 months preparing a budget, and basically admitted a couple of months later that it did not get it all right and that it has a couple more ideas. Where did it get those ideas? It found out the leader of the official opposition was tabling a bill in the House to reduce the GST on purpose-built rentals, so the government rushed like heck to get a bill ready to do just that. Two bills were tabled before the House to get rid of the efficiencies defence, one by the NDP and one by the member for Bay of Quinte, a Conservative member. Last week, the Minister of Innovation, Science and Industry said about getting rid of the efficiencies defence that it is about time and we have to do it.

If the Liberals thought it was such an important idea, they could have fast-tracked any piece of legislation in June, before we left for the summer. What has changed? Why do they all of a sudden have these so-called solutions to problems that the government has not even been able to admit exist? The process matters because it highlights that this is a tired government that is out of ideas and is plagiarizing on its homework. It is now rushing and is likely to make mistakes by rushing and doing significant money bills on such short notice.

Frankly, with respect to the efficiencies defence, it was the Minister of Innovation, Science and Industry who last year, in the last budget, introduced what he called sweeping changes to the Competition Act reform that had not been seen in at least a decade. If this were such an important change to make to the Competition Act, why did he not make the change last year? Why was he waiting until now?

I will tell members why he waited. It is because the leader of the NDP and a member from the Conservative Party made the suggestion. Liberals have actually run out of ideas, but we cannot blame them. It is human nature. How can we believe that we need solutions to problems when for months, members of the government were telling Canadians that no problems exist?

Let me read a few quotes, or let us go back to the tape as they say; we are now in football season.

The first quote states, “Mr. Speaker, the Conservatives continue to talk down the Canadian economy, but the reality is that Canada is the best country in the world...[when] coping...with the challenging global economic environment,” and says our economy grew faster than every other economy. It also says that the reality is that Canada is doing really well and inflation is way better here than it is elsewhere.

● (1655)

A Conservative member in the House stood up and asked the Minister of Finance what happens if inflation lasts just a little longer than we think and we hit a period of economic uncertainty. That question was asked in May 2022, and the answer from the Minister of Finance was, "I have to urge a bit of economic literacy among the members opposite. The reality is that in data released today, the Canadian economy grew by 3.1% on an annualized basis in the first quarter of this year." This was an unwillingness to admit that there is trouble on the horizon. Now, last quarter, GDP contracted, and, guess what? Inflation is still around.

Now, we should not worry, because the government is here to solve the problems because it is just realizing that there is a problem and has all these solutions. However, they are not the government's solutions, they are solutions from others. Am I happy that the government took some ideas from opposition parties? Of course I am, but it goes to show that the government is actually just running out of ideas. The government told everybody that interest rates would remain low forever, and they have not. It said that because interest rates were low, it had to spend and that it would be unwise to not spend.

We are now going to spend as much in debt service costs this year as we send to provinces to deliver health care. It is only going to get worse for debt service costs, because when the budget was tabled, all economists, including the government's; the Governor of the Bank of Canada; and all the experts, said interest rates were going to go down by the end of the year. However, they have not; they have actually gone up, not down. That change is going to represent billions of dollars more in spending to service the debt, even just this year, but for at least the next five years as the government renegotiates, repapers and rolls over $421 billion of debt this year.

The reason the government has to roll over $421 billion is complete and utter negligence in the way it financed its COVID spending when COVID hit. The government told everyone that interest rates were going to remain low forever, and may have even believed it itself. When the government issued the debt, it issued only short-term debt. I cannot take credit for that. A very smart individual, Richard Dias, who is a well-known economist, showed that the government could have saved billions of dollars by issuing long bonds. However, the government chose to issue short-term bonds during the pandemic.

We cannot forget that Liberal tweet and the finance minister's starting the parade when in one month out of 28 months, inflation dropped below 3%. They said their job was done and government's plan to bring down inflation was working.

The Liberals really have not actually done that much. What they have ignored is the actual one thing, or maybe even two things, that would make a difference. One would be to reduce spending, and another would be that one does not have to be Einstein's cousin to realize that if taxes were reduced on the good that is causing inflation, it would reduce inflation. For some reason, that is pretty hard for the members on the other side of the chamber to figure out. However, Canadians are smarter than that. They know better than to trust a government to have solutions to the problems that it does not believe exist. I am glad that the Liberals are borrowing some ideas from the opposition parties.

I look forward to sending the bill to committee. I look forward to bringing some amendments, because I think the bill could actually be better. We could expand the GST rebate. Why are we not including triplexes, co-ops and duplexes? We could be driving more investment in this country, but the Liberals are determined to not have any other party in the chamber get a win.

● (1700)

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, I listened to the member opposite very closely, and one might draw the conclusion that the government has not been aware of the issue of housing for Canadians. The government has been very much aware of the important role the federal government plays in housing. We have seen that virtually from 2015 and even this year, when Canadians are having a very difficult time with regard to housing. That is why we continue to provide programs like the rapid housing initiative and supports in different forms of infrastructure programs. The particular GST issue we are talking about today is something we have talked about in the past as one of those potential options. Today, and it does not matter who has the idea, the legislation would incorporate the idea, and Canadians would benefit from it.

I am glad to hear the Conservative Party giving the impression that it is going to vote in favour of the legislation. The question is when the member would like to see the legislation actually go to committee. Will he confirm he is voting in favour of its going to committee?

Mr. Adam Chambers: Madam Speaker, the parliamentary secretary has been around a long time, and as a rookie member of Parliament, I am speaking only for myself. I cannot speak for my entire party. I am just saying I am encouraged to see it go to committee when it gets there.

Let us talk about rapid housing. Those funds have not been delivered at all rapidly. How about the shared equity mortgage plan that has barely given out a few per cent of its allocated money? It has been a few years. Yes, the member is right; the government has talked about this GST issue for eight years. Why is it making this proposal off cycle and out of budget? It is scrambling.

● (1705)

Mr. Randall Garrison (Esquimalt—Saanich—Sooke, NDP): Madam Speaker, I want to focus on the housing part of this and the proposal in the bill to take the GST off purpose-built rental housing, which is something we support. I want to ask the hon. member about the importance of non-market housing in providing security of housing for many people who are shut out of the market by their income. In my riding, there are 15 co-operatives that provide housing for more than 400 families and have done so for the last 20 years. With just a quick look, I found more than 10 co-op housing projects in Simcoe County providing housing for about 300 people.

Does the member support our proposal that the federal government get back into the building of co-operative housing?

Mr. Adam Chambers: Madam Speaker, there may be multiple ways the government can support co-op housing. Why not allow co-op housing to qualify for the GST rebate for rentals? Why can it not get the same rebate? All kinds of different housing can be supported through the GST rebate. I would support an examination of how we could best do that. If the hon. member has an amendment to the bill that could include co-op housing, I would be open to supporting that or at least taking a look at it.

[*Translation*]

Mr. Mario Beaulieu (La Pointe-de-l'Île, BQ): Madam Speaker, I would like to know what my colleague thinks about the fact that the bill contains no specifics on the type of buildings, the type of housing or any affordability requirements to qualify for the rebate.

[*English*]

Mr. Adam Chambers: Madam Speaker, I will note that a very big difference between the leader of the official opposition's bill and the government bill is that the actual Leader of the Opposition's bill would have required that a certain number of the units in an apartment complex, in order to get the GST rebate, had to be affordable. That might surprise some members in this place, but the Conservative position was that in order to qualify for the GST rebate, one had to have a certain percentage of those units as affordable units.

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Madam Speaker, my friend from Esquimalt—Saanich—Sooke anticipated my question, because the hon. member for Simcoe North mentioned co-operative housing, and that is also a large priority for Greens. We see it as a very successful form of housing. The comments from my hon. colleague from Simcoe North are encouraging. I know he is speaking only for himself, but does he have a sense of how other members of his caucus would feel about really pushing for more co-operative housing to be built?

Mr. Adam Chambers: Madam Speaker, build, baby, build. We need to build it all: market-rate, affordable and everything in between, and in all different sizes, shapes and everything else. I would welcome any thoughtful amendments to the legislation that would see us build more homes of all types faster for Canadians.

Mr. Francesco Sorbara (Vaughan—Woodbridge, Lib.): Madam Speaker, it is always a pleasure and honour to rise in this most honourable of House to speak to something very important: Bill C-56, the affordable housing and groceries act.

I will be splitting my time with the hon. member for Sackville—Preston—Chezzetcook, who will rise after I speak.

With that, let me first say that as an individual, I love capitalism, as I believe many others here in the House do. I love the free markets and creating wealth. Why do I encourage those things? I do so because this is what creates jobs and futures. At the same time, we need government and our regulatory bodies, including the Competition Bureau, to play a role to ensure that there is competition in the marketplace. Everybody likes the free markets and capitalism, but we also need competition to ensure that innovation occurs, that prices become lower, and that the standard of living for all Canadians and for people literally across the world improves.

I am so happy to see that there are a number of items here with regard to the Competition Bureau that will strengthen its role in markets across this country. Getting rid of the efficiencies defence is one thing that I applaud the minister and his team for putting in, as well as the industry committee and other committees that have looked at these issues. It is just so important.

● (1710)

[*Translation*]

Bill C-56 puts forward legislation to encourage the construction of much-needed new rental housing. We are proposing to eliminate the goods and services tax, the GST, on the construction of new rental apartment buildings. This is one more tool to create the conditions necessary to build the kinds of housing Canadians need and families want to live in.

[*English*]

With this bill, we are also moving forward with immediate actions to enhance competition across the Canadian economy, with a focus on the grocery sector. By doing so, we are helping to drive down costs for middle-class Canadians from coast to coast to coast.

Bill C-56 includes a set of legislative amendments to the Competition Act that would do the following: provide the Competition Bureau with powers to compel the production of information to conduct effective and complete market studies; remove the efficiencies defence, which I spoke to earlier, that currently allows anti-competitive mergers to survive challenges if corporate efficiencies offset the harm to competition, even when Canadian consumers would pay higher prices and have fewer choices; and empower the Competition Bureau to take action against collaborations that stifle competition and consumer choice, particularly in situations where large grocers prevent smaller competitors from establishing operations nearby.

Our government is taking concrete actions to help stabilize food prices and improve competition in Canada. However, the industry also needs to step up with meaningful solutions. Canadians can be assured that the government will continue to work day in and day out to bring them much-needed relief.

[*Translation*]

Our government is well aware that the economic situation is still difficult for many families. Many are struggling to make ends meet and put food on the table. However, inflation has fallen from a peak of 8.1% in June 2022 to 4% in August this year. There are now almost 1 million more Canadians in the workforce than before the pandemic. The Organisation for Economic Co-operation and Development predicts that, next year, Canada will experience the strongest economic growth among G7 countries.

[*English*]

However, we know that the past three years have been really hard for Canadians. COVID took its toll on our mental health and on the economy. Thankfully, we are past that. We have gone through COVID, the COVID recession, Putin's illegal invasion of Ukraine, supply chain snarls, wildfires and hurricanes. We continue to see high global inflation and are now enduring elevated interest rates.

Our government will do everything we can to help Canadians get through these challenging times and to build an economy with strong and steady growth, stable prices and abundant, well-paying middle-class jobs for hard-working Canadians. Our government has always believed in investing in Canadians, restoring middle-class prosperity and building a country where everyone has a chance to succeed and prosper.

There were 2.3 million Canadians lifted out of poverty between 2015 and 2021. In 2015, 14.5% of Canadians were living in poverty. Today, that is down to 7.4 %; this is real progress for Canadians across this beautiful country.

Our Canada-wide system of early learning and child care is making life more affordable for hard-working families, saving families in Ontario up to $8,500 this year per child after tax; pre-tax, that is over $10,000. With a record 85.7% labour force participation rate in July for prime-working-age women, it is helping to address labour shortages and grow our economy at the same time.

From enhancing the Canada workers benefit to creating the Canada child benefit and a new Canadian dental care plan, we have strengthened the social safety net that millions of Canadians can count on and depend on. All the while, we have ensured that Canada maintains the lowest deficit and net debt-to-GDP ratio in the G7.

On the housing front, we have been active. We created the tax-free home savings account and doubled the first-time homebuyers tax credit, which will in turn help Canadians afford the home they deserve in the future.

[*Translation*]

With Bill C-56, we are proposing to do even more by eliminating the GST on the construction of new apartment buildings.

Our goal with this legislation is to temporarily change the economic equation so that builders who are dealing with higher construction costs as a result of global inflation get financial incentives to build projects that otherwise would not get built. The removal of the GST will encourage builders to build more housing in communities across the country, which will lower the cost of rent for Canadians.

Our objective is very clear. We want to eliminate the obstacles to building a larger number of housing units more quickly to reduce the cost of those units. Of course, we will also need the co-operation of our partners.

● (1715)

[*English*]

Our government is calling on all provinces that currently apply provincial sales taxes or the provincial portion of the harmonized sales tax to rental housing to join us by matching our rebate for new rental housing. I would like to say that organizations such as RESCON, the Residential Construction Council of Ontario, and its members that build high, low and medium housing have come out in favour of the removal of GST on new purpose-built rental housing. It is something for which I have called for a long time. It was in our platform, and I am glad we are having it done now.

We would also require local governments to end inclusionary zoning and encourage building apartments near public transit in order to have their housing accelerator fund applications approved. Canadians need support when it comes to accessing housing. We need all levels of government to come together in this effort.

In conclusion, there is a lot of work ahead of us to do. As global inflation and the cost of housing continue to impact Canadians, we must continue to take real action to make life more affordable and build an economy that works for all Canadians. With this legislation, we are leading the charge on housing, to create the necessary conditions and build the types of housing we need and that families want to live in.

[*Translation*]

Since 2015, our priority has been to build a strong middle class to offer everyone the chance to succeed, but there is still some work to be done.

The measures we are proposing in Bill C-56 line up with this goal by making it possible to build more of the housing units that Canadians need and to work on lowering the price of groceries.

I invite my colleagues to support this important bill.

[*English*]

I am so glad to see Bill C-56 come to the floor of the House of Commons for debate. I encourage the House to get this bill to committee as soon as possible so the finance committee, or whichever committee will be looking at it, can debate it and even look at amendments to strengthen it. There are many things that are good for the economy in this bill. They are good for the housing sector, for the Competition Bureau and for helping our businesses, as we have done with the Canadian emergency business loan, which put in place during COVID and helped hundreds of thousands of businesses survive in our country.

Let us all work together in the House to get this bill approved for all our businesses, for our stakeholders and, most important, for every single Canadian in this beautiful country.

Mr. Frank Caputo (Kamloops—Thompson—Cariboo, CPC): Madam Speaker, it is always a pleasure to rise on behalf of the people of Kamloops—Thompson—Cariboo. Today, I rise for one special person. I would like to recognize my mother's birthday. Obviously, without her sacrifice and my father's sacrifice, I would not be here. My family came from southern Italy, as did that of the hon. member opposite who gave the speech.

The government said that interest rates would be low forever. The Liberals told people to borrow, and they borrowed like crazy; so did the government. Would the member agree with me that this is in part why we are in the crisis that we are in?

Mr. Francesco Sorbara: [*Member spoke in Italian*].

[*English*]

Madam Speaker, my family and the member's family have known each other for over six decades, if memory serves me well. There is much respect between our families, who both immigrated here from southern Italy.

With regards to the question on interest rates, as an economist and someone who worked on Wall Street for a number of years and on Bay Street for over a decade and who follows the financial markets very closely, there is obviously a period of normalization of rates going on across the world, not just here in Canada. Following the 2008-09 financial crisis, rates were made very low.

I will stop there, but I would be more than happy to sit down with the member and give him my views on interest rates, on where the long bond will be and on where short and mid rates will be in the future.

● (1720)

Mr. Charlie Angus (Timmins—James Bay, NDP): Madam Speaker, this issue is important. The housing crisis is affecting every single one of our communities. Certainly, in Timmins—James Bay, when we look at the indigenous communities, we have massive rates of homelessness. Even in our urban centres now, where we have a young population looking to live, there is no place to live. We have a growing economy; people cannot move in. For senior citizens who cannot stay in their old farmhouses and want to move into town, there is no housing.

I would ask the hon. member about a sense of urgency. I have heard about housing since this government was elected, but I have not seen the urgency on the ground to actually move towards mixed units, co-operative housing and apartment opportunities so that we can get housing now, whether for new Canadians, students, workers or senior citizens in communities like Timmins, Kirkland Lake or Belleville. In any community we name, it is the same crisis.

Mr. Francesco Sorbara: Madam Speaker, the member for Timmins—James Bay and I sit on the natural resources committee together and have travelled together, and so I know the individual quite well.

Housing is obviously a priority for all Canadians, and we do know that there is currently a housing crisis happening here in Canada. We do know that we have to build, which is why we are working with all levels of government.

We saw a very important step. We have seen the rapid housing initiative with our national housing affordability plan put in place, which has helped a lot of Canadians who are very vulnerable find housing, but we also know that we need to build. That is why we have the $4-billion housing accelerator fund working with municipalities to end exclusionary zoning so that we can get that density up. We are working on ensuring that funds that are invested by the federal government for infrastructure have density with them, much like what is happening at the Vaughan Metropolitan Centre in the City of Vaughan where we had a population of zero going up to almost 50,000 in over a 10-year period. It is very dynamic to see and a lot of good stuff is going on.

We know that the builders are up for it, we know that the skilled trades are up for it, we know that municipalities are up for it, and we are working with them.

Mr. Tako Van Popta (Langley—Aldergrove, CPC): Madam Speaker, I have a question about the grocery portion of Bill C-56.

I am reading the Competition Bureau's report from June of this year entitled, “Canada Needs More Grocery Competition”. In that report, the Competition Bureau makes the point that the big three retailers earn a profit combined of $3.6 billion. It sounds like a lot of money, but that is on $100 billion of sales. So, that is a 3.6% profit margin, which certainly does not sound like greedflation, as our NDP colleagues like to call it.

My question to the member for Vaughan—Woodbridge is whether he thinks 3.6% is too much profit.

Mr. Francesco Sorbara: Madam Speaker, I always believe in looking at the first derivative, what the percentage change in a number is and so forth. I would obviously look to see how the margins have fared over the past couple of years.

Having covered the grocery sector and the private sector, I know quite well how they operate. Literally tens of thousands or hundreds of thousands, of people work for grocers across Canada along the continuum from the food terminal in Etobicoke to our local grocers in my riding, such as Cataldi, Longo's and Fortinos. Those are wonderful folks who need to be supported. They need to have good wages and good benefits, and we will make sure that we encourage that—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): We have to resume debate.

The hon. Parliamentary Secretary to the Minister of Rural Economic Development and Minister responsible for the Atlantic Canada Opportunities Agency.

[*Translation*]

Mr. Darrell Samson (Parliamentary Secretary to the Minister of Rural Economic Development and Minister responsible for the Atlantic Canada Opportunities Agency, Lib.): Madam Speaker, it is always a pleasure to rise in the House to share my views on a bill. This one is extremely important because it deals with housing affordability and the cost of groceries, an essential matter.

[*English*]

Throughout the summer months, I too heard clearly from constituents about the price of groceries.

I heard it from my kids. I have three kids and they remind me whenever they see me. When I go to the grocery store, I notice the prices are much higher than I believe they should be. I can go to certain grocery stores and see items at half the price. Something needs to be done, and our objective is to try to bring stability in pricing.

In my speech today, I will talk about what we have done thus far, what we are going to do now to help affordability, because it is a real issue to Canadians right across this country, but I will also talk about the importance of investing in our strengths so we can bring more revenues to the table and do more to support Canadians.

Prosperity is the key to success, as my dad used to say, and we have shown big investments that look into the future. Electric vehicles is one, of course. We have given big contracts in Ontario for batteries. The trade agreements we have signed over the last four or five years bring prosperity. I will also talk about offshore wind farms and the Atlantic Accord, which the Conservatives do not want to support.

Let me start with some of the key things we did to help with affordability, because this is crucial. We doubled the GST to two quarterly payments to help those in need, the low-income Canadians, which is so important. There is the Canada workers benefit; depending on one's salary, one can receive $2,400 a year. We made some changes so every three months one will receive a quarter of that sum, so one can have more money as one faces some the challenges out there.

There is the disability benefit, which we passed in the last legislation and is so important, because we know people with disabilities are the most vulnerable. The highest poverty in the country is among people with disabilities, so we need to move forward on that very quickly.

I need to talk about something extremely important, which is indexing. Indexing of inflation is key here, because if one's pension or the benefits being received do not increase with the cost of living, it makes it even more difficult. Therefore, we came forward with the CCB, which is tax-free, but it is now indexed to inflation so young families can continue to count on that growth to help them. This is so important.

The GST is exactly the same; we have adjusted that. As well, there are changes to the Canada pension plan, to help Canadians not fall behind. We already made a big improvement in that area, and where a person was getting about $11,400 a year, now it is up to $20,000 a year, which will be a great help.

I want to talk about the OAS and the GIS, because those are specifically touching seniors. In here, we have ensured indexing for these as well. This indexing, which is so important, will see a 30% increase by 2027-28 in the OAS and GIS, which is crucial. Our government will be investing about $20 billion a year to continue to support our seniors, which is over and above what we are paying now.

Early learning and child care is such an important investment. It is tax-free as well. Already, today we see that 50% of the provinces have lowered the price to $10 a day, with the rest to follow in the next couple of years. This is having an effect on affordability for young families.

On housing, last year in one of our bills there was a top-up that helped 1.8 million low-income Canadians. As well, there was a one-time payment for groceries that helped 11 million Canadians, with single people receiving a little over $200 and a family of four over $400. Those are specific investments helping affordability, but it is not enough, which is why we will bring more forward.

● (1725)

Also, we talked about students in university, now having a tax-free interest rate, which is very important. We increased, by 40%, the grant funding so that they can have more money to pay for their expenses because we know the challenges. Just the interest rate and the student loan is over $600 a year for a student. That is a help, as well, toward affordability.

Who can forget, of course, our very important investment in dental care for Canadians? We will see over nine million Canadians, by 2027, receive dental care. Already today, over 340,000 children have received support through dental care, which is crucial.

My riding of Sackville—Preston—Chezzetcook has seen some of these benefits but so have the ridings of many other members of Parliament in the House. We have seen investment in child care spots in my riding. It means more space. We made 500 more spaces in Nova Scotia. My riding of Sackville—Preston—Chezzetcook will receive 119 of those 500, well over 20%.

We are also receiving, of course, the CCB, for young families. The CCB in my riding alone will be over $5 million per month for young families. That is over $60 million a year. People in all of the MPs' constituencies are receiving those monies to help them, which is so important.

We then see an investment in the Canada community revitalization fund, which allows many of my communities to benefit from these important investments.

I cannot understand why a Conservative would not be in favour of the tweaking of the Atlantic Accord, which is so important. For the first time ever, we are going to see an offshore wind farm here, right here. It will be the only one in Canada. There are none today. This creates that opportunity to allow this industry to bring more revenues and more great jobs for Canadians. These are major steps and there is a trillion dollars to be had in investment by 2040.

This legislation today that needs to move very quickly to committee is the GST rebate and this is focused on various types of housing, which is crucial, of course.

The minister tells me that the five main grocery chains, when they were here last week, did understand that they too have a role to play to support Canadians with regard to affordability. It is important that they play a role and they are open to coming back to us, I understand, by the end of this week with some proposals that will see those costs lowered, which is so important.

I want to talk about the Competition Bureau's act. The competition bureau has a major role to play. We are going to make some major changes here. This came out of a report back in 2022, that more competition is needed, more innovation is needed and this is one way we can ensure that the prices, again, find their way downward.

As I said, we have made some investments in the past. We are bringing forward some major investments this time around. We also have to keep our eyes focused on our strengths and that is investing in our people and looking to, in the future, where our investments should go. We did it with the electric car. We did it with the batteries.

On the wind farm project, it is hard to believe that Canada has the biggest coast and shores in the world and Nova Scotia, Newfoundland and Labrador have the fastest winds in the world. This is how we can grow this economy. There is so much to be had through this investment.

Why, again, I ask, are the Conservatives not supporting Atlantic Canada, especially today when we need to?

● (1730)

Mr. Ted Falk (Provencher, CPC): Mr. Speaker, I thank the hon. member from Atlantic Canada for his inspiring speech. What inspires me is what you are missing. There is an easy way to address affordability for housing and groceries and I think you have overlooked it.

You have recently, as a government, announced that there is going to be a GST credit for new construction of rental properties. That is a start, but that is a one-time tax credit. Why do you not look at the carbon tax, which is a compounding credit? It compounds every single process in a product and it compounds every single movement that a grocery item makes to the grocery store.

If you really want to make life more affordable for Canadians, why do you not drop the carbon tax, both of them, the clean fuel standard tax and the carbon tax?

Let us axe the tax.

The Deputy Speaker: There are lots of things I would like to be able to do, but I cannot do it here in the Chair. I will ask the hon. member to make sure he runs his question through the Chair and not directly to a member.

We have a point of order from the hon. member for Timmins—James Bay.

Mr. Charlie Angus: Mr. Speaker, we have very clear rules about how to address members; it has to be through the Chair. I just want to clarify did you, Mr. Speaker, bring in the carbon tax or is he misunderstanding the rules of the House? I would like to have that clarified.

● (1735)

The Deputy Speaker: I just addressed that before the point of order got going.

Maybe the hon. member for Provencher wants to retract or change how his question was worded.

Mr. Ted Falk: Absolutely. Let me try that again, Mr. Speaker.

Mr. Speaker, through you to the member, did the member perhaps consider whether a better way to address the affordability crisis of housing and the cost of groceries would be to axe the tax, which would be the carbon tax and clean fuel standard tax, because they are compounding taxes? Every step of the way in processing, groceries or in the construction of housing—

The Deputy Speaker: I think we got the gist of it.

The hon. member for Sackville—Preston—Chezzetcook.

Mr. Darrell Samson: Mr. Speaker, I want to thank my colleague for his question and I also want to thank him for praising our government in bringing forward the GST under housing. That is a very important project and I am glad he is realizing the project is important.

We know that their party, when it comes to climate change, cannot see that climate change is extremely important and is walking hand in hand with investments in the economy. When I talk about investments in the economy, why are they not supporting the Atlantic Accord? It could bring trillions of dollars to Canada and we could be leaders in the world. Do not hold back; join the team. Let us go.

[*Translation*]

Mr. Jean-Denis Garon (Mirabel, BQ): Mr. Speaker, I would like to thank my colleague for his high-energy speech. That is not surprising. We know our colleague well.

The Prime Minister, who is of course a member of his political party, recently took aim at Quebec municipalities by saying that housing was not being built quickly enough because of all kinds of regulations. What is rather surprising is that, in my riding, for nearly 50 years, the federal government has been imposing non-construction easements on an airport in Mirabel that has effectively been shut down. This is preventing us from building on residential land and potentially depriving the people of Mirabel of thousands of housing units.

How is it that the government is so quick to point the finger at the municipalities but has such a hard time looking inward at its own regulations? Are there no mirrors in the Liberal backroom?

Mr. Darrell Samson: Mr. Speaker, I thank my colleague for his question. I must say that he represents Mirabel well. He often talks about the Mirabel airport and its land.

It is very important to note that our government has been the most effective at working closely with municipalities. Many municipalities across the country have seen great improvements, including in Quebec, a province that is key in this discussion. This is a partnership. We have invested in Quebec, and we will continue to invest in housing, because it is essential. Whether someone is from Quebec, Cape Breton Island or Vancouver, they need housing, and that is exactly what we are going to work on.

[*English*]

Mr. Don Davies (Vancouver Kingsway, NDP): Mr. Speaker, like many members in this House, the people of Vancouver Kingsway are experiencing unprecedented high prices for food. People are going to supermarkets and finding that the price of three apples is about $5. I am not sure how anybody can eat nutritious food with the kinds of prices we are being charged in this country.

There has always been a problem in our schools with children not having access to healthy food and it is even worse today. The Liberals and the NDP campaigned last election on having a billion dollars over five and four years respectively to get started on a national school nutritious food program. We are the only country in the G7 that does not have one.

Would my hon. colleague not agree that, at a time of unprecedented high prices for food and when so many families are struggling, this is the ideal time for the federal government to bring in this long-overdue program to make sure that kids, when they go to school, get at least one nutritious meal, so they can learn better and help relieve the strain on family budgets across this country?

Mr. Darrell Samson: Mr. Speaker, I agree that we need to stabilize prices. It is very important. Coming from the education system, I know that many schools have a program to support vulnerable kids. That does not take the point that the hon. member is making that we can do more. I think a national program is something we need to look at. As I said, we have structures in place as we speak, but we can improve them and that is something that we need to continue to have conversations about, because it is a very challenging time for many families in this country.

● (1740)

Hon. Kerry-Lynne Findlay (South Surrey—White Rock, CPC): Mr. Speaker, I will be splitting my time with the member for Parry Sound—Muskoka.

We have a cost of living crisis in Canada. The prices of housing, groceries, fuel and home heating have pushed far too many to the financial breaking point. Once upon a time, if people worked hard in Canada, they could earn a paycheque that would comfortably pay for their necessities. They would even have some cash left over and maybe take a family vacation.

My father was an electrician. One of my brothers is an electrician and another is a carpenter. These are good blue-collar jobs in the skilled trades. We grew up in a safe neighbourhood on Vancouver Island, a place that is not that safe anymore. My father worked hard, and he was able to raise and support six children. We did not always have a lot, but we always had enough. My brothers worked hard and were able to live comfortably. Sometimes, we did not have a lot in our kitchen cupboards, but my father never had to visit the food bank to put food on the table for us.

That was the promise of Canada, but under the Liberals, that promise is broken. After eight years of the overbearing NDP-Liberal government, Canadians are out of money and they are turning their backs on the Liberal Party and the Prime Minister knows it. Out of pure political desperation, he has put forward new legislation to address the mess he has made of housing and grocery prices. Unfortunately, this legislation, Bill C-56, is inadequate.

The Liberals could have adopted the comprehensive housing policy put forward by the Leader of the Opposition in the building homes not bureaucracy act, but instead, they are taking a patchwork approach to the housing crisis. The bill would remove the GST for rental unit construction projects, a campaign promise the Liberals made and broke in 2015. I support this proposal, but would have preferred that the Liberals adopt the positive and sweeping reforms contained in our Conservative leader's bill. I will have more on that in a moment.

Bill C-56 also includes Conservative policy introduced by my colleague from Bay of Quinte in amending the Competition Act by removing the efficiencies defence. This change would give the Competition Bureau more teeth to prevent mergers that would lead to higher prices and less choice. The changes in the legislation are positive and supportable, but it is lamentable that we are in this economic position in the first place.

After eight years of the NDP-Liberal costly coalition, the promise of Canada is broken. Canadians with higher education and many working in the skilled trades find themselves living in tents or in their cars. Crime, chaos, drugs and disorder plague our streets, and we have a Minister of Justice who says it is all in our heads.

After eight years of the NDP-Liberal government and its punitive carbon tax, the cost of groceries is out of control, and Canadian families are hurting. There is a tax on the farmer who grows the food, a tax on the trucker who ships the food and a tax on the store that sells the food, and they are all a tax on the family struggling to buy the food. One in five Canadians is now skipping meals because they simply cannot afford food, and food bank usage is now up at levels we have never seen before. Food banks in my community are at risk of bankruptcy because they cannot keep up with demand. Put simply, our citizens cannot afford to feed themselves because of the NDP-Liberal government.

They also are struggling to put a roof over their heads. Nine in 10 young Canadians believe the dream of home ownership is just that: a dream. Mortgages have doubled. Rents have doubled. Down payments have doubled. Greater Vancouver is now the third most overpriced housing market on the planet. In the city of Vancouver, the average rent is over $3,300 a month, and for a two-bedroom apartment it is nearly $3,900 a month. We can add that to the $2 plus for a litre for gas.

A recent C.D. Howe Institute study determined that in Vancouver nearly $1.3 million of the cost of an average home is from government gatekeepers adding unnecessary red tape. That means that over 60% of the price of a home in Vancouver is bloated by delays, fees, regulations, taxes and high-priced consultants.

● (1745)

Data from Statistics Canada shows that residential construction investment has declined for the fourth consecutive month, including a decrease of 3.2% in Vancouver. In Canada, it used to take 25 years to pay off a mortgage. Now it takes 25 years just to save up for a down payment. The NDP-Liberal government's record on housing has been nothing short of disastrous.

Just a few weeks ago, the Liberals met in London, Ontario, for a three-day retreat. They said that housing and affordability were their top priorities. What did the retreat accomplish? They reannounced their broken campaign promise from 2015 to remove the GST from new, purpose-built rental housing. After the Liberals heard about our common-sense Conservative plan to axe the housing tax, they flip-flopped and tried to take credit.

To address the increase in the price of food, the Prime Minister announced that they were calling in the grocery store CEOs for a meeting. I am sure they were very intimidated. He then threatened them with tax measures that would inevitably be passed on to consumers if they did not lower prices. As expected, this amounted to nothing more than a stunt, a grocery gimmick, theatre. Photo ops, announcements, virtue-signalling, and now they are plagiarizing ideas from the Conservatives.

If the NDP-Liberal government is looking for another idea to plagiarize from Conservatives, it should repeal its carbon taxes and stop the reckless spending that caused this affordability crisis in the first place. These are the real reasons Canadians are struggling with the high cost of living: high interest rates, and high prices in the grocery stores and at the gas pumps.

Bill C-56 does not go far enough and simply would not cut it when it comes to addressing and fixing the housing crisis in this country.

The Leader of the Opposition introduced the building homes not bureaucracy act in Parliament last week. This is a real plan that would tie housing completions to infrastructure funding so we can get shovels in the ground while providing a building bonus to municipalities that exceed their home-building targets. Simply put, if one builds more houses efficiently, one would get more money. Projections are that Canada needs 3.5 million new homes by 2030. We had better get started. Our message to municipalities is clear: build, build, build.

The Prime Minister rewards big city gatekeepers with tax dollars, regardless of whether or not they build homes. Our Conservative plan would require municipalities to build homes close to transit. Conservatives would also list 15% of the federal government's 37,000 buildings so they can be turned into affordable housing. We would remove the GST for any new home with rental houses below market value, incentivizing the construction of affordable homes. Conservatives would cut the bonuses of the gatekeepers at the Canada Mortgage and Housing Corporation if they are unable to speed up approval of applications to an average of 60 days. Under the watch of the Prime Minister, these bureaucrats have been rewarded with huge performance bonuses for an abysmal performance. Much like the current Prime Minister, Bill C-56 is weak, inadequate, and reeks of desperation.

Only a common-sense Conservative government would fix this housing crisis by building homes not bureaucracy. Only a Conservative government would bring home lower prices for Canadians by ending the inflationary deficits and axing the carbon tax. The promise of Canada is broken, but hope is on the way. Conservatives would reverse these reckless policies and restore the promise of Canada.

Mr. Mark Gerretsen (Kingston and the Islands, Lib.): Mr. Speaker, I know in this bill there are specific improvements to the Competition Act, in particular, what the Competition Bureau can do to ensure that monopolies and such are kept at bay, because they are obviously not a good thing for competition. I wonder if the member can provide some comments as to how she sees the parts of the bill with respect to the Competition Act and whether or not she thinks they will be successful at achieving their goals.

Hon. Kerry-Lynne Findlay: Mr. Speaker, yes, we do think they will be successful in achieving these goals. That is why the member for Bay of Quinte brought forward the legislation in the first place. We are really glad the Liberals decided to steal our ideas because these are good ideas, and they would benefit Canadians.

● (1750)

Mr. Don Davies (Vancouver Kingsway, NDP): Mr. Speaker, I have a lot of respect for my hon. colleague from British Columbia, and I usually find her speeches to be informed and interesting, but she, like a lot of her Conservative colleagues, keeps referring to eight years of an NDP-Liberal coalition. She knows that the confidence-and-supply agreement signed between the two parties is two years old, and prior to that, there was no formal or informal arrangement of any type between the NDP and the Liberals.

I am wondering if this is the kind of thing that we would see from a future Conservative government, where there would be active exaggeration to, if not outright misleading of, Canadians about the goings-on in Parliament? Does she agree with me that it is important to speak with integrity and accuracy in the House?

Hon. Kerry-Lynne Findlay: Mr. Speaker, yes, I do agree with hon. friend that it is important to speak and act with integrity in the House. We see too little of it from the government, but I do believe in it. If I misspoke or exaggerated, I guess those two years have felt like eight years.

[*Translation*]

Ms. Sylvie Bérubé (Abitibi—Baie-James—Nunavik—Eeyou, BQ): Mr. Speaker, according to the Société immobilière du Québec, 40% of Quebec households are renters, yet only 14% of the housing expected to be built by 2030 will be rental housing. If we do not reverse the trend, it will be a national tragedy. We would need to triple the proposed amount of new rental housing to keep the housing crisis from getting worse.

Is it going to take more than 25 years to resolve the situation?

[*English*]

Hon. Kerry-Lynne Findlay: Mr. Speaker, I agree with my hon. colleague that we are in a crisis. We need affordable housing. We need rental housing. We need homes that people can buy. We need homes that people can rent. We need to increase supply.

We have the smallest number of housing units per capita in the G7, with the most land to build on, and that is exactly why we want to see more purpose-built housing. We want to incentivize that building. We want it done efficiently, and we want it done solidly, but there is no reason it should take the kind of time it does or that the bureaucratic hoops people have to go through should add such an egregious cost to it.

We need to understand that we are in a crisis. We need more. Canadians are suffering, and this has to end.

Mr. Martin Shields (Bow River, CPC): Mr. Speaker, my hon. colleague from South Surrey—White Rock represents a riding that has a very diverse base, and I would imagine that she has an understanding as to why this bill is very limiting on what it could do for housing in her riding.

I wonder if the member could respond to the types of housing that are needed and not addressed in this piece of legislation.

Hon. Kerry-Lynne Findlay: Mr. Speaker, I live in one of the most beautiful spots in the country, but it is unaffordable for many people. I was door knocking recently and people would immediately get tears in their eyes, telling me how they are doing double shifts and everyone in the family is working just to try to keep the home they are already in to meet the increases in mortgage payments, which are unfathomable to them. We pay mortgages in this country with after-tax dollars, and it is very difficult for people right now.

What Conservatives are saying is that the bill could have been more comprehensive, there could have been a lot more attention paid to the kinds of things the Conservative leader is proposing, such as incentives and disincentives, to work with all levels of government to make this happen. It is going to take a coordinated, comprehensive approach to improve housing in this country, and right now too many people are operating in too many silos and the bureaucracy is adding to the costs and the delay.

● (1755)

Mr. Scott Aitchison (Parry Sound—Muskoka, CPC): Mr. Speaker, in 2017, we saw the Prime Minister announce with great fanfare the national housing strategy. He said it was going to be life-changing and transformational. That was in 2017.

Since then, house prices have doubled, and we have just heard the opposition whip remind us that about nine out of 10 young people in this country do not own a home and do not believe they will ever have that opportunity. Rents have doubled in this country, and that is if someone can find a place to rent. Vacancy rates are now at an all-time low, generally hovering around 1% across the country.

Inflation is skyrocketing, which of course, means that interest rates have spiked, which caused mortgage rates to go up. Mortgages have doubled. People with variable rate mortgages have seen their payments double. Those with fixed rate mortgages who are going to renew those mortgages in the next several months or years are worried that they are not going to be able to afford their home anymore. This is in the midst of a housing crisis.

Homelessness is on the rise. There are tent communities now in cities large and small all across the country. There are new immigrants and students who are living in homeless shelters, like Covenant House in Toronto. On average, three homeless Canadians die every week on the streets of Toronto.

The national housing strategy has certainly been life-changing for many. It has been transformational, but not the transformation that I suspect the Liberals had hoped for. It is not just in the big cities, of course. I represent a smaller community. I would like to say it is as beautiful as South Surrey—White Rock, maybe more, but it is also very expensive there.

Forty percent of households in Parry Sound—Muskoka spend more than 30% of their income on shelter costs. The median employment income in Parry Sound—Muskoka is about 20% lower than the provincial average across Ontario. The vacancy rate for rentals in Muskoka is 0.65%. That means there is nothing to rent. People are stretched thin because they cannot afford to pay for groceries because of the carbon tax. I get calls every week, and I am sure everyone in the House gets these calls as well, from constituents who are facing high prices at the grocery store. They feel the pinch of the carbon tax every time they go to the grocery store, fill up their car or need to get more fuel to heat their homes.

The people in my riding do not think the Liberal government cares, and it is hard for me to tell them otherwise. With an ever-increasing carbon tax that punishes rural Canadians and the most vulnerable in our society, there is no relief in sight.

On grocery prices, it is no wonder prices are so high. There is carbon tax one and carbon tax two point zero. It is on the farmer who grows the food and the trucker who delivers the food. It is a tax on food.

Here we are today. Over the summer, the Prime Minister shuffled his cabinet and named a new Minister of Housing. Someone started to wake up and realize that there is in fact a crisis in housing, and that the government has to do something because what it has done clearly is not working. However, it was not before the Prime Minister took an opportunity, while announcing a few units in Hamilton, to deflect from his failure by saying that it is not primarily his responsibility.

It was a life-changing, transformational program in 2017. In July 2023, he told Canadians that it was not really his fault. Now today, we have Bill C-56, which is supposed to be a big new change coming to the housing portfolio. What is offered on housing in this bill?

The Liberals are finally delivering on a promise they made back in the 2015 campaign to give back the GST on the construction of new rental buildings. That is it. That is all. We were expecting big change from the new minister and big change coming from the Prime Minister. However, this is what we got.

What is not in the bill? How about some CMHC reforms? The Canada Mortgage and Housing Corporation, which reports to the government, might be one of the biggest gatekeepers in the whole country. I know lots of colleagues around the House who have heard from people in their ridings, whether it is from small community groups trying to get housing built or smaller municipalities, about the stories of anguish when they go to CMHC to try to get their ridiculously complicated funding application approved. With the bureaucratic hurdles at the CMHC and in Ottawa, they often give up. If they do get a response, they often do not even get a reason why they have been rejected.

● (1800)

We can see builders and community groups, which do not really have the resources to battle with the CMHC, going back to the drawing table without much guidance on what they have to do differently. It is like this, of course, because this government has allowed the CMHC to grow and grow over the last eight years, and it kills more projects that it approves.

The member for Carleton, the Leader of the Opposition, put forward a bill that Bill C-56 certainly would not address. It would provide accountability to Canadians for the CMHC in Ottawa. The CMHC would have, on average, 60 days to respond to an application. We would put the executives at the CMHC on notice. We would put their bonuses on the line and say, "You have to meet these timelines", because in a crisis, we pull out every stop. It is a bold target, but in a housing crisis, there cannot be some bureaucrat in Ottawa who is blocking homes. They have to be looking for every way possible to get more homes built.

Speaking of targets, they are another thing that is missing from the bill before us. For too long, the federal government has been happy to give massive federal transfers to cities to help them build all kinds of infrastructure with no strings attached to get more housing built. We need to tip the scales back in favour of the builders, not the blockers, because there is a scarcity of housing. There is a huge lack of supply. There are not enough townhomes, triplexes and single family homes, and not nearly enough density around transit. We need to make housing abundant again in this country. What is missing in the bill is any target for the municipalities to meet.

The Liberals are happy to fly around the country and hand out a cheque here and a cheque there for a few hundred units here and a few hundred units there, and that is as far as it gets. They do not have targets, so we see no results. On this side of the House, we believe in results. On that side of the House, they seem to believe in photo-ops and talking points, and that is not working. We need accountability, incentives and targets.

To me, it is pretty clear that the government just does not get it. The last minister of housing could not even admit that housing was a crisis in this country. The new minister started out doing what the last minister did by trumpeting on social media about the great success they are having on housing. He then went on a little housing retreat in P.E.I. and listened to the experts, including some experts who actually proposed some pretty good ideas. Then he went to London for another retreat and teased the media on the way in about something that will be really big that we have never done before in housing. Then he came back out and announced the same old funding from a program they started a year ago, which has delivered no results. It is more of the same: meaningless photo-ops and announcements of a little bit of money. There are no plans, no targets, no goals and no results.

To the young people shafted by the government, to all the seniors on fixed incomes worried about how they are going to get by and to the new Canadians who come here and feel like they have been sold a bill of goods, I say that I am sorry we have a government that pretends to care but does not really deliver.

To the House and to the government, I say that Bill C-56 is a cruel joke. It is not serious. The Liberals give themselves lots of pats on the back, but there are no results. The proof of their failure is in the dismay of the young people who have given up the hope of owning a home. It is in the tear-filled eyes I see when seniors come to me and feel ashamed that the food bank they used to donate to is one from which they now have to get their groceries. The proof is in the tent cities, where people living in tents go to their jobs but cannot find a home. The proof is in the number of homeless Canadians who die on the streets.

There is a housing crisis in this country, and Bill C-56 is further proof that the government just does not get it.

Mr. Mark Gerretsen (Kingston and the Islands, Lib.): Mr. Speaker, I listened to the comments from the member, and I think it is unfortunate when we say stuff like "The government does not care." We certainly can have differences of opinion in terms of policy and the effectiveness of it, but to suggest that members do not care is, I think, disingenuous.

The member talked about CMHC and how a Conservative government would use CMHC and give it a mandate of 60 days to respond, or something like that. However, that just highlights a misunderstanding of CMHC's role in affordable housing and the way it delivers funds to projects. Organizations do not go to CMHC and say, "Here's my application; give me a yes or no." They go to CMHC, and CMHC helps them walk through the various ways in which to apply in order to maximize the opportunity for funding in order deliver more housing. CMHC is less an agency that stamps either "yes" or "no", and more an agency that is meant to work with the applicant. I have had my fair share of grievances with respect to CMHC, but in my community, for example, it is certainly doing exactly that and has delivered on at least seven or eight projects in the last few years.

● (1805)

Mr. Scott Aitchison: Mr. Speaker, it is clear to me that he does not really understand how the CMHC does or does not work, and that is not surprising considering the fact that we have an agency that is charged with the responsibility of delivering this life-changing, transformational national housing strategy. It has been an abject failure and they still pay themselves massive bonuses at the end of the year for a job well done.

Honestly, that is cold comfort to the people in this country who are desperate for a warm, safe bed to sleep in at night.

Mr. Charlie Angus (Timmins—James Bay, NDP): Mr. Speaker, I listened with great interest to my hon. colleague, who I respect, and I think he has good knowledge of the file.

The one thing I need to question is this relentless line from Conservatives about gatekeepers, bureaucracy and red tape. They always throw out the line, for example, that it takes 10 years to get a mine into production. I come from mining country. There is not a single investor on the planet who would open a billion-dollar operation in a mine without doing absolute due diligence, which does take 10 years to actually map out an ore body.

It is the same for getting housing right. We have seen the leaky condo scandal that cost $7 billion in B.C. We have seen the crappy concrete crisis in the U.K. that happened under Conservatives because they were not making sure that things were done right.

When I see the blame about municipalities acting as gatekeepers, in my region, they are more than ready to get these houses built, but they have to be built right.

Mr. Scott Aitchison: Mr. Speaker, I do not know why his colleagues are clapping for him because he is clearly confusing zoning processes and planning applications with building inspectors.

It should not take six years to get a piece of property rezoned to what someone wants, which is the exact same thing that is next door and on either side of the property. Making sure the building is built properly has nothing to do with zoning and it has nothing to do with planning applications, but it has everything to do with the building inspectors.

I do not know about mines, but I know about housing. The zoning process will have no impact on whether there are leaky pipes in the building or not.

The Deputy Speaker: We have a point of order from the hon. deputy House leader.

Mr. Mark Gerretsen: Mr. Speaker, I just wanted to make sure we are talking about zoning and building permits. Am I in a city council chamber right now or is this a federal House of—

The Deputy Speaker: That is debate. It is well understood there are a number of mayors sitting in this chamber.

The hon. member for Hamilton East—Stoney Creek.

Mr. Chad Collins (Hamilton East—Stoney Creek, Lib.): Mr. Speaker, the common-sense legislation theme today sounds a lot like the common-sense revolution under Mike Harris. Members may recall those days when another Conservative government at another level downloaded municipal non-profit housing to municipalities, and they have been stuck with that cost ever since.

Why can the member opposite and his party not see fit to support programs for the seniors he talked about and for those people who are on affordable housing wait-lists across the country? That is not their plan. Their plan is more like the Mike Harris days from the 1990s.

Mr. Scott Aitchison: Mr. Speaker, I was on a municipal council when that downloading happened. The reason that was downloaded is because the federal government was reducing transfers to provinces because of the outrageous spending of the first Trudeau government, the downturn and the global economy. They stopped building housing. Of course, that trickle-down effect impacted municipalities the most. I know that member, who was on city council, knows exactly what I am talking about.

Mrs. Salma Zahid (Scarborough Centre, Lib.): Mr. Speaker, I will be sharing my time with the hon. member for Winnipeg North.

I rise today to speak at second reading to Bill C-56, an act to amend the Excise Tax Act and the Competition Act; also known as the affordable housing and groceries act. I believe this is an important and very much needed piece of legislation. Before I get into the specific measures contained in this bill, I would like to speak to the global economic situation that makes some of the measures contained in this bill necessary.

The world is experiencing a global inflation crisis. Canada is not an island, and we are not immune to the factors that are driving high prices around the world. From the COVID-19 pandemic to the illegal Russian invasion of Ukraine, from supply chain challenges to climate change impacting harvests and causing crop failures, inflation is an inescapable global phenomenon. Compared to our G7 allies, Canada has fared very well. In August, Canada's inflation rate was measured at 4% according to the data published by the Financial Times. This is just behind Japan and almost tied with the United States and compares to 6.7% in the United Kingdom, 6.1% in Germany and 5.4% in Italy.

COVID-19 was an unforeseen and unimagined global crisis. The world essentially ground to a halt. Canada has fared relatively well through the pandemic recovery, thanks to the resiliency of the Canadian economy and in part to the programs to support Canadians and business owners to allow them to keep paying their bills when we had to stay at home and many business owners had to close their doors. Without that support, I shudder to think of where we would be now.

However, just because Canada is doing better than many of our peer countries, that does not make the impact on the day-to-day lives of regular Canadians any less real. Several factors are driving rates in Canada, including energy prices and food prices. I have had many meetings on the issue of affordability. I have heard this loud and clear from my constituents in Scarborough Centre. It was a consistent theme whether I met them at local events or on their doorsteps or in my constituency office: People are hurting and people are worried. More and more Canadians are having difficulty making ends meet. They are having to stretch every paycheque further and further.

Access to affordable, suitable housing has been a problem in our community for far too long. Rents are out of control, home ownership is for many an elusive dream. Interest rates are high and it costs so much more just to cover the necessities of life like putting food on the table. Grocery bills have skyrocketed.

The Grace Place Church operates one of several food banks in my community, and Pastor Amos tells me that demand has increased from 14,000 visits per month during the pandemic to 20,000 per month today. This is not sustainable. I have taken these messages to the government and I am pleased to say that, with Bill C-56, the government is listening. No one measure or measures will be the silver bullet, but the steps outlined in this legislation would have a meaningful impact.

Let me speak first to housing, which is an issue I have raised several times in this House. We need to be clear and unequivocal: There is a housing crisis in this country. We need to build more housing of all kinds. We need to build houses and rental units. We need more affordable housing of all types. We need to build senior homes and long-term care and student housing. We need more supply, and it needs to be affordable as well as accessible. We need more smart density housing, especially around the transit hubs.

There are many reasons for the housing crisis, and one thing must be clear: We cannot solve it alone. Every level of government has a role to play. The federal government, the provinces and the municipalities all have levers and responsibilities and all must come to the table, put politics aside and work for the good of all Canadians. As a federal government, we have limited levers, but we do have a big one: We have money. We need to come to the table with serious dollars; we expect the provinces to match the amounts or at least make major contributions.

However, if we just put money on the table we will have failed. In health care, we use federal funding to enforce national standards of care. Likewise, with housing, we need to make federal dollars contingent on specific changes needed to address the housing crisis and make housing more affordable.

● (1810)

We have already seen this with the government's housing accelerator fund. By making municipalities agree to loosening residential zoning restrictions to allow for more density and accelerating affordable housing projects as a condition to receive federal funding, our government would use federal dollars to help drive change at the municipal level, which would see more smart density and more affordable homes built. It is an important step to addressing housing affordability.

Clearly we need to do more, and with this bill, we would be building on the steps we have taken. I am glad we are tackling the issue of rental units, which are a critical part of our housing ecosystems. They are the choice for students who are away to study, for young people just starting their careers, for newcomers making their start in our country and for seniors looking to downsize but who still want to be independent.

The cost of rent is too high for too many now. That is why we are acting with specific measures on Bill C-56. To build more rental housing faster, we would remove the GST on new rental housing, such as apartment buildings, student housing and senior residences. This would accelerate much needed rental housing builds across Canada.

As well, we are calling on provinces to also waive the provincial sales tax on new apartments. I am so glad to see the Province of Ontario immediately agree to follow our lead, and I hope all other provinces follow suit. This would help rental housing get built faster and encourage new builds to break ground. New supply will help to increase competition and moderate prices. Already, housing experts say that this change will take many rental building projects out of the planning stage and into construction by making building rental units more attractive than before, rather than simply building more condominiums.

Tim Richter, CEO of the Canadian Alliance to End Homelessness, said, “It's the federal government being very serious about taking some meaningful and muscular steps to address the housing crisis.”

This is one important measure, but it is not going to solve every issue in the housing market. It is not meant to. We cannot just do one thing; we need to do all the things. We all need to come to the table, and we all need to act now.

Let me turn my attention now to the more basic issue of affordability. We have taken many actions over the years to make life more affordable, especially for the middle class and those working hard to join it. The Canada child benefit has put more money into the pockets of Canadian families that need help the most every quarter. Thanks in part to this tax-free, income-based support for low- to middle-income families with children, there were 782,000 fewer children living in poverty in 2020 compared to 2015. That is a big deal. I have heard from many families in my riding how the CCB has literally been life-changing.

● (1815)

Another major step we took, in co-operation with the provinces but largely funded by the federal government, has been the Canada-wide early learning and child care program. In Ontario, for most families, child care costs have already been cut in half and will soon go down to $10 a day. This is saving families thousands of dollars. We also continue to expand dental care for lower income Canadians, starting with children and seniors.

These measures have been impactful, but with inflation driving up the cost of everyday life, we need to do more. I have spoken to food bank operators in my riding. Demand spiked through the pandemic and is still high today.

That is why we are also taking action to stabilize grocery prices. High grocery prices have made it tougher for many Canadians and their families, all while grocers are increasing their profits. We are acting in both the near and medium terms.

The one-time grocery rebate delivered up to $467 to a family to help them put food on the table. Last week, the Deputy Prime Minister and the industry minister met the CEOs of the five major grocers and made it clear that we expect concrete measures on how they can stabilize food prices with a plan by Thanksgiving. We will make it easier to crack down on unfair practices that drive up prices and make it harder for local grocers to compete to protect Canadians and help them with the cost of groceries.

I look forward to the debate on this bill. I look forward to constructive suggestions on how it can be made better, and I look forward to working with all parliamentarians to make life more affordable for all Canadians.

● (1820)

Mr. Michael Coteau (Don Valley East, Lib.): Mr. Speaker, the member for Scarborough Centre's riding and my riding are right next to each other. A lot of the demographics between the two are similar.

I know that the Conservatives voted against dental care for children. They voted against a $500 rebate for groceries. They also voted against subsidies to help people in apartments. I know that in my community, those were very valuable incentives for people going through a pretty challenging time.

I would just like to know this from the member: What was the response like in her community for programs that helped people during these difficult times?

Mrs. Salma Zahid: Mr. Speaker, I had conversations during the summer with my constituents, and they are finding it very difficult to make ends meet. When I talk to them, they tell me what a difference the Canada child benefit and the $10-a-day child care program are making by saving them thousands of dollars each month. I know that dental care is very important. I have been talking to many of my constituents who have been able to take their young kids to a dentist, which they were not able to afford before.

It is very important that we continue investing in these programs like the $10-a-day child care, the Canada child benefit and dental care, and that we make sure we do more to make life affordable for all Canadians.

Mr. Blake Desjarlais (Edmonton Griesbach, NDP): Mr. Speaker, it is a good day, I think, in Canada when the House, Parliament, can speak to the crisis that so many people are facing when it comes to housing, groceries and affordability. It is no secret, however, that companies, particularly monopolies and oligopolies, have tremendous power in this country. That is evidenced by many indigenous people. For example, I grew up with stories of the Hudson's Bay Company, a monopoly in Canada, one that demanded, for example, an unlimited amount of fur in exchange for one good. It said that someone would have to pile up their fur as high as a rifle in order to get that rifle, an unrealistic measure of wealth.

Today, Canadians are dealing with the same kind of strong-arm companies that are saying we need to pay more for housing, we need to pay more for telecoms and we need to pay more for groceries. The same people who are asking for this are just a few names in a room, not many people, just a few CEOs of these megacorporations. These megacorporations need to be held accountable. They are oligopolies. They are gouging Canadians.

That is why New Democrats have been steadfast in our call for a windfall tax, something that has been taking place in Conservative countries like the U.K., for example, that would disincentivize companies from price gouging Canadians at a time of crisis when groceries are going up like they are, when housing is going up like it is and when food is at such an unrealistic price. It is time for a windfall tax so we can make these billionaires pay their fair share and equal the playing field.

Mrs. Salma Zahid: Mr. Speaker, it is very important that we work together and act now to make life affordable for all Canadians. I heard that very clearly from constituents in my riding during the summertime. People are finding it difficult. That is why it is important that we work together to pass Bill C-56, which would make a difference.

That is why the minister of industry called the five CEOs of the major grocery companies to come to Ottawa, to tell them that it is really very important that we work together to stabilize the price of groceries. I am sure that by Thanksgiving, they will show us some results. If not, we are ready to take other measures to make sure the price of food stabilizes for all Canadians and we can make life more affordable for them.

Ms. Bonita Zarrillo (Port Moody—Coquitlam, NDP): Mr. Speaker, I just want to follow up on the message that my colleague from Edmonton Griesbach just shared with the House. CEOs in this country are making outsized incomes, and their corporations are making outsized profits. This is not actually helping Canadians get more affordable groceries and certainly not more affordable housing.

My question to the member is around rental housing and the GST rebate. How can Canadians be sure that any savings these developers are making, if there are developers involved, get passed down to their renters?

● (1825)

Mrs. Salma Zahid: Mr. Speaker, reducing or eliminating the GST from the construction of purpose-built rental units will give relief to people. It will definitely make a difference. I know that prices will not go down just with doing one thing or another thing. We need a comprehensive plan. This is one major step that will really make a difference in making housing more affordable for people.

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Mr. Speaker, I know members are a little upset—

The Deputy Speaker: The hon. member for Timmins—James Bay is rising on a point of order.

Mr. Charlie Angus: Mr. Speaker, I do not want to rag the puck here but if it is less than five minutes, I think it would be fair for all of us to see the clock at 6:30.

Would we need unanimous consent for that or would we just need a majority of members in the House?

I think it would be very helpful in order to have us all leave on a good point on Monday but I defer to my colleagues.

The Deputy Speaker: I would be remiss if I did not allow the hon. member to at least get some of his thoughts out, so that we can listen less next time, when we do come back and talk to this bill.

Mr. Kevin Lamoureux: Mr. Speaker, Bill C-56 is very important legislation that we are debating. If we just reflect, in terms of our homes and our constituents, people are genuinely concerned about issues of housing affordability, the housing supply, inflation and the price of groceries.

That is what Bill C-56 is all about. It is recognizing that the constituents we are collectively representing are having a difficult time. That is why we have Bill C-56. I hope that all members, from all sides of the House, will recognize that this is legislation that not only should pass but should pass in a relatively quick fashion, in order to support the people of Canada from coast to coast to coast.

In listening to all of the debate, I want to emphasize to those who might be following it that the government has been on the housing file now for many years. In fact, it is this government, more than any other government in generations, that has made a commitment to invest in housing. We are not talking one sector alone but rather, whether it is free market, non-profits or investing in stakeholders, virtually from day one, as a government, we have been investing in housing in Canada, unprecedented in comparison to any other government in generations.

All one needs to look at are some of our more recent budgets. Members often talk about the important role of non-profits. Take a look at what we are doing in housing co-ops, providing hundreds of thousands of dollars to try to encourage additional housing co-ops to be built. It is a wonderful form of housing.

We could talk about the millions and millions invested into non-profits. We could talk about the rapid transition housing. Having the ability to support housing needs has always been important to this government.

We see what is taking place in our communities. This initiative, this legislation, is actually now being looked at by provincial jurisdictions, and some of them are adopting it as provincial policy, which will see thousands of homes being built.

I would like to think that all members will look at that holistic approach that the government has been taking, the specifics of this legislation, and get behind it.

ADJOURNMENT PROCEEDINGS

A motion to adjourn the House under Standing Order 38 deemed to have been moved.

● (1830)

[*English*]

DEMOCRATIC INSTITUTIONS

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): Mr. Speaker, we see clearly how, across the board, the government fails to take responsibility for its failures. When things go wrong, it is always somebody else who is responsible. It is always somebody else's fault. We could talk, for example, about inflation, about grocery prices, about how everything is more expensive under the government, especially so many household essentials that people rely on to feed their families.

The Liberals' response to it is not to acknowledge at all the role that their policies have played in this, not to acknowledge the fact that the reason we have rampant inflation in this country is because the government has spent massively beyond its means and that it has driven up the cost of goods. It is the inflation tax that was a policy choice of the government. That is what is driving up prices. Now Liberals want to present themselves as there to solve a problem that they themselves have created, with absolutely no recognition of the role that they have played fundamentally in causing that problem.

There are the housing challenges. The parliamentary secretary just spoke about how the government spent millions here, thousands over here and they are doing all these things for housing. How is it going? What are the results? We are building fewer homes today than our country did in the 1970s. We are way behind in terms of meeting these needs, and this is because of policies that have been implemented by the government.

We had an incident discussed in question period today, where, unbelievably, the government allowed a Nazi to be in the gallery during a speech given by the President of Ukraine. The government's response to this event was that it is not responsible. It found its fall guy. It had nothing to do with it, when, in reality, we know that it is the responsibility of the government to vet those who are going to be in the gallery for an important event like that. It is responsible for the vetting. It knows this, this is how the process works, and it is denying responsibility. Whether it is in this incredibly embarrassing and wrong incident that happened at the end of last week or whether it is in the approach of the government to policy in general, we see a complete unwillingness by the government to take responsibility.

I asked a question earlier on the issue of the Trudeau Foundation. This is another instance where we see the government's failure to take responsibility. The question I asked at the time was about the fact that the government claimed the Prime Minister has had no ongoing involvement in or interaction with the Trudeau Foundation, and yet a meeting took place in the Prime Minister's Office between deputy ministers and the leadership of the Trudeau Foundation. It boggles the mind that the Prime Minister would try to pass off the fact that, on one hand, he would say he had no involvement whatsoever in this foundation that received very problematic donations and, on the other hand, this meeting would take place in the Prime Minister's own office.

The response we got at the time from the government House leader to these questions about how this happened is that it was just a building. It just happened to be that the Prime Minister's Office was the most convenient location to have it. I think there was a witness at the public accounts committee formerly with the Trudeau Foundation who said the Prime Minister's Office was just a convenient downtown location. Anyone in Ottawa who wants to hold a birthday party needs to know that the Prime Minister's Office is available. It is just a convenient downtown location. That is ridiculous. It is not a convenient downtown location that just anyone can book. It is a relatively small building that is the Prime Minister's Office. It is called the Prime Minister's Office.

Why do the Liberals not stop passing off the blame and start taking responsibility for their numerous failures?

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Mr. Speaker, the member has some challenges in recognizing what real responsibility is all about, quite frankly. Let us give a few examples.

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J. Fletcher P20709

This is Exhibit “F” to the affidavit of **Mallory Kelly,** affirmed
remotely and stated as being located
in the city of Gatineau, in the province of Quebec,
before me at the city of Ottawa in the province of Ontario,on
July 4, 2025, in accordance with
O. Reg 431/20, Administering Oath or Declaration Remotely.

HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

44th PARLIAMENT, 1st SESSION

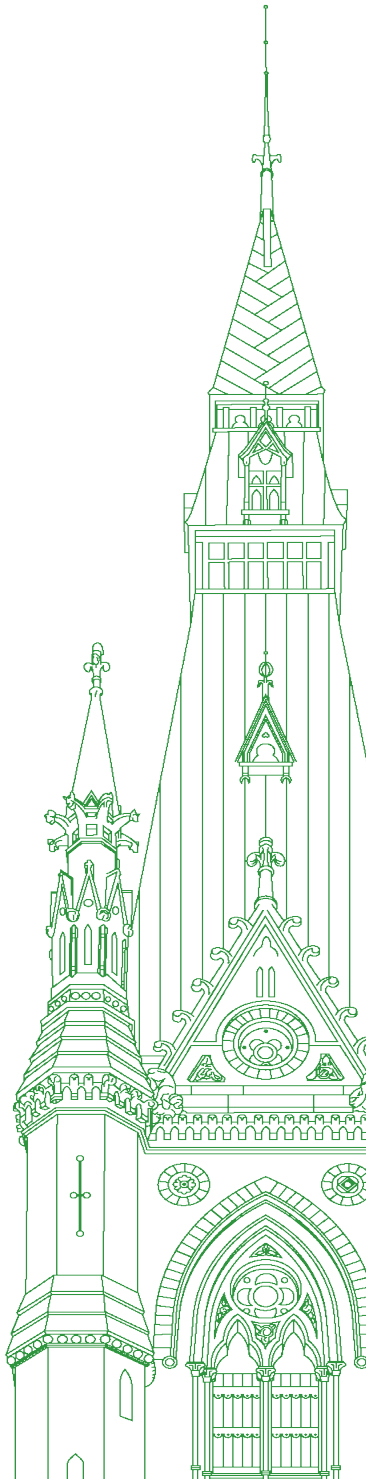
House of Commons Debates

Official Report

(Hansard)

Volume 151 No. 254

Thursday, November 23, 2023



Speaker: The Honourable Greg Fergus

HOUSE OF COMMONS

Thursday, November 23, 2023

The House met at 10 a.m.

Prayer

ROUTINE PROCEEDINGS

● (1000)

[*English*]

GOVERNMENT RESPONSE TO PETITIONS

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Mr. Speaker, pursuant to Standing Order 36(8)(a), I have the honour to table, in both official languages, the government's response to one petition. This return will be tabled in an electronic format.

While I am on my feet, I move:

That the House do now proceed to orders of the day.

[*Translation*]

The Speaker: The question is on the motion.

If a member participating in person wishes that the motion be carried or carried on division, or if a member of a recognized party participating in person wishes to request a recorded division, I would invite them to rise and indicate it to the Chair.

[*English*]

An hon. member: Recorded vote.

[*Translation*]

The Speaker: Call in the members.

Before the Clerk announced the results of the vote:

● (1045)

Mrs. Claude DeBellefeuille: Mr. Speaker, I rise on a point of order. We cannot see the member for Papineau's picture.

The Deputy Speaker: The picture is not showing up in the system either.

It is fixed now.

[*English*]

(The House divided on the motion, which was agreed to on the following division:)

(Division No. 452)

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Anandasangaree
Arseneault
Atwin
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Beech
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Chagger
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Damoff
Desjarlais
Dhillon
Drouin
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Barsalou-Duval
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The Deputy Speaker: I declare the motion carried.

GOVERNMENT ORDERS

[*English*]

GOVERNMENT BUSINESS NO. 30—PROCEEDINGS ON BILL C-56

MOTION THAT DEBATE BE NOT FURTHER ADJOURNED

Hon. Karina Gould (Leader of the Government in the House of Commons, Lib.): Mr. Speaker, in relation to the consideration of Government Business No. 30, I move:

That the debate be not further adjourned.

The Deputy Speaker: Pursuant to Standing Order 67.1, there will now be a 30-minute question period. I invite all members who wish to ask questions to rise or use the "raise hand" function so the Chair has some idea of the members who wish to participate in this question period.

The hon. member for Sherwood Park—Fort Saskatchewan.

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): Mr. Speaker, lately the government likes to claim it has had a conversion to being concerned about affordability. Meanwhile, for years it has been running a horrifying economic experiment. It has massively increased spending and more than doubled our national debt. We know now that it is spending more on debt servicing than it is sending to the provinces for health care.

Outrageous amounts of money in debt servicing costs are making life less affordable for Canadians. Fundamentally, since the Liberals claim to have had this conversion to being concerned about affordability, will they tell the House when the budget will be balanced?

Hon. François-Philippe Champagne (Minister of Innovation, Science and Industry, Lib.): Mr. Speaker, I hope all Canadians watching at home are looking at this debate. They would agree that there is a time to consider and a time to debate, but also a time to act. I have been saying that to Canadians and even to the Leader of the Opposition. There is only one thing he can do for Canadians, which is to vote for Bill C-56. Why? The Conservatives would be well advised to listen to Canadians.

Canadians have told us that the two things they are concerned about are housing and affordability. That is why we have already had 20 hours of debate over five days. Imagine that. Canadians at home need the help contained in this bill and are wondering why members of Parliament have been talking about 20 days. I think Canadians watching today want action and that is what we are going to deliver.

● (1050)

Mr. Peter Julian (New Westminster—Burnaby, NDP): Mr. Speaker, I have said many times that there are two bloc parties in the House of Commons, the Bloc Québécois and the "block everything" party, the Conservative Party, which has blocked dental care and provisions for doubling the GST credit so that Canadians can put more food on the table. It has blocked every piece of legislation coming forward, except of course the Canada-Ukraine trade bill, which it voted against on the Day of Dignity and Freedom, when Ukrainians were commemorating their democracy. That is when the Conservatives, one by one, voted down the Canada-Ukraine trade bill. Aside from that, they have blocked every other piece of legislation.

We know their history. Under the Conservatives in the Harper regime, housing prices doubled, and they lost or destroyed 800,000 affordable housing units. Is that why the Conservatives are yet again blocking legislation provoked by the NDP that would help Canadians?

Hon. François-Philippe Champagne: Mr. Speaker, that is music to my ears when I hear that from the party blocking everything.

We can imagine that folks at home are watching, and they are saying that the Conservative Party of Canada voted against the Canada-Ukraine free trade agreement. I am sure people at home are asking what is going on in Ottawa these days. They want to know what kind of Conservatives would vote against a nation that is fighting for democracy on behalf of all of us.

My hon. colleague is right; he brings words of wisdom to this House. Bill C-56 is about helping Canadians with housing and affordability. Will the Conservatives ever vote in favour of Canadians? We are going to be watching them.

[*Translation*]

Mr. Sébastien Lemire (Abitibi—Témiscamingue, BQ): Mr. Speaker, the Minister of Innovation, Science and Industry is very proactive on many files.

However, as the saying goes, the longer we wait, the worse things get. That is what happened with the Competition Act. The government could have taken action years ago. If it had, we would not be stuck with these huge monopolies, especially in the grocery sector, that have pushed prices up with margins that benefit them, rather than producers or processors, and that have doubled prices for consumers.

The same goes for telecommunications, gasoline and banks. Costs have gone up because this government did not act in time. It waited too long to introduce Bill C-27. It also waited too long to introduce the bill to amend the Copyright Act.

When will the government take action? Can the minister assert his legislative power to ensure that these files actually get debated? Right now, it seems to me that there is no movement on his side.

Hon. François-Philippe Champagne: Mr. Speaker, with all due respect for the member for Abitibi—Témiscamingue, that is exactly what we are doing. There have been five days of debate, which adds up to 20 hours. I am listening to the member, and I hear him. He says we must act, and that is exactly what we are trying to do. I hope the Bloc Québécois will be with us.

My colleagues need to remember that there were 120 days of consultations on competition, including five round tables and 400 submissions. Nearly 120 organizations filed submissions. We consulted all the stakeholders. Today, we are asking the House to move forward.

Canadians also agree with the member. They want us to forge ahead. We expect the Bloc Québécois to vote in favour of Bill C-56. That way, we will be able to push forward and reform the Competition Act, which has not been updated in 37 years.

[*English*]

Mr. Mark Gerretsen (Kingston and the Islands, Lib.): Mr. Speaker, it is true, the Conservative Party is the "block everything" party.

However, the Conservatives are not even consistent. They delayed with respect to the Canada-Ukraine free trade agreement, and suddenly, in the 11th hour, with about a week left, they came up with this red herring that it had something to do with a price on pollution.

Some hon. members: Oh, oh!

Mr. Mark Gerretsen: I hear the heckling from my Conservative colleagues.

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Mr. Speaker, Ukraine has had a price on pollution since 2011. As a matter of fact, the only way it could get into the European market was to commit to that. This is nothing more than a red herring.

Is the minister concerned that the delay of this bill is, once again, just another red herring being put out there by Conservatives?

Some hon. members: Oh, oh!

● (1055)

The Deputy Speaker: Order, order. Maybe the members should have a talk later or send an email to each other to figure this out.

The hon. Minister of Innovation.

Hon. François-Philippe Champagne: Mr. Speaker, in the meantime, I am going to respond to that, because I know Canadians are watching.

My colleague is right. Yesterday must have been a shock to Canadians from coast to coast to coast, seeing the Conservatives voting against Ukraine in a time of war. Did they really vote against the Canada Ukraine free trade agreement? They tried to find excuse after excuse for it.

Now we are going to see if the Conservatives find another excuse to not help Canadians. Bill C-56 is simple: It would help people with housing and affordability. I am sure Canadians are asking whether the Conservatives will ever do something for them.

Conservatives have the opportunity of a lifetime. It is just before Christmas. They should give a gift to Canadians by voting for Bill C-56 and letting us move forward in this country.

Mr. Pat Kelly (Calgary Rocky Ridge, CPC): Mr. Speaker, it is good that we can actually bring it back to the debate on the motion at hand.

This motion contains a promise that the Liberal government made in 2015. I find it a little difficult to take that the minister waxes incredulous when members may want to debate the bill. It took the Liberals eight years, kicking and screaming, to do this, after the opposition leader actually tabled a private member's bill that presented the exact thing that the Liberals promised to do in 2015.

After eight years of the Liberals not keeping that particular promise on housing, how on earth are Canadians to think that it is somehow the Conservatives' fault that this legislation has not been enacted? How are they to accuse Conservatives of blocking the Liberals from doing what they promised to do eight years ago?

Hon. François-Philippe Champagne: Mr. Speaker, I have enormous respect for the member, but let me repeat in English what I said in French. Do they know how much we consulted on that when it came to competition? There were 120 days of consultation. Five round tables were held across the country. Four hundred submissions were received in 120 stakeholder organizations.

On the one hand, the Conservatives say they want more debate, consultation and time. On the other, they are trying to blame us for delaying. We are saying no. Canadians are saying no to them. They said no to them in the last election.

There is a time for consideration and debate, but there is also a time for action. Canadians want action on housing and affordability. Can they help Canadians for once? Bill C-56 is very simple; it is a bill for helping Canadians. I am sure people at home will look at the Conservatives and wonder whether they will do the right thing for Canadians once and for all.

[*Translation*]

Mr. Xavier Barsalou-Duval (Pierre-Boucher—Les Patriotes—Verchères, BQ): Mr. Speaker, the minister is getting all worked up talking about competition, saying it is important to promote it.

I have a proposal for him to promote competition. In Quebec, a lot of small businesses need help. We asked that the deadline for small businesses to pay back the emergency business account be extended by one year. Due to inflation and what they lived through with the pandemic, they are not able to reimburse the loan so quickly.

The government said it would grant them 18 days. What are they going to do in 18 days? They cannot do much. We proposed that the government extend the deadline for small businesses to reimburse the loan. We also offered to help in expediting passage of Bill C-56. The government refused.

Is it telling us it has decided to abandon small businesses in Quebec?

Hon. François-Philippe Champagne: Mr. Speaker, I am glad that my colleague is talking about competition because we know all about competition in Quebec. Consumer protection is a value that Quebeckers hold dear. Right now, Quebeckers who are looking at my colleague must be thinking that the Bloc Québécois will certainly support a bill that promotes competition.

One of the problems we have seen recently involved the food sector. Bill C-56 would give more power to the Competition Bureau to investigate, to undertake a comprehensive study. I am sure that Quebeckers at home are thinking that the Bloc Québécois will certainly vote in favour of Quebeckers because, if it believes in competition, it believes in Bill C-56.

Bill C-56 will create new tools to help Quebeckers. I am sure that people at home listening to us today are convinced the Bloc Québécois will do the right thing and support Bill C-56.

● (1100)

[*English*]

Mr. Mike Morrice (Kitchener Centre, GP): Mr. Speaker, as Greens, we believe we are sent here not to play partisan games but to focus on the priorities of our communities. Right now, we are not even debating Bill C-56 or the programming motion to move more quickly on Bill C-56. We are debating another motion to limit debate on the programming motion. This has happened dozens of times in this Parliament alone. I believe it is 29 or so. One day, the minister might be in opposition. Is he at all concerned with the precedent that this sets of bringing forward allocation to limit time on debate again?

Hon. François-Philippe Champagne: Mr. Speaker, I would not bet on that. However, I would say that I know the member; he is a man of good heart. I have had a number of discussions with him, and he is someone who wants to do what is right for Canadians.

However, like me and I hope all members, when they get groceries, when they walk in their ridings on the weekend and when they talk to people in the street, they hear that there are two things that Canadians are facing today. They are facing the cost of housing and affordability. Those are the things Canadians want us to take action on, not only as government but also as parliamentarians.

Christmas is approaching. Canadians are watching, and they ask whether Parliament will finally do something to help them. They want help on affordability and on housing. This bill would do that. We can imagine: It would enhance the GST rebate on new rental housing; it would give more tools to the Competition Bureau to go after uncompetitive practices in this country.

If the Greens want to help Canadians, as I am sure they do, I have no doubt that when the vote comes up on Bill C-56, they will vote in favour of it and in favour of Canadians.

Mr. Ken McDonald (Avalon, Lib.): Mr. Speaker, I want to give the minister a chance to highlight the importance of passing this bill again. The reason I ask is that, a couple of weeks ago at church, a senior slid over behind me, tapped me on the shoulder and thanked me for the way that I voted on the carbon tax on home heating oil. She also told me that she was at Sobeys grocery store that week, picking up a few items. When she got to the lineup for the checkout, she said she added up in her head what those items were going to cost and had to walk away and leave them in the cart. She left the store and went home; she could not afford to buy those groceries or buy those items.

Can the minister explain how this bill will help that person be able to afford to buy groceries?

Hon. François-Philippe Champagne: Mr. Speaker, this is the reality for many Canadians. One thing we have seen across many nations is that the best way to bring affordability and stabilize prices is through competition. Bill C-56 would do something that has not been done in about 37 years in our country. It would reform the Competition Act in ways that are very clear.

The bill would give more power to the competition authority, for example, when it does a market study. The last market study was done on groceries. Can we imagine having an authority with no subpoena power? That has not been seen in any other G7 country. Now we are going to fix that. Another thing it would do is ensure that anti-competitive mergers can be blocked. We have seen, time and time again, that we have restricted competition. Lastly, Bill C-56 would remove restrictive covenants that we can currently find in leases. We have seen in the member's riding, as in my own, a grocer in one shopping centre. Today, there are some restrictive clauses in leases that would prevent an independent grocer from going and competing with them. We need to put a stop to that.

Canadians watching at home are trusting us to do the right thing for them. The only reason we are here is to serve the people at home. They sent us here to do something. We are committed to doing that.

Mr. Jeremy Patzer (Cypress Hills—Grasslands, CPC): Mr. Speaker, we already heard earlier that there are elements in this bill that belong to Conservative private members' bills. The fall economic update also took in four more Conservative private members' bills, including portions of my own.

How many more Conservative ideas will the government have to steal to try to help Canadians? When will the government call an election so that we can actually take Conservative ideas and implement them as a Conservative government instead?

● (1105)

Hon. François-Philippe Champagne: Mr. Speaker, I am glad to take that question from the member because, as we said, Parliament is the place where we should debate ideas. This is the place where the best ideas should come from and actually be implemented. That is what we are seeing with Bill C-56 and this motion. There is a time for consideration and debate, but there is also a time for voting and acting.

If the member believes what he said, he should be in favour of the bill and running to his caucus to tell them that Christmas is approaching, Canadians are going to be watching and they need to do the right thing for Canadians. The two things that matter to Canadians are housing and affordability. Bill C-56 is going to help Canadians. If he is true to his word, he is going to convince his colleagues to vote for Bill C-56.

[*Translation*]

Mr. Denis Trudel (Longueuil—Saint-Hubert, BQ): Mr. Speaker, I can hardly believe this.

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Today, my colleague tells us it is urgent, that we must quickly pass Bill C-56 for its housing initiatives. The GST credit is a marginal measure to fight the housing crisis. Still, in the economic update, two days ago, we had a unique opportunity to invest in housing. However, most measures will only come into effect in 2025-2026.

We need billions of dollars in investments now. We need to build 150,000 new units a year in Quebec. In the agreement with Quebec, 8,000 units will be built in the next five years. There are 10,000 homeless people in Quebec. We asked for an emergency fund to prevent deaths in Granby, in Rimouski and in Saint-Jérôme. Not a cent was allocated. The crisis is here now. I can hardly believe we were told this morning it is urgent to vote on the bill, while the government put nothing in its economic update two days ago.

Hon. François-Philippe Champagne: Mr. Speaker, it is so urgent that we have to move a motion to force members to vote.

I understand why my colleague says this is urgent, I feel the same way. That is why the government believes it must move this kind of motion this morning. After 20 hours of debating, after five days of debate, it is time to act.

I have listened to my colleague and I share his views. That is exactly right. What we are facing as a government is that on the other side of the House people want to slow down the process. Ultimately, they are preventing us from moving forward for Quebec, for Quebeckers, for the entire country.

I know the member for Longueuil—Saint-Hubert. He is someone who wants to get things done and move forward. He will convince his colleagues to vote for Bill C-56. He will help Quebeckers when it comes to housing. He will certainly help Quebeckers when it comes to affordability. That is what people are asking us to do. That is what we are trying to do today.

[*English*]

Ms. Lianne Rood (Lambton—Kent—Middlesex, CPC): Mr. Speaker, my colleague talks the big talk. He wants to help Canadians with affordability, yet the bill would not do that. The government is quadrupling the carbon tax on farmers. The Senate is stalling Bill C-234, which could give $1 billion of relief to farmers to help bring down our food prices, and the government is also trying to take away the ability of free enterprises to make their own business decisions. The reality is that the bill would not do anything to bring down grocery prices for Canadians. The government is living in a fantasyland if it thinks that retailers are not going to pass along to consumers any new taxes or protocols that the government puts in place.

Why will the government not do something concrete, like axe the carbon tax and push its senators to get Bill C-234 passed in order to give farmers immediately relief from the carbon tax?

Hon. François-Philippe Champagne: Mr. Speaker, I am sure the member would agree that there is one way to help everyone in Canada. If we look at countries around the world, the best way to stabilize prices, reduce consolidation and have lower prices is through competition. Everyone would agree that this is the best way to make sure we help Canadians, and the bill would do exactly that.

The last time anyone touched the legislation was 37 years ago. We are presenting the most important reform in competition. Why are we doing that? It is because we want to have more tools in the tool box so we can act. We want to help Canadians from coast to coast to coast. Those at home understand, as they have seen time and time again, that the best way for us as parliamentarians, collectively, to do something meaningful and concrete is to increase competition in this country.

I am sure my colleague would agree with that, because I know her and I know she cares about the people in her riding and about Canadians. They are watching today. I am sure they would say she will do the right thing, that she will convince the Conservative caucus and say, "Yes, we are going to do something for Canada; yes, we are going to do something for consumers; and yes, we are going to do something for competition." They will be watching.

● (1110)

Ms. Lori Idlout (Nunavut, NDP): *Uqaqtittiji* , this is such an important bill, especially for Nunavut, given that the price of housing and the price of groceries are so high and that it is so difficult in Nunavut. I would love to have seen more conversations about how we could make improvements, and I think the bill would do just that.

It is unfortunate that we are discussing closure. If I understand it correctly, and maybe the member could help me understand it better, it is because there has been a lot of filibustering in the House, not just during debates in the House of Commons but also in committees. I had the unfortunate experience of replacing a colleague of mine at one of the committees yesterday, and all I sat through was Conservative filibustering.

I wonder whether the minister could explain the cost of filibustering and why we needed closure.

Hon. François-Philippe Champagne: Mr. Speaker, the member's question was very thoughtful, and she pointed out what is going on in this place. I hope Canadians are watching.

There is a party in front of us that will do anything to block any progress. Yesterday, we saw something egregious. The Conservatives blocked the Canada-Ukraine free trade agreement. What the member is saying is that we see it time and time again. If I look into my own heart, I would think there should be unanimous consent. This is a bill that would improve housing and affordability. Everyone was sent here by families and other members of their communities. I know that these people expect us to do the right thing when it is about helping them. Like the member said, she would not expect people at home to say they sent members here to block and filibuster. They sent people here, on all sides of the House, to make sure we work for Canadians.

The bill is about more housing and more competition for Canadians. I hope that every member of the House will vote in favour of Bill C-56. Let us give a gift to Canadians at a time when they need it most.

[*Translation*]

Mr. Xavier Barsalou-Duval: Mr. Speaker, the minister is talking to us about competition. I am glad he is, because right now there is a problem with competition.

People are paying more than ever for their groceries. Not so long ago, after speaking with grocery executives, the minister told the House that the problem had been solved because, looking at the flyers, he saw good discounts.

However, the reality is that, shortly after that, we saw grocers make even more profits, record profits. We were told people had found a solution for inflation by changing their buying habits. Instead of buying fresh vegetables, they were buying frozen vegetables. Instead of buying a big steak, they were buying ground beef. We were told that, in fact, there was no problem because people had changed their buying habits. This is what grocery executives told us.

The minister told us the problem was solved by flyers. How can we take these people seriously? Honestly, I think something is broken here. Is the minister proud of his work? Does he really believe the grocery inflation problem has been solved?

Hon. François-Philippe Champagne: Mr. Speaker, I agree with my colleague that we have to do more. This is why we introduced Bill C-56. We said the meeting with grocers was a first step. We asked them to do what was necessary to help Canadians, but we are not fools; we know more has to be done.

I know my colleague will vote in favour of the bill. I can see it in his eyes. He is thinking that Bill C-56 gives more power to the Competition Bureau specifically to investigate big grocers across the country. If what he says is true—and I know he thinks what he says—he will vote in favour of Bill C-56. This bill will give more power to the Competition Bureau so it can conduct inquiries, and we know that the best way to help consumers across the country is to strengthen competition.

Quebeckers will be watching the member when he votes on Bill C-56. I am convinced he will vote the right way.

[*English*]

Mrs. Cathay Wagantall (Yorkton—Melville, CPC): Mr. Speaker, it has been eight years of the government's failing Canadians over and over again. The reason we are in the circumstances we are in today in this country is the economic decisions of the government, along with increased taxes at a time when Canadians are earning less and the cost of everything is more. The question the government is not answering and that Canadians are asking, which is more important to them even than this, is why it chooses not to take responsibility for the fact that Canadians are in the urgent scenarios they are in today because of decisions made by the government.

When will the government do what the Conservative Party has said from the very beginning? Our leader recognized a long time ago that this was going to be an issue. The government refused to respond to it in any way, so when will the government do the things that will get the long-term and fast responses this country needs and remove the carbon tax so Canadians can afford to live and inflation will go down? Those are the things Canadians need from the government.

● (1115)

Hon. François-Philippe Champagne: Mr. Speaker, I would not have talked about the leader of the Conservatives, but since my colleague raised it, let us remember, for those watching at home, that this is the leader who advised Canadians to invest in cryptocurrency. In terms of economic advice, I am sure Canadians would probably agree with me to not follow anything he says.

When the member talks about our record, I am so happy. She will have seen, because I know her and she looks at stats, that the OECD ranked Canada third in foreign investments that have come into this country, just after the United States and Brazil. This is a record. We are attracting investments like we have never seen before. We think of Volkswagen, Stellantis, GM, Ford and Volta.

The world is realizing Canada has what it needs for the economy of the 21st century, a decarbonized economy, an economy that bets on the talent of people, renewable energy and open markets. I know that the member is looking at that and saying, "Wow, what a record." I wish the Conservatives would join us to make sure Canada is the place everyone around the world looks to for investing.

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Mr. Speaker, as the leader of the Conservative Party has courted membership of the People's Party, we have seen the far right actually take over the Conservative Party. To amplify that fact, one only needs to take a look at how the Conservatives collectively voted against Ukraine and the trade agreement the other day. The reckless behaviour we are witnessing on a daily basis coming from the Conservative Party is demonstrated on the floor, as it is determined to filibuster and do whatever it can to prevent legislation from passing. I am wondering whether my colleague can provide his thoughts on how the far right has reached into the House of Commons today through the Conservative Party of Canada.

Hon. François-Philippe Champagne: Mr. Speaker, it would take me more than an hour to try to explain that to Canadians, but I do not think I could find any answers. On what Canadians witnessed yesterday, I am sure they are still at home wondering whether what they saw really happened, that in 2023 the Conservative Party of Canada would vote against the Canada-Ukraine free trade agreement. Did it really? A time when a nation is fighting for democracy, and when it is fighting a war, is the time when one needs to help it.

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I know that maybe there is still a glimmer of hope, because Christmas is approaching. I know my colleagues are eager to go home, but Canadians are asking them to do one thing: to please vote for Bill C-56. They should give something to Canadians before they go on vacation and make sure we have more affordable housing and more affordability across this country.

[*Translation*]

The Deputy Speaker: It is my duty to interrupt the proceedings and put forthwith the question necessary to dispose of the motion now before the House.

The question is on the motion.

[*English*]

If a member participating in person wishes that the motion be carried or carried on division, or if a member of a recognized party participating in person wishes to request a recorded division, I would invite them to rise and indicate it to the Chair.

Mr. Kevin Lamoureux: Mr. Speaker, we request a recorded vote, please.

The Deputy Speaker: Call in the members.

● (1200)

(The House divided on the motion, which was agreed to on the following division:)

(Division No. 453)

YEAS

Members

Aldag
Ali
Anandasangaree
Ashton
Bachrach
Bains
Barron
Beech
Bennett
Bittle
Blair
Blois
Boulerice
Brière
Carr
Chagger
Champagne
Chen
Collins (Hamilton East—Stoney Creek)
Coteau
Davies
Dhaliwal
Diab
Dubourg
Duguid
Ehsassi
Erskine-Smith
Fisher
Fortier
Fraser
Fry
Gainey
Gazan
Gould
Guilbeault
Hanley
Alghabra
Anand
Angus
Atwin
Badawey
Baker
Battiste
Bendayan
Bibeau
Blaikie
Blaney
Boissonnault
Bradford
Cannings
Casey
Chahal
Chatel
Chiang
Cormier
Dabrusin
Desjarlais
Dhillon
Drouin
Duclos
Dzerowicz
El-Khoury
Fillmore
Fonseca
Fragiskatos
Freeland
Gaheer
Garrison
Gerretsen
Green
Hajdu
Hardie
Hepfner
Housefather
Hussen
Iacono
Ien
Johns
Julian
Kelloway
Koutrakis
Kwan
Lambropoulos
Lamoureux
Lattanzio
LeBlanc
Lightbound
Longfield
MacAulay (Cardigan)
MacGregor
Maloney
Masse
May (Cambridge)
McGuinty
McKinnon (Coquitlam—Port Coquitlam)
McPherson
Miao
Morrissey
Naqvi
Noormohamed
Oliphant
Petitpas Taylor
Qualtrough
Rodriguez
Romanado
Sahota
Saks
Sarai
Schiefke
Sgro
Sidhu (Brampton East)
Sorbara
St-Onge
Tassi
Thompson
Turnbull
Van Bynen
Vandal
Virani
Wilkinson
Zahid
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Holland
Hughes
Hutchings
Idlout
Jaczek
Jowhari
Kayabaga
Khera
Kusmierczyk
Lalonde
Lametti
Lapointe
Lauzon
Lebouthillier
Long
Louis (Kitchener—Conestoga)
MacDonald (Malpeque)
MacKinnon (Gatineau)
Martinez Ferrada
Mathyssen
McDonald (Avalon)
McKay
McLeod
Mendès
Miller
Murray
Ng
O'Connell
O'Regan
Powlowski
Robillard
Rogers
Rota
Sajjan
Samson
Scarpaleggia
Serré
Shanahan
Sidhu (Brampton South)
Sousa
Sudds
Taylor Roy
Trudeau
Valdez
van Koeverden
Vandenbeld
Weiler
Yip
Zarrillo

NAYS

Members

Aboultaif
Albas
Arnold
Barlow
Barsalou-Duval
Bergeron
Bérubé
Blanchet
Block
Brassard
Brunelle-Duceppe
Caputo
Chambers
Chong
Dalton
DeBellefeuille
Desbiens
Doherty
Dreeshen
Aitchison
Allison
Baldinelli
Barrett
Beaulieu
Berthold
Bezan
Blanchette-Joncas
Bragdon
Brock
Calkins
Carrie
Champoux
Cooper
Davidson
Deltell
Desilets
Dowdall
Duncan (Stormont—Dundas—South Glengarry)

Ellis	Epp
Falk (Battlefords—Lloydminster)	Falk (Provencher)
Fast	Ferreri
Findlay	Fortin
Gallant	Garon
Gaudreau	Généreux
Genuis	Gill
Gladu	Goodridge
Gourde	Gray
Hallan	Hoback
Jeneroux	Kelly
Khanna	Kitchen
Kmiec	Kram
Kramp-Neuman	Kurek
Kusie	Lake
Larouche	Lawrence
Lehoux	Lemire
Leslie	Lewis (Haldimand—Norfolk)
Liepert	Lloyd
Lobb	Maguire
Majumdar	Martel
May (Saanich—Gulf Islands)	Mazier
McCauley (Edmonton West)	McLean
Melillo	Michaud
Moore	Morrice
Motz	Muys
Nater	Normandin
Patzer	Paul-Hus
Pauzé	Perkins
Plamondon	Poilievre
Rayes	Redekopp
Richards	Roberts
Rood	Ruff
Savard-Tremblay	Scheer
Schmale	Seeback
Shields	Shipley
Simard	Sinclair-Desgagné
Small	Soroka
Steinley	Ste-Marie
Stewart	Strahl
Stubbs	Therrien
Thomas	Tochor
Tolmie	Trudel
Uppal	Van Popta
Vecchio	Vidal
Vien	Viersen
Vignola	Villemure
Vis	Vuong
Wagantall	Warkentin
Waugh	Webber
Williams	Williamson
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PAIRED

Members

Chabot	Fry
Housefather	Khalid
Lantsman	Mendicino
Morantz	Morrison
Perron	Rempel Garner
Sarai	Sheehan– — 12

The Deputy Speaker: I declare the motion carried.

CONSIDERATION OF GOVERNMENT BUSINESS NO. 30

The House resumed from November 20 consideration of the motion, and of the amendment.

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Mr. Speaker, the legislation we are debating today would have a profoundly positive impact on Canadians from coast to coast to coast.

I would like to bring to this debate the Conservative Party's attitude towards legislation in general. I put it in the form of a question earlier about the Conservative Party today, the leader of the Conservative Party, his attraction to the People's Party and the membership of that particular party. As a result, the Conservative Party has moved far to the right. I would ultimately argue that the far right has taken over the leadership of the Conservative Party today.

I do not say that lightly. I truly believe that to be the case, and we have seen a good demonstration of that. Talking about the legislation we have today, one would think the Conservative Party would recognize the value and the good within this legislation and have a desire to see it passed. However, that is not the case of the far right Conservative Party today.

We saw that amplified just the other day when the Conservative Party voted against a trade agreement. Conservatives actually voted against the Canada-Ukraine trade agreement. It is unbelievable. Then they try to rationalize why.

It is rooted in the leadership of the Conservative Party. We see that far right element has virtually taken over. That has started to filter down into what we see across the way today. That is why, whether it is the Conservative Party voting against the trade agreement between Canada and Ukraine, or against the legislation we are debating today, there is a desire on the part of the Conservative Party to play that destructive force on the floor of the House of Commons.

Then they look surprised that we would bring in time allocation for the debate on Bill C-56. The bottom line is that time allocation was brought in because the Conservatives do not want to see this legislation passed—

● (1205)

Mr. Garnett Genuis: Madam Speaker, I rise on a point of order. In light of the member's comments saying that he apparently wants to do more for Ukraine, I wonder if there would be unanimous consent for the adoption of a motion put on notice by the member for Dufferin—Caledon, which is that there be an instruction to the Standing Committee on International Trade that, during its consideration of Bill C-57, an act to implement the 2023 free trade agreement between Canada and Ukraine, the committee be granted the power to expand the scope of the bill in order to support expanded munitions production in Canada and increasing munitions exports to Ukraine, and support the development of weapons and munitions manufacturing capabilities in Ukraine by Canadian industry.

I hope there would be unanimous consent for the adoption of that motion so that we could move forward.

[*Translation*]

The Assistant Deputy Speaker (Mrs. Carol Hughes): All those opposed to the hon. member's moving the motion will please say nay.

An hon. member: Nay.

[*English*]

Hon. Andrew Scheer: Madam Speaker, on a point of order. I have a very quick procedural question. Will the Hansard reflect that it was the Liberal member for Winnipeg North who said no, or—

The Assistant Deputy Speaker (Mrs. Carol Hughes): This is not a point of order; this is a point of debate. I would remind members that they are well aware, especially the opposition House leader, what points of order are. I would ask members to please respect the rules of the House.

The hon. parliamentary secretary.

Mr. Kevin Lamoureux: Madam Speaker, the Conservatives just demonstrated just how dumb they can be.

Let us remember that they tried to move a unanimous motion to, in essence, kill the free trade agreement completely. What do they think would have happened if that motion had actually passed? There is an agreement that is in place. The Conservatives remember that President Zelenskyy came to Canada to sign that agreement, and now they just want to throw it out the window. It is irresponsible. That is what I mean when I speak about the far right extremists in the Conservative caucus today. Shame on them.

The Assistant Deputy Speaker (Mrs. Carol Hughes): I want to remind the hon. member that a point of order was raised yesterday when a member raised the fact that someone had used a word, and I am not going to repeat that word here, but I do want to remind members to please be very careful with the words they use in the House. We should not be using these derogatory words as that shows a lack of respect.

I have a point of order from the hon. member for Kelowna—Lake Country.

Mrs. Tracy Gray: Madam Speaker, my point of order was going to be to ask you to address the issue of the Liberal member calling someone dumb—

The Assistant Deputy Speaker (Mrs. Carol Hughes): Yes, and so I have.

The hon. parliamentary secretary.

Mr. Kevin Lamoureux: Madam Speaker, I would like to apologize for calling them dumdums.

The Assistant Deputy Speaker (Mrs. Carol Hughes): That is not a proper way of apologizing. I would like to remind members to please be careful with the words they use in the House. It does cause a lot of problems, and it really stops the flow of the House to be able to proceed.

Questions and comments, the hon. member for Sherwood Park—Fort Saskatchewan.

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): Madam Speaker, the member asked what would have happened if the Conservative motion to expand the scope had passed. It is quite simple what would have happened. The amendments I drafted to expand the scope of the bill to make specific legislative changes to expedite weapons transfers to Ukraine could be proposed, and if adopted, those amendments would then become part of this legislation. It would not in any way undermine the existing agreement. It would simply be a matter of Canada's adding additional legislative measures that would expedite the sale of weapons to Ukraine.

It would be things such as, for instance, putting Ukraine on the list of open policy countries, which would reduce the time and review standard required to get these weapons to Ukraine. It would be things such as having EDC and BDC play a greater role in supporting the manufacturing of weapons in Ukraine through Canadian business investments. These are concrete measures that would make an actual difference to Ukraine as it fights the war. Why does the member not support those measures?

● (1210)

Mr. Kevin Lamoureux: Madam Speaker, each and every one of the Conservative members needs to take ownership and responsibility for their behaviour and their unanimous decision to vote against the Canada-Ukraine agreement. The Conservatives can come up with all the red herrings that they want.

The bottom line is that President Zelenskyy came to Canada and signed a trade agreement with Canada, even during a time of war, recognizing the value of that trade agreement. Only the Conservative Party, in its wisdom and its far right extremism, made the decision to vote against him. Shame on them. If the member has remorse already, then he could apologize and ask for unanimous consent to reverse his vote.

An hon. member: Oh, oh!

The Assistant Deputy Speaker (Mrs. Carol Hughes): Order. I want to remind the hon. member that he had an opportunity to ask a question. If he has other questions, he should wait for the appropriate time.

Questions and comments, the hon. member for Edmonton Strathcona.

Ms. Heather McPherson (Edmonton Strathcona, NDP): Madam Speaker, I would just like to reiterate the comments that my colleague made about the Conservatives voting against supporting a trade agreement with Ukraine. In fact, they did it on the Day of Dignity and Freedom for Ukraine, just to make it that much more appalling and inexplicable.

The bill we are trying to get through today and the work we are trying to get done would provide some support for Canadians with housing. I know that the government has admitted that it has not done nearly enough to address the situation of housing. I listened today to my colleague from Nunavut when she spoke about how dire the situation is for housing in the north. I am just wondering how this piece of legislation, which we would like to be able to talk about and be able to pass, would help with to nutrition, food prices, grocery prices and housing in northern communities, such as that of my colleague from Nunavut.

Mr. Kevin Lamoureux: Madam Speaker, to give a very specific example, the legislation would establish getting rid of the GST for purpose-built rental homes. This would have a profoundly positive impact. We have now seen provinces do likewise with respect to the PST. I hope to see more provincial jurisdictions continue to do that.

The member made reference to a special day. This is Holodomor week, a week to recognize what took place in Ukraine when Russia starved millions of Ukrainians. This is in the same week that the Conservative Party voted against the Ukraine-Canada free trade deal. It is very hard to imagine why the Conservatives voted that way, with the exception of the far-right element that I referenced.

Mrs. Jenica Atwin (Parliamentary Secretary to the Minister of Indigenous Services, Lib.): Madam Speaker, we are talking about Bill C-56, and it is important to bring us back to what this bill could offer to Canadians.

I am particularly interested in the piece around strengthening the Competition Act. We know that Canadians are deeply concerned about the rising costs of living. Christmas is coming. Ideally, not moving toward closure is what we want to see in the House, but we need to unfortunately because of the games that are played.

Could the member speak to some of the things we are seeing in the House that unfortunately prevent us from passing critical legislation like this?

Mr. Kevin Lamoureux: Madam Speaker, the legislation would enable us to strengthen the Competition Bureau, which is very important. It would also take away the efficiency argument in regard to when a large company acquires another one. A tangible example of that would be to go back to the days when Stephen Harper was the prime minister. We used to have Shoppers, a stand-alone company that provided all sorts of groceries. It was consumed by Loblaws in a multibillion dollar deal.

We all recognize that competition is healthy. It helps us keep prices fair for consumers. This legislation would make competition better in Canada, whether it is that aspect or the rental supports to ensure we have more homes into the future. This is good, sound legislation. One would think the Conservatives would be eager to see its passage.

● (1215)

Mr. Mike Morrice (Kitchener Centre, GP): Madam Speaker, I am really glad to see the governing party so keen to move forward with this measure to address the housing crisis. At the same time, we just had a fall economic statement with no new funds for the rapid housing initiative and no new action to address the financialization of housing.

For example, the Liberals could have removed the tax exemption that real estate investment trusts are benefiting from every day and put those funds toward building the affordable housing we need.

Why are the Liberals so selectively keen to move ahead on housing policy?

Mr. Kevin Lamoureux: Madam Speaker, never before in the history of Canada, at least for the last 50 or 60 years, has a government been more focused on dealing with the issue of housing. The member made reference to the fall economic statement that was released yesterday. I know the member is a big fan of housing co-ops. Within that statement was a serious commitment of somewhere in the neighbourhood of over $300 million toward supporting and seeing the realization of more housing co-ops.

I have always argued, and will continue to argue, that a housing co-op is a wonderful form of housing. People are not tenants; they are residents. That is a big difference. If I had more time, I would love to talk about all the things this government is doing on housing.

Mr. Garnett Genuis: Madam Speaker, in her previous comments attacking the Conservatives, the member for Edmonton Strathcona tried to pretend that she supports Ukraine. Here is what she told the committee in February 2022, the same month as the invasion. She said the following:

> Some people in this committee and some members of our Parliament have been calling on the government to provide lethal weapons to Ukraine. I have some concerns about that, obviously.
>
> Do you believe there are risks to providing those lethal weapons to Ukraine? This applies in terms of keeping track of those weapons, but more importantly, I'd like some information on how Russia would perceive that. Would they perceive that as an escalation instead of a de-escalation?

That is an unbelievable statement by the member for Edmonton Strathcona, the foreign affairs critic for the NDP. She was expressing an unwillingness to transfer lethal weapons to Ukraine because of fear of how Russia would perceive it. That is what the NDP was saying in February 2022.

Does the member think the NDP should apologize for those pro-Russia statements?

Mr. Kevin Lamoureux: Madam Speaker, from that question, I take it that there is a lot of remorse, at least from some of the Conservative members, for the manner in which they voted the other day. It is incredibly difficult for Canadians to believe that the Conservative Party would vote against a trade agreement that would have a profoundly positive impact for both Canada and Ukraine. It will make a positive difference.

What we have heard from the Conservative Party today, from the far right wing element, is a policy that is so reckless that it just does not make sense. People should think about the Conservative leader. It is a risky business nowadays being a Conservative. Those members really need to consider how they voted. I would highly recommend they make a major flip-flop and support the Canada-Ukraine agreement.

Ms. Bonita Zarrillo (Port Moody—Coquitlam, NDP): Madam Speaker, we need to get this work done. This morning I was at a anti-poverty event. I can tell members that people do not have time to wait for housing, for food and for medication, pharmacare. We have a lot of work to do.

I wonder if the member across the aisle could tell us how quickly we can get to the Canada disability benefit, because that legislation needs to get passed very quickly or come into force. Could he give us some updates on that, please?

Mr. Kevin Lamoureux: Madam Speaker, the government has a very proactive and progressive legislative agenda. We would like to get a lot of legislation through. We just brought in the anti-scab legislation. Whether it is budgetary measures or legislative measures, we have a full agenda. We know that it is in the best interests of Canadians for them to be passed.

The frustration is when the Conservatives stand on concurrence motions to filibuster debates or try to adjourn the House to prevent debates from occurring in the first place.

The Assistant Deputy Speaker (Mrs. Carol Hughes): I want to remind members again that when someone has the floor, it is respectful to wait until they are recognized during the appropriate time if they wish to say something.

Government Orders

Resuming debate, the hon. member for Kelowna—Lake Country.

● (1220)

Mrs. Tracy Gray (Kelowna—Lake Country, CPC): Madam Speaker, I will be splitting my time with the member for Medicine Hat—Cardston—Warner.

It is always a pleasure to rise on behalf of the constituents in my riding of Kelowna—Lake Country.

We are debating Bill C-56. The NDP-Liberal government continually fails to address the real issues that it has caused for all Canadians. It says the bill will somehow bring down the cost of living and grocery prices.

People in my community are struggling to pay their bills and put food on the table. Food bank usage is the highest it has ever been, with over 30% more clients year over year. This is consistent across the country and also in my community. People with disabilities and seniors on fixed incomes are hit particularly hard.

Instead of cutting the carbon tax and government spending, which is driving up inflation, the Liberal-NDP government believes that implementing Bill C-56 would somehow solve the inflated cost of living and grocery price issue.

There is a lack of competition in Canada's grocery industry, an industry held mostly by Loblaws, Sobeys and Metro, and this is a problem the bill would not solve. We have already seen the Prime Minister and the government fail at keeping their promises, like having cheaper groceries before Thanksgiving. That date has long come and gone.

Canadians are faced with higher costs than many other developed countries due to a lack of competition, whether in industries like grocery, airline, banking or telecommunications. High taxes, bureaucracy and red tape make Canada unproductive and uncompetitive. The Liberals added a second carbon fee, basically a second carbon tax. Saying the legislation takes some kind of stand against grocery stores is nothing short of performative with a nice title.

The policies of the NDP-Liberal coalition, with its inflationary deficit spending and high-tax agenda, has caused our inflation rate to be as high as it has been, and continues to be, which has caused the highest interest rates in a generation. The legislation is trying to deal with problems created by the government without addressing any of the causes. It is as if we are walking along and someone trips us and while we are lying on the ground looking up, that individual puts his or her hand out and asks to help us up. Meanwhile we would be thinking that if that person had not tripped us in the first place we would not be on the ground.

The NDP-Liberal coalition thinks that taxing farmers who grow our food, taxing transport trucks that move our food and then taxing grocery stores that sell our food has nothing to do with inflation. We have to remember that it was the Liberal finance minister who had declared victory on inflation only to see it go higher.

We also have to remember that inflation is compounding. Most people are familiar with compounding interest on their investments. However, this is the harmful kind of compounding, because it means things cost more.

For a 3% inflation, for example, that is 3% on top of last year, where during the same month it could have been 8%, as we were seeing in 2022. Therefore, the inflation rate this year is 3% plus 8%, which is 11%, but is even more because it is compounded compared to two years ago.

The Governor of the Bank of Canada said that inflation was homegrown and that it was costing the average Canadian $3,500 a year. That is not per family; it is per person. No wonder people are having trouble heating their homes. They were last winter and we are seeing them have a tough time again this year.

I send multiple surveys each year to every home in my community of Kelowna—Lake Country, and it is amazing the huge amount of people who respond to them. A recent one was this past summer. Here are the results: 70% say they are buying fewer groceries; 81% say they are taking fewer trips; 78% say they are donating less to charity; and 89% say they are putting less into savings. Many people also put detailed notes, sharing their ideas, solutions and heartbreaking stories with me.

The John Howard Society of Okanagan and Kootenay has stated that it is now having clients come to its organization saying that they have just lost their homes and do not know what to do. Now the organization does not know how to support these people because it was not built for the capacity it is now seeing.

It is no surprise that people cannot afford a home when the price of homes and rent in Canada has doubled over the last eight years of the NDP-Liberal government. It used to take 25 years to pay off a mortgage. Now it takes 25 years to save for a mortgage.

● (1225)

Saving for the average mortgage for the average home used to take five and a half years before the Liberal government. A recent C.D. Howe Institute study determined that in Vancouver, nearly $1.3 million of the cost of an average home is government gatekeepers adding unnecessary red tape. That means that over 60% of the price of a home in Vancouver is due to delays, fees, regulations, taxes and high-priced consultants.

The NDP-Liberal government has poured billions of dollars into housing programs and there is little to show for it. Removing the GST from home construction was proposed in a private member's bill by the leader of the official opposition. The difference between what he was proposing and what this bill would do is that this bill would help, but it is not focused on affordability like the official opposition member's bill is.

When I am home in my community at many different activities and events, a top issue many people bring to me is the increasing cost of their mortgage payments and how it is affecting their families and families they know. I was talking to a dad who said his mortgage just increased by over $1,000 a month. Another person, who has three kids, reached out. He is the sole income-earner for the family as his wife stays home to look after the kids. He was looking for any tax credits for kids' fitness and other activities, something I had to tell him the Liberals cancelled.

The latest MNP consumer debt index shows 51% of Canadians are $200 or less away from not being able to complete their financial obligations. It said, “Facing a combination of rising debt carrying costs, living expenses and concern over the potential for continued interest rate and price hikes, many Canadians are stretched uncomfortably close to broke. There is no mystery as to what is causing Canadians’ bleak debt outlook: it’s getting increasingly difficult to make ends meet.”

A recent survey released by financial firm Edward Jones Canada said, “Canadians are stuck in a chaotic whirlwind of personal financial stress,” and, “The poll clearly shows that Canadians are so preoccupied with just getting through the day, that the idea of paying debt feels like a distant dream.” It also found that 88% of Canadians say their personal financial situation is impacting their well-being.

In addition, 65% of Canadians now say they are concerned about saving for retirement, and 63% are concerned about how to prepare for an unexpected financial event. There are less savings, more concern and more risk. Forced sales events are up 10%, with mortgage defaults climbing, as just reported by the Toronto Regional Real Estate Board. It is not just me talking about the financial situation in my riding of Kelowna—Lake Country. The Financial Consumer Agency of Canada said that Canadians are now facing the biggest financial challenges of their lives.

The Prime Minister and the NDP-Liberal coalition have really lost touch with Canadians. This bill would assist with one small sliver of an issue with building homes, but it is not a housing affordability bill. As we see now with the fall economic statement and the Liberals being supported by its partner, the NDP, this spending will continue on a path of deficits and keeping inflation and interest rates high. This bill would not address the causes of high food costs, inflation or high interest rates. The Prime Minister is just not worth the cost.

We can send this bill to committee to be studied, and hopefully, some amendments can be made at committee and brought back to the House.

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, the member referred to Loblaws and the importance of competition. I would be interested in her thoughts regarding when Stephen Harper allowed Loblaws to acquire Shoppers, thereby decreasing competition in Canada's grocery industry. He is the one who brought it down ultimately to five companies.

This legislation would take away the efficiency argument. It seems to me, like the trade agreement between Canada and Ukraine, this is good legislation. I do not know what the Conservative Party is going to do on this legislation. Can the member indicate whether she will be voting in favour of this legislation or will she be doing like she did on the Canada-Ukraine Free Trade Agreement and voting against it?

● (1230)

Mrs. Tracy Gray: Madam Speaker, I am not sure if the member was listening to my speech, because I actually said I would be supporting it going to committee and that I was hopeful there would be some amendments at committee. That is what I said at the very end of my speech.

Regarding an organization like Loblaws, we have to remember how the government treats an organization like that. It gave refrigerators to Loblaws. During that time, I was getting phone calls from small businesses in my community, such as floral shops and a very small cheese shop, asking if they would also be given fridges. Of course, that was not the case. They were only given to one of the largest companies in Canada.

Mr. Kevin Lamoureux: Madam Speaker, I am glad the member said she is going to be voting in favour of the legislation. What she did not answer is if the Conservative Party would be. I would hope the Conservative Party would be supportive of the legislation. Maybe the member could give some sort of indication why the Conservative Party tends to want to prevent government legislation from passing, even legislation that the Conservatives support. The member says she supports this legislation. I am going to believe her on her word that the Conservative Party will be supporting the legislation.

When would she like to ultimately see this legislation pass through Parliament, including the Senate? Would she like to have it done before Christmas? Is that not a reasonable expectation?

Mrs. Tracy Gray: Madam Speaker, first of all, referring to how there are debates and debates are shut down, it is the government that does the calendar. The government chooses what is brought forward every day. The Liberals continually shut down debate in this House.

I am really glad I was able to bring forth the comments from people in my community on this particular piece of legislation. I can think of three times over the last very recent weeks where I had prepared a speech, was prepared to debate and bring the voice of my community here, and the government moved closure and shut down debate. The reason we are here is to bring the voices of our community into this place, and the government continues to shut down debate on legislation and stifles us from bringing the voices of our community here.

Mrs. Cathay Wagantall (Yorkton—Melville, CPC): Madam Speaker, can the member share with this place recommendations we have tried over and over again to extend to the government to use that would do far more to meet the needs of Canadians at this point in time?

Mrs. Tracy Gray: Madam Speaker, we have made a number of recommendations. As I mentioned in my intervention, the government does nothing to address the causes of why inflation is high and why interest rates are high. We have made recommendations to cancel the carbon tax. We have also made recommendations to be reasonable and accommodating and to look at removing the carbon tax for farmers. That is sitting in the Senate right now and is being stalled. We have made suggestions to take the carbon tax off all forms of home heating across the country, because the government, due to its panic over Liberal members who might lose their seats, decided to only make the carbon tax unavailable to one type of home heating. We have made that suggestion. The carbon tax alone we know has been analyzed, and removing it would bring down inflation. That is just one thing we would do.

Mr. Glen Motz (Medicine Hat—Cardston—Warner, CPC): Madam Speaker, it is always an honour to rise in this place and represent the amazing people of Medicine Hat—Cardston—Warner, as well as all Canadians.

It is said that imitation is the sincerest form of flattery, but it is breathtaking just how desperate the Liberals have become. In the House of Commons, we are witnessing a curious trend: imitation disguised as Liberal innovation.

The recent flurry of activity from our Liberal counterparts presents a spectacle. It is desperation masquerading as originality.

It is really fascinating. The Liberals have hastily adopted common-sense Conservative strategies to cloak their actions as a remedy for affordability, all the while seeking recognition for ideas that were not theirs to begin with.

Unfortunately, their replica has flaws, and the Liberals know that they need to ram this legislation through before Canadians realize that it is nothing more than a cheap knock-off.

If the government is looking for another idea to steal from Conservatives, maybe it could finally decide to repeal the carbon taxes, which are the real reason Canadians are facing the soaring cost of living.

First, let us dissect the fabric of the Liberals' imitation. The Liberals' newfound fascination with affordable living appears more as a last-ditch effort to mirror our common-sense Conservative initiatives, although it lacks the authenticity and the understanding required to genuinely address the woes of everyday Canadians.

This sudden adoption reeks of desperation. Maybe they have seen the polls. Maybe they are hearing in their ridings that the Conservatives are the only party putting forward common-sense ideas.

Maybe the Conservative message of common sense sounds good to them too, but their leadership comes down heavy-handedly when they vote in favour of our legislation, like the Liberal member for Avalon, who tried to do the right thing for his constituents initially, although he eventually betrayed them and caved to his master like a typical Liberal always does.

The government's thievery of Conservative ideas seems relentless. Were members aware that the fall economic statement contained no less than four Conservative private members' bills?

For example, there is Bill C-323, an act to amend the Excise Tax Act with respect to mental health services, from the good doctor from Cumberland—Colchester. There is Bill C-318, an act to amend the Employment Insurance Act and the Canada Labour Code for adoptive and intended parents, from my friend, the member for Battlefords—Lloydminster. There is Bill C-294, an act to amend the Copyright Act, on interoperability, from my riding neighbour to the east, the member for Cypress Hills—Grasslands. There is Bill C-365, an act respecting the implementation of a consumer-led banking system for Canadians by the amazing member for Bay of Quinte.

While the Liberals eagerly snatch concepts from our playbook, they turn a blind eye to the actual root cause of the economic pains faced by Canadians: their out-of-control debt and deficits, out-of-control spending, a carbon tax that does not do anything for the environment, a rapid housing initiative that cannot build homes and inflation that results from all of their financial mismanagement.

These are the real culprits behind the soaring cost of living, behind escalating interest rates and the burdensome grocery store bills and fuel prices that burden the citizens of this country every day. Our Conservative blueprint for affordable living, particularly our Conservative leader's building homes not bureaucracy act, stands as a testament to our commitment to the welfare of Canadians.

Our messaging, like the "bring it home" initiative, encapsulates not just slogans but a genuine drive to resolve the housing crisis plaguing our nation.

In contrast, the Liberals' response to this crisis they partly crafted lacks the depth and innovation required for a lasting solution. Their plan, often confined within the boundaries of existing programs and reannouncements, fails to project a path forward. It is a patchwork of recycled notions rather than a blueprint for real, sustainable change, and they have no problem announcing the same promises over and over again with the same pompous Liberal attitude that most Canadians have grown tired of.

● (1235)

The question remains: Are the Liberals truly addressing the housing crisis or merely engaging in performative arts to mitigate the damage that their policies have caused and the fact that the vast majority of Canadians desire to see them removed from office? Their sudden attempt to provide solutions and then force them on Canadians seems more reactive than proactive, a calculated response to evade accountability rather than an earnest effort to rectify the havoc they created. I can only hope it means they are getting ready for an election.

Liberals may tout their actions as responsive and comprehensive, but in reality, they bear the marks of limited vision and failure of leadership.

The building homes not bureaucracy act, as presented by our Conservative leader Pierre Poilievre, is not just a set of words—

● (1240)

The Assistant Deputy Speaker (Mrs. Carol Hughes): I think the hon. member recognized that he mentioned the official opposition leader by name. I want to remind him that he is not to mention the names of parliamentarians who sit in this House.

The hon. member for Medicine Hat—Cardston—Warner.

Mr. Glen Motz: Madam Speaker, the building homes not bureaucracy act, as presented by the Conservative leader, is not just a set of words or an ostentatious announcement. It is a clarion call for genuine reform, which that act is all about. It embodies the Conservative commitment to forge a future where affordable living is not a privilege but a right for all Canadians. Its depth, its foresight and its genuine intent to alleviate the housing crisis differentiates it starkly from the borrowed and incomplete solutions offered by the Liberal government.

We, as Conservatives, are not satisfied with token Liberal gestures, and Canadians are not either. We need substantive change and substantive solutions that do not create just photo ops and news clippings. Canadians cannot live in a photo op, a press release or an initiative. They need affordable housing and a Conservative government that is going to bring it home.

The choice is very clear. It is between either a Conservative vision anchored in genuine innovation and a desire to provide common-sense solutions to Canadians, or a Liberal stance marred by imitation, which lacks depth, and is not worth the cost. Canadians deserve more than rehashed plans; they deserve visionary initiatives that ensure a brighter, more affordable future and a leader with the common sense of the common people who is united for our common home. Let us bring it home.

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, the member just implied that they deserve a leader with a visionary nature. We had that in the last federal election when 338 Conservatives and their leader said that a price on pollution was actually a good thing. Yes, Conservatives have ideas, but we find that they often flip-flop, and this is one of those ideas they actually flip-flopped on. We saw it today in the debate when Conservatives said that they wanted to get rid of the price on pollution.

We cannot trust the Conservatives and their policies, which are very reckless. We cannot tell what they are really going to do on this legislation, or if they even want it to pass, because they are so preoccupied with the far right.

My question to the member is this: Recognizing the issues of the flip-flops within the Conservative Party, can we acknowledge today that the Conservative Party will in fact stay in touch with Canadians and support this legislation?

The Assistant Deputy Speaker (Mrs. Carol Hughes): It looks like other people want to try to answer. I would let them know that it is not their opportunity to do that, and they may want to wait.

The hon. member for Medicine Hat—Cardston—Warner.

Mr. Glen Motz: Madam Speaker, I think it is important to understand that, first of all, Canadians are speaking very loudly. They are tired of the government. They are tired of policies that damage their futures, and that impact the ability of their children to afford homes and themselves to afford homes.

As far as his suggestion, for example, that the Conservatives supported the carbon tax is concerned, he will not hear one word out of my mouth, ever, that I supported the carbon tax, as I do not, and I never will, because it does not work, end of story.

● (1245)

[*Translation*]

Mr. Mario Simard (Jonquière, BQ): Madam Speaker, I am always surprised to hear the Conservatives harp on the carbon tax day after day when they talk about inflation. When serious studies—

The Assistant Deputy Speaker (Mrs. Carol Hughes): I will ask the member to start over again. There seems to be some discussion on both sides of the House.

[*English*]

I would ask members, if they want to have a conversation, to please take it out in the lobby. That would be much more respectful.

[*Translation*]

The hon. member for Jonquière.

Mr. Mario Simard: Madam Speaker, I am pleased to do so.

I was saying that I am always surprised to hear the Conservatives harp on the carbon tax day after day, when we know that it does not have a major impact on inflation. Serious economic studies tell us that the carbon tax causes inflation to rise by 0.1%.

The Conservatives keep harping on this. Not only that, but their leader recently said that the carbon tax would be the issue at the ballot box. We know very well that this tax does not apply to Quebec, which means that the Conservative leader does not care one iota about what is happening in Quebec.

I wonder what is really driving the Conservatives to talk about the carbon tax. Are they perhaps doing this to give their friends in the big oil and gas companies some overt, explicit support? Are they not ultimately oil and gas lobbyists?

[*English*]

Mr. Glen Motz: Madam Speaker, I have just a couple of things.

The clean fuel standard, which applies in Quebec, is actually a carbon tax. While there may not be a carbon tax as such, there is a clean fuel standard. That is a carbon tax.

When I talk to my constituents, they want me, as their representative in the House, to ensure they have the ability to move forward and to make a living. I see farmers who have hundreds of thousands of dollars' worth of carbon tax on irrigation operations, on grain drying, on heat for their barns and those sorts of things. It affects their bottom lines, and their prices are fixed.

It is about Canadians' well-being. If the carbon tax actually had a positive impact on the environment, then it would be worth looking at, but it does not. It has not, and it will not because it is a tax. It is only a tax, and it has no impact on improving the environment whatsoever.

Ms. Heather McPherson (Edmonton Strathcona, NDP): Madam Speaker, my colleague from Alberta spoke a lot about housing. Obviously, we hope that we could get through to the bill so that we could actually get some supports in place for people who are fighting for housing.

However, my concern is around how he expects that Canadians could trust his leader on housing when, really, he has only come to this in the last two years, while New Democrats have been calling for more action on housing for over 30 years. We know that the party executives are lobbyists for oil, for pharma, for real estate and for non-unionizing companies. The Conservative leader has actually blamed municipalities and, in fact, has called Canadians' homes "shacks".

How could we trust the leader on housing?

Mr. Glen Motz: Madam Speaker, I agree that the current leader of the government is not to be trusted. The Prime Minister is a sham, and he has achieved nothing but failures for our country.

If we want to look at an act that would help Canadians with housing, then we need to look at the Conservative leader's and the Conservative Party's plan in the housing and not bureaucracy act, which would actually make a difference for Canadians and would get them into homes that are sustainable moving forward.

Mr. Tony Van Bynen (Newmarket—Aurora, Lib.): Madam Speaker, I am pleased to participate in today's debate on Bill C-56, the affordable housing and groceries act. Our government understands that many Canadians are struggling to make ends meet in these times of high inflation. It is committed to continue to make targeted and responsible investments to build a stronger future for all Canadians.

We all know the rising costs of groceries and the lack of affordable housing are affecting families across the country. I am pleased to discuss some of the ways we are addressing those important issues through the measures outlined in Bill C-56. We know that for far too many Canadians, including young people, the dream of owning a home is becoming increasingly—

● (1250)

The Assistant Deputy Speaker (Mrs. Carol Hughes): I will just stop the hon. member here.

The hon. parliamentary secretary to the government House leader has a point of order.

Mr. Kevin Lamoureux: Madam Speaker, my apologies to my colleague, but I believe that he was going to share his time with the member for Avalon.

The Assistant Deputy Speaker (Mrs. Carol Hughes): I am not sure that is quite a point of order, but I appreciate that the hon. member mentioned it for the hon. member for Newmarket—Aurora. Generally, messages are sent to them, and they would try to acknowledge that then, but it is up to the members to remember if they want to share their time.

The hon. member for Newmarket—Aurora.

Mr. Tony Van Bynen: Madam Speaker, I appreciate the intervention of my colleague.

We know the rising cost of groceries and the lack of affordable housing are affecting families across the country, and I am pleased to discuss some of the ways we are addressing those important issues through the measures outlined in Bill C-56.

We know that for too many Canadians, including young people and new Canadians, the dream of owning a home is increasingly out of reach, and paying rent is becoming more expensive across the country. The housing crisis is having an impact on our economy. Without more homes in our communities, it is difficult for business owners to attract the workers they need in order to grow their businesses and to succeed. When people spend more of their income on housing, it means they spend less of their money in their communities for necessities like groceries.

Bill C-56 would enhance the goods and services tax rebate on new purpose-built rental housing to encourage the construction of more rental homes, including apartment buildings, student housing and seniors' residences across Canada. The enhanced rebate would apply to projects that begin construction after September 14 and on or before December 31, 2030. For a two-bedroom rental unit valued at $500,000, the enhanced GST rebate would deliver $25,000 in tax relief. This is another tool to help create the necessary conditions to build the types of housing that we need and that families want to live in.

The measure would also remove the restriction on the existing GST rules so that public service bodies, such as universities, public colleges, hospitals, charities and qualifying not-for-profit organizations that build or purchase purpose-built rental housing, would be permitted to claim the GST new residential rental property rebate. The government is also calling on provinces to join it by matching its rebate for new rental housing. It is also requesting that local governments put an end to exclusionary zoning and encourage apartments to be built near public transit.

Launched in March, the housing accelerator fund is a $4-billion initiative designed to help cities, towns and indigenous governments unlock new housing supply, which is about 100,000 units in total, by speeding up development and approvals, like fixing out-of-date permitting systems, introducing zoning reforms to build more density and incentivizing development to choose public transit. It represents one of the ways we are encouraging initiatives aimed at increasing the housing supply. It also would support the development of complete, low-carbon, climate-resilient communities that are affordable, inclusive, equitable and diverse. Every community across Canada needs to build more homes faster, so we need to reduce the cost of housing for everyone.

We also need to stabilize the cost of groceries in Canada. Through the one-time grocery—

The Assistant Deputy Speaker (Mrs. Carol Hughes): I am sorry. There is another point of order.

The hon. parliamentary secretary to the government House leader.

Mr. Kevin Lamoureux: Madam Speaker, I understand the rules indicate that if a member wants to split their time, they have to affirm that they would like to split their time. Is that not correct? Do they have to say it?

The Assistant Deputy Speaker (Mrs. Carol Hughes): That is correct. I appreciate the hon. member's intervention. Again, as I indicated, points of order should not be used to remind members to split their time. However, the member is correct that the member does have to say that he wants to split his time.

The hon. member for Newmarket—Aurora.

Mr. Tony Van Bynen: Madam Speaker, I thought that when I thanked the member for his intervention, I confirmed that. However, for the record, yes, I do wish to split my time.

We also need to stabilize the cost of groceries in Canada. Through the one-time grocery rebate in July, we delivered targeted inflation relief for 11 million low- and modest-income Canadians and families who needed it the most, with up to an extra $467 for eligible couples with two children and an extra up to $234 for single Canadians without children, including single seniors. This support was welcomed by Canadians, but we knew we needed to do more to address the rising cost of groceries.

Through Bill C-56, the government is introducing the first set of legislative amendments to the Competition Act to, one, provide the Competition Bureau with the powers to compel the production of information to conduct effective and complete market studies; two, remove the efficiencies defence, which includes allowing anti-competitive mergers to survive challenges if corporate efficiencies offset the harm to competition, even when Canadian consumers would pay higher prices and have fewer choices; and three, empower the bureau to take action against collaborations that stifle competition and consumer choice, in particular in situations where large grocers prevent smaller grocers from establishing operations nearby.

Bill C-56 builds on other measures that have been introduced to make life more affordable for Canadians: delivering automatic advance payments for the Canada workers benefits, starting in July 2023; supporting up to 3.5 million families annually through the tax-free Canada child benefit, with families this year receiving up to $7,400 per child under the age of six and up to $6,200 per child aged six through 17; increasing old age security benefits for seniors aged 75 and older by 10% as of July 2022, which is providing more than $800 of additional support for pensioners; and reducing fees for regulated child care by 50% on average, delivering regulated child care that costs an average of just $10 a day by 2026, with six provinces and territories reducing child care fees to $10 a day or less by April 2, 2023, and strengthening the child care system in Quebec with more child care spaces.

The new proposed housing and grocery support I outlined today would make it easier to build more of the homes Canadians need and want, to help them thrive. It would also help families with the growing cost of putting food on the table. The passage of Bill C-56 would help us to provide a brighter future for Canadians. We want to ensure that Canada remains the best place in the world to live, work, go to school and raise a family, and making life more affordable is a key part of that.

I urge hon. members here today to conduct their review of this bill expeditiously and support its speedy passage so that we can conclude this important work.

● (1255)

[*Translation*]

Mr. Denis Trudel (Longueuil—Saint-Hubert, BQ): Madam Speaker, as usual, the Liberal members are awfully pleased with themselves. They are bragging about their government's achievements.

My colleague had a lot to say about housing. Unfortunately, the GST rebate in Bill C-56 is not going to make much of a dent in the housing crisis in Quebec and Canada. It is a marginal measure, especially in Quebec.

The government tabled its economic update two days ago. Unfortunately, many of the measures in it will not take effect until 2025 or 2026. Quebec has 10,000 homeless people. I have seen them in Longueuil, Saint-Jérôme and Rimouski. There are people on riverbanks. This is going to be very hard.

We asked the government to put an emergency fund in the economic update. Winter is coming, and it is going to be cold. We know that. It is going to be hard. I know people will die in Quebec, on those riverbanks, in small towns, all over the province. That is unacceptable.

We asked for an emergency fund to help address the problem, but we got nothing. Most of the economic measures will not take effect until 2025 or 2026, but we need to build 150,000 housing units a year starting right now. If we do not build them this year, there will be a backlog, and they will have to be built sooner or later.

When will the Liberal government get serious about this problem and come up with measures that will make a real difference?

The Assistant Deputy Speaker (Mrs. Carol Hughes): I must interrupt the hon. member to give other members time for questions and comments.

The hon. member for Newmarket—Aurora.

[*English*]

Mr. Tony Van Bynen: Madam Speaker, I would save that debate for when the fall economic statement comes forward. Today we are discussing Bill C-56.

While I cannot speak to the impact of the GST, I can say that in my community of Newmarket—Aurora, there is one project that will provide us with 568 new units. These were ready to go, but the business model was not effective until the GST was implemented. In a community of 24,000 housing units, that number is quite significant, so we cannot take away from the fact that this is a progressive measure that will help many communities like Newmarket—Aurora.

● (1300)

Ms. Lori Idlout (Nunavut, NDP): *Uqaqtittiji*, this bill is particularly important for Nunavut because it addresses housing and affordability, two major issues in my riding. To give an example of current grocery prices, a one-litre bottle of orange juice is $17 and one case of bottled water is $28. Even programs like nutrition north are not working. I wonder if the member can share with us how this act would help to reduce grocery prices in places like my riding.

Mr. Tony Van Bynen: Madam Speaker, I thank my colleague for raising the concerns of her riding. Frankly, my heart breaks to hear that this type of inequity is going on. Our government is committed very much to prioritizing relief for remote areas, and hopefully there will be further discussion on that when we get to the fall economic statement.

Mr. Terry Dowdall (Simcoe—Grey, CPC): Madam Speaker, in the member opposite's past life, like me, he was a mayor. I know he is familiar with the county of Simcoe, and I represent a portion of it. There is huge disappointment with the government among many of the politicians in the area, and there are two parts to that. One is certainly the bureaucracy and the timelines to build, but there are places in my area, such a New Tecumseth, Collingwood and Clearview, where there is no infrastructure money available. It takes time.

Has he not heard before from his constituents about the dire need for housing and that perhaps it is the government that has been taking up the timelines? Houses have been built that will not have water until 2028, and people have purchased them. Would the member like to comment on those two parts, the bureaucracy and the fact that there are a lot of announcements about funding but it does not seem to hit any of the local municipalities?

Mr. Tony Van Bynen: Madam Speaker, it is important that we work closely with municipalities to move these projects forward. I heard a reference earlier today that the build homes, not bureaucracy legislation was going to move things along, but it reminds me of a phrase my father used to say, which is ironic: The beatings will continue until morale improves. The approach the opposition is providing when it comes to improving relationships and making municipalities more efficient is dead wrong.

Mr. Ken McDonald (Avalon, Lib.): Madam Speaker, I am thankful for the opportunity to discuss Government Business No. 30 and the affordable housing and groceries act. It stands as a cornerstone of our commitment to building more homes faster and stabilizing prices.

Regrettably, the urgency and significance of this bill have been overshadowed by the repeated filibustering and delay tactics employed by the Conservative opposition, resulting in over 20 hours of debate across five days. It is evident that despite garnering support from within its own ranks, including commitments made by the Conservative member for Mission—Matsqui—Fraser Canyon over a month ago to vote in favour of this bill, the Conservative opposition remains committed in its attempts to hinder the bill's progress.

Bill C-56 is designed to address the challenges faced by Canadians, specifically in relation to the cost of groceries and the need for affordable housing—

The Assistant Deputy Speaker (Mrs. Carol Hughes): I am sorry to interrupt. I believe the hon. member's phone is on the desk, and it is causing problems for the interpreters.

I want to remind all members that when they are doing their speeches, they should make sure their phone is not on their desk, because it is a health and safety concern.

The hon. member for Avalon.

Mr. Ken McDonald: Madam Speaker, regarding housing affordability, the ability to own a home or secure reasonable rental accommodations has become increasingly unattainable for many, especially for young people and newcomers. Bill C-56 proposes substantive enhancements to the goods and services tax, GST, rental rebate for newly constructed purpose-built rental housing. This initiative serves as a catalyst for fostering the development of rental properties encompassing apartments, student residences and homes for seniors. The proposed rebate system, offering significant tax relief, exemplifies our commitment to facilitating the creation of the much-needed housing inventory suitable for diverse family needs.

We urge provinces and local governments to work in tandem with this bill on rebate initiatives and actively support housing developments situated in close proximity to public transit systems, enhancing accessibility and promoting sustainable communities.

Concurrently, the government has taken concrete measures to mitigate the costs associated with groceries. The introduction of targeted inflation relief through the one-time grocery rebate in July represented a proactive step. Bill C-56 supplements these efforts by proposing legislative amendments to the Competition Act, augmenting the authority of the Competition Bureau to conduct comprehensive market studies. These amendments seek to eliminate the efficiencies defence for anti-competitive mergers and address collaborations that impede competition, specifically those disadvantaging smaller competitors in contrast to larger grocery entities.

The significance of Bill C-56 extends beyond its immediate implications. It complements a suite of measures aimed at enhancing the quality of life for Canadians. Since the beginning, our government's commitment to delivering meaningful benefits to Canadians has remained unwavering. The 2023 fall economic statement, delivered by the Deputy Prime Minister and Minister of Finance earlier this week, is a testament to our dedication toward creating an inclusive and thriving economy that supports the middle class while striving to build more homes faster.

This year's fall economic statement serves as a blueprint to tackle the prevailing challenges of high prices and impending mortgage renewals. Our government stands resolute in taking targeted measures to stabilize prices, support Canadians with mortgages and enhance affordability. The comprehensive plan outlined in this statement introduces substantial funding for housing initiatives, cracking down on illegal short-term rentals and making significant advancements in making housing more affordable across Canada.

Continuing our legacy of delivering tangible benefits to Canadians, the economic statement reinforces our commitment to supporting Canadians. The government has taken proactive steps by introducing measures aimed at making groceries more affordable, cracking down on junk fees and removing GST from psychotherapy and counselling services. These initiatives underscore our dedication to fostering an economy that offers equitable opportunities for all Canadians.

Moreover, our economic plan is not merely in response to immediate challenges. It is also strategically positioned to propel Canada toward a cleaner and more sustainable future. Investments in Canada's clean economy, the introduction of the Canada growth fund and advancements in the indigenous loan guarantee program signify our unwavering commitment to fostering a robust economy that is sustainable and inclusive.

The robustness of our economic plan is underscored by the federal government's unwavering commitment to making housing more affordable across Canada. Federal investments in housing have witnessed a substantial increase, surpassing previous benchmarks. This year, the federal investment in housing is $9 billion higher than it was in 2013-14. Since 2015, the average annual federal housing investment has more than doubled compared to the previous government. The comprehensive strategy outlined in our economic plan allocates billions in new loan funding to support the creation of more than 30,000 additional new homes and dedicates a substantial portion to affordable housing projects, all aimed at enhancing the accessibility and affordability of housing options for Canadians.

● (1305)

Our government's responsible economic stewardship has yielded commendable results, reflected in the employment of over a million more Canadians compared to prepandemic levels. Canada's unemployment rate has remained consistently lower than in previous records, while inflation rates are on a downward trajectory. Moreover, our commitment to fiscal responsibility is reflected in maintaining the lowest deficit and net debt-to-GDP ratio among G7 nations.

In conclusion, Bill C-56 is a testament to our government's unwavering commitment to addressing the critical issues faced by Canadians today. It symbolizes our dedication to fostering an inclusive and prosperous Canada for all. As members of Parliament, it is our collective responsibility to prioritize the well-being of Canadians, ensuring equitable access to housing and essential goods. I would encourage all members to support the measures included in Bill C-56.

I am thankful for the opportunity to advocate for the passage of this crucial legislation.

● (1310)

Mr. Clifford Small (Coast of Bays—Central—Notre Dame, CPC): Madam Speaker, the Liberal-NDP coalition's so-called free trade bill with Ukraine aims to quadruple the carbon tax on Ukrainians, as it is doing in Canada, and increase their suffering. While the coalition virtue signals about Conservatives' lack of support for this, it has failed in its promise to Newfoundlanders and Labradorians to lobby Japan and South Korea to stop the importation of Russian crab. After it made this promise, exports of Russian seafood to South Asia in the last half of the year increased by 63%.

The Prime Minister, the Minister of International Trade and the Minister of Foreign Affairs promised the people of his riding, my riding and all the ridings in Newfoundland and Labrador to hammer those countries to stop supporting the Russian war effort and let Newfoundland and Labrador fishermen keep their homes and enterprises. How does the member for Avalon feel about this broken promise?

Mr. Ken McDonald: Madam Speaker, I know the member opposite from Newfoundland fights hard for the fishery, which is very important to our province.

I believe the Minister of International Trade is doing everything she can to make sure more markets are opened and established. It is no different than the bill we voted on this week, the Canada-Ukraine free trade agreement. The Conservative Party hangs its hat on being the party in favour of trade, but all members stood and voted against it. They do not want trade with Ukraine for some reason. It is a bit rich that the member on the other side talks about what we are doing about trade initiatives across the world.

[*Translation*]

Mr. Denis Trudel (Longueuil—Saint-Hubert, BQ): Madam Speaker, I thank my colleague for his speech, but once again it was little more than an infomercial for the Liberal government's action on housing.

That is rather unfortunate, because the housing crisis is a major problem, and the further along we get in the debate, the more we see that the government is not facing the facts when it comes to this crisis. According to the Canada Mortgage and Housing Corporation, we need to build 3.5 million housing units by 2030. That is a huge task. In a report published two weeks ago, the federal housing advocate even indicated that we need to build nine million housing units in Canada in the next 10 years. That is a huge task.

In the economic statement, the government announced the construction of approximately 30,000 housing units in 2025-26. That is just the tip of the iceberg. Any housing needs that are not met now are just going to accumulate. The government is not going to get off that easy. In Quebec alone, 500,000 households are in dire need of housing.

I look forward to hearing from a government that will stand up and say that we are on the verge of a serious humanitarian crisis in Quebec and Canada and that it is going to take strong action to deal with it. I look forward to hearing that.

[*English*]

Mr. Ken McDonald: Madam Speaker, nobody is going to build houses overnight. It takes time. I have spoken to developers in my area in Newfoundland and Labrador. They are anxious for this bill to get passed, so they can take advantage of the incentives to build affordable rental units and affordable housing for seniors, low-income families and the whole gamut.

Will it be completed in a year or six months? No, it will not. This is a long-term initiative that we want to make sure gets rolled out the right way, gets done the right way and delivers the right results.

Ms. Bonita Zarrillo (Port Moody—Coquitlam, NDP): Madam Speaker, the member talked about there being more funding this year than there was last year and how the current government and previous governments did not invest in housing.

We know that housing is a human right. I very much appreciated the question today from my colleague from the Bloc, who talked about the urgency of this crisis. Why has it taken the government this long to get serious about investing in affordable housing?

● (1315)

Mr. Ken McDonald: Madam Speaker, I cannot answer for why it took so long. I do not sit around the cabinet table for discussions on which policies come forward and which do not.

However, I am delighted, and I know the people in my riding are delighted, that we are actually moving this envelope forward. We are going to make more houses and rental units available and have more people living in homes that they deserve. It should be a right, not an option, for people to have homes.

Mr. Gerald Soroka (Yellowhead, CPC): Madam Speaker, I would like to inform you that I will be sharing my time with the hon. member for Saskatoon West.

I rise today to address Bill C-56, an act to amend the Excise Tax Act and the Competition Act. This debate is crucial, as it concerns not only the legislative process but also the fundamental issues of housing affordability and market competition that affect Canadians nationwide. This bill, introduced by the Deputy Prime Minister and Minister of Finance, demands our careful consideration and thorough analysis to ensure it meets the needs of the people we represent.

In discussing Bill C-56, it is imperative to address the manner in which it is being ushered through the House, specifically through Motion No. 30. This motion, a procedural manoeuvre by the government, significantly limits the time allocated for thorough debate and consideration of this substantial piece of legislation. By limiting parliamentary discussion and expediting the bill's passage, Motion No. 30 undermines the democratic process that is fundamental to our legislative system.

Such a hastened approach is particularly concerning given the bill's wide-ranging implications for housing affordability and market competition. These are complex issues that warrant detailed scrutiny and thoughtful debate, ensuring that every aspect of the bill is examined for its potential impact on Canadian society.

The use of Motion No. 30, in this context, suggests a Liberal government preference for achieving catchy headlines on affordability instead of democratic thoroughness. Such a stance risks overlooking critical nuances and potential shortcomings of the bill. As representatives of the Canadian people, we have a duty to ensure that legislation, such as Bill C-56, receives the comprehensive attention it deserves.

Turning our focus to the housing affordability aspect of Bill C-56, it is essential to analyze its proposed measures and compare them with the initiatives outlined in our Conservative leader's building homes not bureaucracy act. While Bill C-56 suggests removing the GST on new purpose-built rental housing, this approach is merely a fragment of what is needed to genuinely address Canada's housing crisis.

Our Conservative vision, as set forth in the building homes not bureaucracy act, offers a more comprehensive and robust plan. It aims not only to reduce the financial burden on housing construction but also to tackle the systemic barriers that hinder the development of affordable housing. This includes removing the gatekeepers who delay the building of homes, as well as all the other red tape and bureaucratic hurdles that are adding to the housing crisis. These aspects are notably absent in the government's current proposal.

Our plan mandates significant yearly increases in housing construction, ensuring a steady growth in supply, and it proposes punitive measures for cities that fail to meet these targets. This strategy recognizes that the housing crisis is not just a matter of fiscal policy; rather, it also requires structural changes in the way housing projects are approved and developed.

Moreover, our proposal goes beyond the mere construction of housing. It includes incentives for municipalities that exceed their housing targets, promoting not only the quality but also the quantity and expedience of housing developments. In contrast, that Bill C-56 has a singular focus on GST removal, but does not address the broader regulatory and procedural challenges, demonstrates a lack of understanding of the complex nature of the housing crisis. Our approach also recognizes the importance of building communities, not just houses.

By tying transit and infrastructure funding to the construction of high-density housing around transit stations, we ensure that new housing developments contribute to the creation of sustainable, well-connected urban environments. This is crucial for improving the overall quality of life for residents and fostering community development. While Bill C-56 makes an attempt to address housing affordability, it falls short of offering a holistic solution.

● (1320)

The Conservative Party's building homes not bureaucracy act, in contrast, presents a detailed, actionable plan that addresses the root causes of the housing crisis and proposes viable, long-term solutions. It is a plan that not only addresses the immediate need for more affordable housing but also lays the groundwork for sustainable urban development and community growth.

In addressing the amendments to the Competition Act within Bill C-56, it is crucial to recognize their inadequacy in effectively tackling the real issues plaguing our market competition. The proposed measures, though seemingly progressive, fail to address the root causes of the problems they aim to solve.

The government's approach to amending the Competition Act, as stipulated in Bill C-56, primarily focuses on empowering the Competition Bureau with greater investigative powers and addressing collaborations that limit competition. However, this approach overlooks the broader, more systemic issues within our market structures. For instance, the highly concentrated nature of certain sectors, such as the grocery industry, remains unaddressed. This concentration is a critical factor contributing to the lack of competition and the resulting high prices that Canadian consumers are forced to endure.

Moreover, the bill's omission of the efficiencies defence repeal is a significant shortcoming. The efficiencies defence, which allows certain anti-competitive mergers under specific conditions, has been a point of contention, undermining fair market competition and consumer interests. The Conservative Party has long advocated for the repeal of this defence, recognizing its role in facilitating monopolistic practices. By neglecting to address this defence, Bill C-56 misses an opportunity to make substantial, meaningful reforms to our competition laws.

In addition, the amendments proposed in Bill C-56 lack clarity regarding the specific entities they cover and the concrete standards for service. This vagueness creates uncertainty about the legislation's effectiveness in tackling market challenges. Effective competition law reform requires precise, targeted measures that directly address the issues at hand. Generalized amendments, without clear direction or focus, risk being ineffective in bringing about the necessary change.

While the amendments to the Competition Act in Bill C-56 represent a step towards addressing market competition issues, they fall short of offering a comprehensive solution. The Conservative Party's stance on this matter is clear: We need more than just surface-level changes. We need a thorough overhaul of our competition laws, one that addresses the deep-rooted issues within our market systems and ensures a fair competition environment for all Canadians.

It is important to emphasize that while Bill C-56 makes an attempt to address housing affordability and market competition, it falls short of the comprehensive, proactive strategy that Canadians desperately need in these challenging times. As Conservatives, we are unwavering in our commitment to implement solutions that tackle the fundamental issues affecting our nation's housing supply and the integrity of our market systems.

The Conservative leader's building homes not bureaucracy act offers a road map for real, tangible change, in stark contrast to the limited scope of Bill C-56. Our approach is about addressing the root causes of these critical issues with a long-term perspective. We believe in creating legislation that not only meets the immediate needs of Canadians but also sets the stage for sustainable growth and prosperity for future generations.

Conservatives call upon the government to look beyond short-term fixes and consider more holistic, impactful measures. It is time to move away from reactive legislation and towards forward-thinking policies that genuinely reflect the challenges of Canadians. We must acknowledge these challenges and address them rather than pursuing this legislation.

● (1325)

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, the member made reference to more of a holistic approach in dealing with the issue of housing, and I will use that as an example.

I have said in the past that no government in the history of Canada, at least not in the last 50 to 60 years, has actually invested more in housing than the current government has. We can talk about the national housing strategy of billions of dollars, as well as a litany of different types of programs to encourage the development of housing and working with provinces. We can go to the fall economic statement, where we are seeing an expansion being proposed under the housing co-ops for alternative forms of housing.

Would the member not recognize that this legislation is just one aspect of that? Does he not support the holistic approach that the government is actually proposing?

Mr. Gerald Soroka: Madam Speaker, I really appreciate the hon. member's talking about the failures of the government. He is correct. It has spent the most amount of money on housing to get the least number of returns, so good on you that the Liberal government is doing such a horrible job and admitting it to the House. Thank you very much for that.

The Assistant Deputy Speaker (Mrs. Carol Hughes): I do want to remind the hon. member that he is to address his comments through the Chair and not directly to the members.

The hon. member for Longueuil—Saint-Hubert.

[*Translation*]

Mr. Denis Trudel (Longueuil—Saint-Hubert, BQ): Madam Speaker, there was one part of my colleague's speech that I really liked. When he talked about the housing crisis, he said it is a complex issue. He is right.

At some point, the government is going to need to wake up and face the facts. Those 3.5 million housing units will require hundreds of billions of dollars in investments. I am not even convinced we are going to get there.

However, there is one issue the government could work on, and that is the financialization of housing. That is a significant issue. We are talking about the fact that a growing share of rental housing is being bought up by large private investors, often international ones. It is estimated that, in Montreal, less than 1% of owners own 32% of the rental housing stock. They could not care less about the right to housing. All they want to do is make money. They buy buildings with 60, 80 or 100 units. They demolish or renovate them. They renovate and double the price of the units. They have a major impact on the rise in housing prices. We absolutely have to tackle this issue.

Could my colleague suggest some measures today to deal with this?

[*English*]

Mr. Gerald Soroka: Madam Speaker, I think that is what we have always talked about, which is making sure we have affordable housing. There is a big difference between having housing at a high price and having actually affordable housing.

The majority of Canadians do not have six-figure salaries. There are way too many Canadians who have lower incomes, and we need to do exactly what the member is recommending: build affordable housing for all Canadians. That is something that the Conservative plan would definitely address.

Ms. Lori Idlout (Nunavut, NDP): *Uqaqtittiji*, I am glad that the member was talking about prosperity. In my region, retail grocery stores outside my riding are allowed to prosper by being subsidized by the nutrition north program. I think that the bill before us is particularly important so we could ensure that nutrition north becomes a social program that would change that system so it is not subsidizing for-profit grocery stores, so my constituents can also prosper.

Does the member agree that the nutrition north program needs to tax the rich grocery stores better and become a social program so my constituents can also prosper?

Mr. Gerald Soroka: Madam Speaker, I really do not think we need more social programs. What I really think we need to start doing, especially for the north, is to start a program where people can grow their own food in the north through greenhouses, making sure they can produce top-quality food and do it on their own terms, with the kinds of food they want to produce, not being brought in from different levels of government or different corporations.

That is what we need to start looking at: more self-sufficiency in the north as opposed to reliance on government.

● (1330)

Mr. Brad Redekopp (Saskatoon West, CPC): Madam Speaker:

> Tuesday is a day where if you thought there was something wrong in this country you would have more evidence you are right.
>
> If you sense the system and those in charge, the high-and-mighties thought to be smarter than the rest of us, have let us down big-time and without apology, you would be right again.
>
> If you feel a general sense of unease, dissatisfaction, your gut telling you there should be a shake-up you would be far from alone.

I just quoted a passage from Rick Bell's column in the Edmonton Sun newspaper yesterday. Mr. Bell was commenting on Tuesday's fall economic statement by the finance minister, a speech she delivered that ties directly into the legislation we are discussing today, Bill C-56. I want my friends in Saskatoon West to hear what else Mr. Bell had to say:

> Sunny ways have turned into darkening storm clouds....
>
> If this was supposed to be a Hail Mary pass in the direction of [the Prime Minister's] political redemption, the pass was incomplete, under-thrown, hopelessly off-target.
>
> The high cost of living. Groceries, mortgages, rents, the price of so many things. Up. Federal government spending. Up.
>
> The ever-increasing carbon tax. Up.

It is true. After eight years of the costly NDP-Liberal coalition, Canadians are facing the worst affordability crisis in decades. Spending on the bureaucracy in Ottawa is out of control. The money supply has been severely increased to the detriment of consumers and wage earners. The Bank of Canada is strangling our economy with massive interest rate hikes. The NDP-Liberals keep turning the screws on Canadians with every increase of the carbon tax and with the introduction of a second carbon tax. This has led to massive inflation and grocery bills that families cannot afford. The fact is that everybody is spending more money. The uber-rich are the only ones who will be able to afford a house in the future. This needs to change.

The NDP-Liberals tell us not to worry, that they have legislation, Bill C-56 which we are supposedly debating today. I say "supposedly" because what we are actually debating today in the chamber is not Bill C-56 but an NDP-Liberal programming motion. I think it is important that the folks in Saskatoon watching this understand that while I want to be debating the legislation on its merits, the NDP-Liberal government is actually forcing us to debate what we colloquially refer to as a programming motion.

Motion No. 30 is almost 900 words long, and it would take me half of my time here to recite the whole thing, but here are the highlights. First, it would limit the amount of debate MPs are allowed on Bill C-56. Second, it would limit the amount of time the finance committee has to hear from witnesses on the legislation. Third, it would limit the amount of time and the capacity to make and then debate amendments to clauses in the legislation. Fourth, it would instruct the committee to accept amendments beyond the scope of the bill, which, under our regular procedures, would be out of order. Fifth, it would limit the amount of time for debate of Bill C-56 for report stage amendments and third reading to one day when it returns to the House.

This may sound complicated, but it is not. Each of these would override long-standing rules or procedures of the chamber that guarantee the rights of members of Parliament to represent their electors and to speak to legislation. In what is supposed to be, by design, a lengthy process of debate and a cautious and thoughtful examination by MPs, this motion would cut the committee process down to three days, and the remaining time in the House, between second and third reading, to a day and a half.

I know that defenders of the NDP-Liberals in the mainstream media will scream from the rooftops that we are approaching Christmas and that Bill C-56 was introduced in September, so Conservatives should just let it roll through. Is it really the job of Conservative MPs to roll over for a government that has so badly mismanaged its work calendar that it is in a panic to take its Christmas holidays? Does the average Canadian get the ability to ram their work through without any scrutiny just because Christmas is approaching, or does it wait there until they come back after their two or three days off?

Of course the Prime Minister does not know how regular people live. The National Post reported earlier this week that since he became Prime Minister in 2015, he has taken one-quarter of his days off. Would it not be nice if every Canadian could get one-quarter of their days off? That is the ridiculous nature of the programming motion. The NDP-Liberals are so inefficient and hopeless at getting anything done in the House that when faced with the upcoming Christmas break, they panic and go to extreme measures to get anything done.

Let me get into the legislation. Would the legislation work? Would it actually solve anything? The stated purpose of the legislation is to eliminate GST on rental builds and make changes to the competition laws that govern retail stores like grocers. It is meant to be a solution for Canadians who are stretched to their limits, but does it actually solve these problems? The answer is no. That is not my answer; that is the answer the Minister of Finance stated in her own fall fiscal update just two days ago in the chamber. She said, "The apartments that renters need are not getting built fast enough, in part because the builders who would like to build more currently don't have access to enough of the financing needed to make rental projects financially viable."

● (1335)

Whose fault is it that builders do not have access to the capital and the financing they need? It is the current government that has put in place economic conditions so dire that the Bank of Canada has increased interest rates to their highest level in 40 years. The central bank, in direct response to government actions, is cutting off the lifeblood of our economy: the ability to borrow and finance the building and buying of new homes.

John Ivison, in the National Post, succinctly put it this way: "[The finance minister]'s fall economic statement was bulging with statements that, if not outright whoppers, were certainly distortions....Growth is expected to be muted....Unemployment is forecast to rise to 6.5 per cent by the middle of next year, from 5.7 per cent now." Conservatives agree with these damning indictments of the government's economic policy, the fall economic statement and its failure to get housing built. It is a pattern of failure that the costly coalition repeats over and over again. The costly coalition claims that the legislation is the solution that Canadians are looking for.

Do members remember this time last year? The NDP-Liberals were singing the praises of their one-time GST rebate, which nobody even remembers now. Then, earlier this spring, the Liberals cooked up another scheme with the NDP, a one-time rent rebate for low-income wage earners that nobody remembers now. Now, they think this latest idea will take a bite out of inflation. Did they not say that of their toothless dental program last year? It was another failure, because all of these ideas are temporary and do not get to the root of the problem. Instead, the Liberals are always scheming to stay in power, never delivering tangible, real results for Canadians. It has been failure after failure.

Why is there this overwhelming record of failure? It is because with the current government, the underlying economic landscape is set to fail. It is no wonder. We only need to look back at what the finance minister passed off a couple days ago as an update to the government's budgetary policy, the costly coalition's fall economic plan. With $20 billion of costly new spending, the mini-budget can be summed up very simply: prices up, rent up, debt up and taxes up. Time is up.

The finance minister announced more than $20 billion in new inflationary spending that will keep inflation and interest rates higher than Canadians can afford. It is an NDP-Liberal mini-budget that proposes to increase taxes on the backs of middle-class people. It is an NDP-Liberal mini-budget that will spend more money on servicing the debt than on health care. The signature policy in this mini-budget was to pour $15 billion into a fund to build barely 1,500 homes a year, while we need 5.8 million new homes built by 2030.

Do members remember when the finance minister told Canadians that the budget would be balanced by the year 2028? Since then, the costly coalition of the NDP and Liberals has announced $100 billion dollars of additional debt. After eight years, it is clearer than ever that the costly coalition is not worth the cost, and this mini-budget does nothing to help everyday Canadians. The only way to undo the damage the Liberals have done is by reversing course and doing the opposite. The common-sense Conservative plan would axe the tax, balance the budget, and build homes and not bureaucracy to bring home lower prices for Canadians.

Despite warnings from the Bank of Canada and the Canadian financial sector that government spending is contributing to Canada's high inflation, the Prime Minister ignored their calls for moderation and yet again decided to spend on the backs of Canadians, keeping inflation and interest rates high. These interest rates risk a mortgage meltdown on the $900 billion of mortgages that will renew in the next three years. High inflation means the government is getting richer while Canadians are getting poorer.

Under the costly NDP-Liberal coalition, here are the facts. There are a record two million food bank visits in a single month. Housing costs have doubled, and mortgage payments are 150% higher than they were before the Liberals took power. Canadians renewing their mortgages at today's rates will see an increase from 2% to 6% or even higher. The International Monetary Fund warns that Canada is the most at risk in the G7 for a mortgage default crisis. Over 50% of Canadians are $200 or less away from going broke. Business insolvencies have increased by 37% this year. Tent cities exist in every major city, including in Fairhaven in my community of Saskatoon. Violent crime is up 39%, and drugs are everywhere.

Instead of listening to common-sense Conservative proposals to reverse the damage, the NDP-Liberal government has introduced more half measures and photo-op funds that will do nothing to solve the problems that Canadians have. It is time for common sense to return to the Canadian government's decision-making process. It is time for Canadians to say to this costly coalition that enough is enough. It is time for a Conservative government. Let us bring it home.

● (1340)

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, it is interesting when Conservative members talk about the government not allocating enough time. It was not that long ago when the Conservatives were trying to adjourn the House and filibuster debate. In fact, they bring in concurrence motions. I said during the debate on one concurrence motion that the Conservatives liked to waste time, that they were filibustering, preventing debate from occurring. I also said that there would be a time in the future when they would stand and criticize the government for bringing in time allocation.

If we do not bring in time allocation, we can never get anything passed. This is what the member just demonstrated at beginning of his speech. He is criticizing the government because the government is not allotting enough time for debate, yet the Conservative Party continues to filibuster and be a very destructive force on the floor of the chamber. I suspect it has a lot to do with the extreme right of the Conservative Party today to try to be disruptive in the chamber.

Maybe the member can explain why the Conservatives continue to do things like adjourn debates and bring in concurrence motions to prevent debate from occurring in the chamber.

Mr. Brad Redekopp: Madam Speaker, the one member in the House who has spoken more than anybody, and I guess we could call that filibustering, is the member who just spoke. He loves to speak all the time.

The Conservatives have a job to do in the House. Our job is to defend the Canadians who we represent. Our job is to prevent foolish policies from being implemented by the government. We do our jobs. I am sorry to say that the member is admitting, I guess, that he is not very good at his job, being the secretary to the House leader, and that we can do a better job of it.

Our job here is to hold the government to account and to do everything we can to ensure good laws and good legislation are passed by the House.

[*Translation*]

Mr. Denis Trudel (Longueuil—Saint-Hubert, BQ): Madam Speaker, I am always happy to talk about housing.

Earlier, I asked my Conservative colleague a question about the financialization of housing and the growing number of large investment funds buying up housing in Canada. This is a huge problem. We know that, for every affordable housing unit built in Canada, we lose 10 to the private market because those units are being bought up by big investors.

The Bloc Québécois wanted the economic update to include an acquisition fund to take affordable housing off the private market and keep it affordable for the long term. That is what non-profit housing organizations across Canada want, too. The goal would be to shelter the $600, $800 and $850 units that are still on the market. The government could buy them and take them off the market. Everyone agrees that this would be a solution.

Does my colleague agree?

[*English*]

Mr. Brad Redekopp: Madam Speaker, I am very hesitant to say that the solution to the housing problem is to get the government more involved, to have it owning and producing houses. The current government especially has proven it is unable to get that done. I was a home builder before I became a member of Parliament. I probably built more houses than the government has ever built.

The fact is that we cannot rely on governments, especially the NDP-Liberal government, to have any hope of building more houses. We have to engage all different parties. The more the government gets out of the way, the better it will be for our future in housing and the economy in general.

Mr. Ted Falk (Provencher, CPC): Madam Speaker, we are supposed to be discussing the Competition Act this morning, but we are discussing the delay tactics of the Liberals.

Some have said that the reason we have high grocery prices is the lack of competition in the grocery industry. Could the member think of any other reasons why there are high grocery prices?

Mr. Brad Redekopp: Madam Speaker, Canadians are certainly suffering from high prices. At the root cause of almost everything is the carbon tax.

The carbon tax adds costs, first of all, to the growers who grow and produce food. Then the tax is added to the companies that truck the food to the places that process the food. Then there is the grocers who pay carbon tax on their facilities and everything else. There is carbon tax throughout the system. We are not talking a little, we are talking tens of thousands, and, in some cases, hundreds of thousands, of dollars for a farmer, for example.

Those costs have to go somewhere and they do not get those costs back. Those costs end up in the price of food Canadians need to buy every day, and it is one of the big drivers in why things are getting more expensive, whether we are talking about bread, meat or whatever it might be.

For that reason, two million people a month are going to food banks. People I have talked to tell me they cannot afford to buy meat anymore and are feeding their children cereal. This has to stop. We have to get rid of this terrible, destructive carbon tax.

● (1345)

Mrs. Stephanie Kusie (Calgary Midnapore, CPC): Madam Speaker, it is always a pleasure to rise in the House of Commons to speak on behalf of the wonderful constituents of Calgary Midnapore. I will be splitting my time with a fellow Albertan, the member for St. Albert—Edmonton.

I am going to tell members something that they know, that their constituents know, that my constituents know and that all of Canada knows. Without question, Canada is in an economic crisis. We see record inflation rates. We have certainly seen this across all consumers products, most specifically food where we saw a 40% hike across Canada. All families need to put food on their tables. As well, the cost of clothing, home heating, all these things have increased.

We have seen horrific interest rates as a result of the government's out-of-control spending. Every single opportunity it has, it throws more fuel on the inflationary fire, as we saw this week with the fall economic statement. People who are currently trying to renew their mortgage, as was brilliantly pointed out by my leader, the member for Carleton, are now in a crisis as they attempt to get the best rate possible, as they attempt to hold onto their homes since mortgage rates have doubled, as have rental rates.

We are in a housing crisis. The government has a failed housing accelerator plan, which I believe built, at the last count, 15 homes in the last fiscal year. It is an absolutely shameful number. What did the Liberals do? They brought forward this bill, Bill C-56. We have hope when we hear there is a fiscal bill on the horizon. We hope that somehow the Liberals will get the message, that they will do something sweeping for Canadians, something that will move the dial, that will make even a small change in the lives of Canadians.

What did the Liberals do in the bill? They put forward two measures. We have inflation, interest and a housing crisis, and they put forward a bill with two small measures. The theme here is the same as it always is. The government could be doing so much more to help Canadians, but it consistently does the minimum. It consistently makes the choices that harm Canadians. This bill is another example of that, where it did the tiniest thing possible in the face of the economic crisis across the country.

I am sure members are aware that the most recent deficit this year was at $46.5 billion. The President of the Treasury Board and the finance minister were off by over $6 billion. Certainly, $6 billion is an absolutely incredible amount, but this shows the lack of respect they have for Canadian taxpayer money. Canadians work hard to bring home this money and the government cannot even get it right in a single year.

In fact, the deficit will be going up an average of $4 billion a year through fiscal year 2028-29. To put this into context, that is the year my son, who is now 12, will graduate from high school. He can only hope for the possibility that the government might balance the budget and get out of deficit by 2028. As we have seen, the government is incapable of that by putting forward Bill C-56 with two small measures.

Recently, the Parliamentary Budget Officer was at the government operations committee, and will be returning today to discuss the supplementary estimates. I am sure he will give us a lot of good information. Last time he came to the government operations committee, he did not have very positive things to say about the government and its fiscal management in this time of an economic crisis. I asked the Parliamentary Budget Officer if the government reduced spending, would it have to rely less on nominal GDP, which is another area that is suffering, the productivity of Canada. In addition to having a spending problem, the government has a productivity problem. As my leader said, Canadians just want to get to work. His answer was yes, if I was asking if the government spent less could it reduce taxation.

● (1350)

It is not surprising as we see the government's obsession with taxation, including the carbon tax, which has now quadrupled. It will go to any extent in an effort to support this carbon tax. We heard the Minister of Rural Economic Development admit that if other Canadians had just supported the governing party, they too might get this carve-out, the exemption from the carbon tax. This is the way the government operates. It cannot manage its finances and it cannot increase productivity for Canadians. There is this level of corruption, as is evidenced by the comment from the Minister of Rural Economic Development. The government could be doing so much more.

On August 15, the President of the Treasury Board, my counterpart, said that she would find $15 billion, which is a tiny drop in the bucket, by October 2. As we have seen, $15 billion is not even a quarter of the current deficit. October 2 came and went, and what was announced? Nothing. There was one thing. One billion dollars was removed from our defence budget, at a time when we have significant instability in the world, with the war in Ukraine, with what we see currently in the Middle East and with Taiwan continuously under threat from its aggressor, China. Even she was not able to keep her promise of finding $15 billion by her imposed date of October 2.

If the deficit is going up an average of $4 billion a year, that does not even negate the increase in the deficit. As I said, the President of the Treasury Board did not even meet her own target. Again, the government, with Bill C-56, had the opportunity to do something significant for Canadians and chose not to. It could be doing so much more.

We will have the Parliamentary Budget Officer at the government operations committee today. The government is seeking approval for another $20.7 billion of spending in the supplementary estimates, which is more than a significant amount. It is a horrific amount.

What has the government spent a huge sum of money on? Not surprisingly, and unfortunately, it was on consultants and consulting services. My Conservative colleagues and I tried to raise the alarm last year about McKinsey, not only with respect to the amount being spent on consultants but how the Liberals did not take their instructions from their constituents, as we do on this side of the House, but from their Liberal insider friends. The spending on professional and special services continues to increase and will be a record $21.6 billion in this fiscal year, in addition to the significant deficit I mentioned. Again, it will probably only increase based upon the spending request in the supplementary estimates.

We have seen a failure with the Liberal-NDP government over the last eight years and a failure with the supplementary estimates. Then, when we are looking for hope in the fall economic statement, it is not there. It is more disappointment, as we see another $20 billion worth of fuel poured on the inflationary fire. We have seen this time and again. The government has a spending problem. It has a productivity growth problem. It has no leadership in Canada or in the world.

The government could be doing so much more with Bill C-56, but it again chose to do nothing.

● (1355)

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, speaking of problems, the Conservative Party has a problem with the truth. People who listened to what the member was saying would wonder what the heck she was talking about, because that was about the fall economic statement from yesterday.

Today's legislation is substantial legislation that would support Canadians from coast to coast to coast. It is substantial and would ensure that they would see thousands and thousands and thousands of new purpose-built rental homes constructed. It would ensure a fairer sense of competition by ensuring there would be more choice in the future. These are the types of substantive measures the Government of Canada is taking in order to support Canadians, and yet we get the Conservative Party, in that reckless fashion, going all over the place, listening to the far right and not listening to what Canadians have to say.

When is the Conservative Party, and particularly the leadership of the Conservative Party, going to get out of the right wing and start listening to what Canadians are saying coast to coast to coast?

Let us get behind and support this legislation. Will the member vote for the legislation, yes or no?

Mrs. Stephanie Kusie: Madam Speaker, what I really do not appreciate in this House is being lumped into a group. This is absolutely an effort to scapegoat and divert from the Liberals' horrific record in every single area of society and in every single area of the economy. I do not appreciate that at all.

We are here today talking about these two little pieces which are supposed to help housing. We know that the housing accelerator fund has been a complete failure. As my leader said yesterday, one year, okay, we will give them that, maybe two years and maybe even three years. However, it has been eight years and housing is a failure. These two little pieces would not help Canadians.

Again, I do not appreciate their diverting with name-calling at a time when Canadians are facing the greatest economic crisis we have had in decades.

Ms. Rachel Blaney (North Island—Powell River, NDP): Madam Speaker, I thank the member for doing the important work in the House of sharing opinions.

I read a report from Oxfam the other day, which said that the top 1% earners across the planet are sending out as much emissions as the lowest 66%. Obviously, if we do not have things in place to support people, we see that they are really not getting the benefit.

I really appreciate this bill, because it talks about getting resources to people who desperately need them right now. It does not go as far as I would go. I have a lot of other ideas that I would love to see. We have mentioned them in the House.

I wonder if the member could talk about why a windfall tax is so important. We know there are businesses that are making a huge amount of profit while so many are suffering.

Mrs. Stephanie Kusie: Madam Speaker, there is an important point here. We both agree that the government has failed on the environment. Everyone in this House knows the government has not met a single target to which it ascribed.

However, on our side of the House, we believe that we can have a plan for the environment as well as have industry functioning. We can fire on all cylinders. As I said, the Liberals failed on spending as well as on productivity in Canada; whereas, the member, unfortunately, given her hand-in-hand work with her coalition partner, the Liberal government, believes that we need more taxation. That is just not our position on this side of the House.

Ms. Marilyn Gladu (Sarnia—Lambton, CPC): Madam Speaker, my colleague talked about housing and she mentioned the accelerator fund. I wonder if she is aware that the fund has been closed since August 18 of this year, so there is no further money coming forward and no further money announced until 2025-26.

Mrs. Stephanie Kusie: Madam Speaker, this is what we have seen time and time again. My colleague from Sarnia—Lambton knows this well, since she is the only member of Parliament to have gotten two private members' bills through the House to royal assent. One of them was the palliative care bill.

My point is that she and I and everyone in this House see bill after bill with structures, ideas and ideologies, but they never deliver any results. They never put any meat on the bones. I am sick of it. We are sick of it. Canadians are sick of it.

STATEMENTS BY MEMBERS

● (1400)

[*English*]

INCIDENT ON RAINBOW BRIDGE

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Madam Speaker, it was only 24 hours ago that we gathered in this place shaken by the news that an explosion on the Rainbow Bridge sounded like it might have been about terrorism. We were worried.

The Prime Minister told us that it was time to ask questions to find out what had happened.

The word "terrorism" was in the air, and some sought to achieve partisan advantage by jumping on the word and trying to achieve goals for their Republican presidential nomination—

Some hon. members: Oh, oh!

The Assistant Deputy Speaker (Mrs. Carol Hughes): Order. I want to remind members that this is Statements by Members and there is no opportunity for questions and comments. I would ask members to please give respect to the person who has the floor. Members may not be in agreement with what is being said, but, again, there is no time for questions and comments.

I will ask the hon. member to start her statement over.

Ms. Elizabeth May: Madam Speaker, it was exactly 24 hours ago that we came into this chamber, shaken by the news we were hearing on the television and radio that there had been an explosion on the Rainbow Bridge. There were words and accusations of terrorism in the air. We did not know much, but as we gathered here, I was grateful that the Prime Minister told us that he was seeking answers, that authorities were trying to find out what had happened.

In those moments when terrorism was a rumour, some chose to seek partisan advantage by jumping on those words. I refer, of course, to the presidential nomination candidate in the United States for the Republican Party, Mr. Ramaswamy, who once again fanned flames in the United States to blame Canada with an accusation of terrorism that was false.

Today as we gather here, let us remember the importance and the wisdom of leaders who wait for the answers, who sow the seeds, which we must all do, for calm, for peace, for compassion and for justice.

* * *

CANADA-UKRAINE FREE TRADE AGREEMENT

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Mr. Speaker, the far right is alive and well today in the Conservative Party here in Canada. It is somewhat of a sad state to say it, but that is the truth.

Imagine, if members will, President Zelenskyy comes to Canada and signs a trade agreement with Canada. After signing that agreement, the government brings it into the legislature. The Conservative Party does what it can to filibuster and prevent the vote. Now we know why. The far right within the Conservative Party spearheaded the Conservative Party to vote against a trade agreement between Canada and Ukraine. That is absolutely and totally shameful.

Some hon. members: Oh, oh!

The Speaker: Order.

I thank the hon. member for Yorkton—Melville. I am afraid that this is moving into a matter of debate.

The hon. member for Kelowna—Lake Country is rising on a point of order.

Mrs. Tracy Gray: Mr. Speaker, during question period, I heard the member of Parliament for Cambridge yell across the way, "Let's take it outside."

This is physically threatening and unparliamentary, and he should apologize.

The Speaker: I thank the hon. member for Kelowna—Lake Country. It is not considered unparliamentary language, but I will review Hansard to see what I can detect from that.

[*Translation*]

We have now come to my favourite question of the week, the Thursday question.

The hon. member for Mégantic—L'Érable.

* * *

BUSINESS OF THE HOUSE

Mr. Luc Berthold (Mégantic—L'Érable, CPC): Mr. Speaker, today is dark day. Although I have made several attempts to have Bill C-56 debated in the House, considering that it has not been on the agenda since October 5, we are currently witnessing a government manoeuvre to muzzle the House and limit debate on this bill.

Given that we will be sitting until midnight tonight and voting on Bill C-56, can the government House leader tell us what is in store for us tomorrow and next week in terms of business?

Hon. Karina Gould (Leader of the Government in the House of Commons, Lib.): Madam Speaker, I thank my hon. colleague for his question. As the Chair said, it is the most anticipated question of the week.

We are of course expecting unanimity on Bill C-56 tonight. Perhaps we can count on Conservative votes to help Canadians at this time. That is our hope.

[*English*]

This afternoon, we will continue with debate on the government business motion relating to Bill C-56, the affordable housing and groceries act. Tomorrow, we will resume second reading debate of Bill C-58, relating to replacement workers. We will return to Bill C-58 debate on Monday. Tuesday will be an opposition day. On Wednesday, we will call second reading of Bill S-9, concerning chemical weapons.

I would also like to note that it is the intention of the government to commence debate next week concerning the bill relating to the fall economic statement that was tabled earlier this week by the Deputy Prime Minister and Minister of Finance.

GOVERNMENT ORDERS

● (1530)

[*English*]

GOVERNMENT BUSINESS NO. 30—PROCEEDINGS ON BILL C-56

The House resumed consideration of the motion, and of the amendment.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Madam Speaker, I rise to speak to Bill C-56, the Liberals' so-called affordable housing and groceries bill. I say "so-called" because nothing in the bill would make housing affordable or reduce grocery prices.

After eight long years of the Liberals, Canadians are facing an unprecedented affordability crisis. Let us look at the facts. After eight years of the Liberals, housing costs have doubled; rent has doubled and mortgage payments have more than doubled, up 150% compared to eight years ago. After eight years of the Liberals, Canadians have seen 40-year-high inflation. Meanwhile, interest rates are rising at the fastest rate in Canadian history and have reached a 22-year high. Interest rates are projected to be hiked even further. When it comes to essentials like groceries, prices have gone up a staggering 70%, resulting in nearly two million Canadians a month going to the food bank. What Canadians are facing after eight years of the Liberals is a dire situation in which Canadians are struggling to put food on the table and to keep a roof over their head.

This begs the question "Why is it that Canada faces an affordability crisis?" There is one person who bears primary responsibility, and that is the Prime Minister. It is the Prime Minister who has created an affordability crisis as a result of eight years of reckless spending. This is the Prime Minister who, in eight years, has run up the largest deficits and has managed to double the national debt. So reckless and so out of control is the spending on the part of the Prime Minister that he has managed to do the seemingly impossible: rack up more debt in eight years than all of his predecessors over the previous 150 years combined. This is the Prime Minister who thought it was a good idea to pay for his out-of-control reckless spending by printing, through the Bank of Canada, $600 billion. As a result, the money supply has increased eight times faster than economic growth. Is it any wonder that, in the face of that, Canadians have seen 40-year-high inflation and interest rates rising faster than ever before?

That is the record of the Liberals after eight years. That is what they have to show. They have manufactured a cost of living crisis, and everyday Canadians are hurting. In the face of that, what have the Liberals done and what are they doing to address the issue of affordability, the mess they have created? Earlier this week, Canadians got the answer, and that is based upon the finance minister's presenting the government's fall economic statement. What did we get from the finance minister? We got $20 billion in new deficit spending on top of the more than $100 billion of deficit spending that the finance minister has racked up in the three years that she has held the portfolio. There is $20 billion in new deficit spending that pours fuel on the inflationary fire and is sure to keep interest rates high. There is $20 billion in new deficit spending, notwithstanding the fact that even the Bank of Canada is calling on the Liberals to rein in their spending, and has made clear to the Liberal government that its reckless spending and money printing are contributing to inflation.

● (1535)

There is $20 billion in new deficit spending, notwithstanding Scotiabank's issuing a report recently that confirmed that a full 2% of interest rates is directly attributable to the government's inflationary spending. Canadians have been hit, after eight years of the Liberals, with a double whammy: high inflation and high interest rates. They are now also being hit with a third whammy by way of the Liberals' punitive carbon tax. It is a tax that the Liberals falsely sold as a means to reduce GHGs, but we know, after eight years of the Liberals, that GHGs have gone up and not down. I would remind Liberals across the way, who talk so much about climate action, that the COP27 rankings ranked Canada, after eight years of the Liberals, at 58 out of 63 countries.

However, I digress. The carbon tax is nothing more than another tax, but I qualify that because it is not quite that. It is, after all, a tax that disproportionately impacts lower- and middle-income Canadians. It is a tax that increases the cost of everything, including essentials such as food, fuel and heating. It is a tax that, according to both the Bank of Canada and the Parliamentary Budget Officer, is exacerbating inflation. Despite that and despite the fact that Canadians are facing an affordability crisis, with nearly half of Canadians $200 away from insolvency, the Liberal government's plan is to quadruple its punitive carbon tax for hard-working, everyday Canadians.

I say to the Liberals across the way that I would be keenly interested to see whether one of them can stand up in their place and explain to Canadians how the policies of the government, namely money printing, massive deficits and the quadrupling of the carbon tax, all of which are exacerbating inflation and increasing interest rates, are a policy prescription that is going to make life more affordable for Canadians. Very simply, those policies are making life less affordable. Canadians are paying a very dear price after eight years of the costly policies of the Liberal Prime Minister.

After eight long years of the Liberals, costs are up. Rent is up, taxes are up and debt is up. The government's time is up.

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, the legislation the member is debating is very substantial. I know he wanted to talk a lot about the fall economic statement, but the legislation is good legislation that would support Canadians in many different ways, especially when it comes to the issue of giving more authority and power to the Competition Bureau. It would also provide literally thousands of new homes into the future.

People are concerned about the reckless behaviour of the Conservative Party today. We listen to some speeches in which the Conservatives seem to be in support of the legislation. In other speeches, they seem to be against the legislation. Look what happened with the Ukraine legislation. At the end of the day, every one of them voted against Ukraine. That is fine; it was their prerogative, and hopefully some of them will make a flip-flop and support the Ukraine-Canada trade deal going forward. I will not hold my breath.

What is the Conservative Party collectively going to do with the legislation before us? Does it support it or not?

● (1540)

Mr. Michael Cooper: Madam Speaker, I am glad the hon. parliamentary secretary referred to changes that are being made to the Competition Act, because the amendments put forward in the bill pertaining to the Competition Act are copied and pasted from the private member's bill introduced by the member for Bay of Quinte. Very simply, it would remove the efficiencies defence with respect to mergers. That could, in the long term, have an impact, an increase in competition in the groceries sector, and therefore have some long-term impact upon prices, but Canadians cannot wait for five years or seven years down the road. They need relief today, and all the government has offered them is the quadrupling of the carbon tax.

Ms. Bonita Zarrillo (Port Moody—Coquitlam, NDP): Madam Speaker, it is good to stand in the House today to talk about a very important bill. It is the idea that we are going to get some purpose-built rental housing built. To the member's point, it is not going to be as fast as we need, and that is why we need other measures outside of this bill. However, on this bill, there are people in my community waiting for purpose-built rentals, so I would like to see this go through, but I would like to see more than what is in this bill.

Can the member share some of the solutions they have? I believe that the Conservatives can support this bill and improve it. Let us see what they have.

Mr. Michael Cooper: Madam Speaker, with respect to the GST measure on rental housing, that is something the Liberals promised six years ago and are only now acting on it. It was provided for by the bill put forward by the leader of His Majesty's loyal opposition, the building homes not bureaucracy act. That bill is a common-sense piece of legislation aimed at getting gatekeepers out of the way by tying infrastructure dollars to the number of homes actually built.

The Liberal government has thrown around billions of dollars, yet there were fewer houses built in the past year than were built in 1972 when Canada's population was half of what it is today. The record of the Liberals is to build up bureaucracy and not houses. The plan of the Leader of the Opposition is to get homes built for Canadians.

Mr. Mike Morrice (Kitchener Centre, GP): Madam Speaker, the member for St. Albert—Edmonton spent a lot of his time talking about the quadrupling of the carbon tax, but absent from the conversation was the quadrupling of the rebates that go with it. I mention this because we all get emails in our inboxes from constituents who have been misled by those kinds of statements. Can the member make clear whether he believes that rebates also go back to Canadians?

Secondly, can he speak to any concern he might have with the fact that the carbon tax went up 2¢ a litre last year, and the profits of the oil and gas industry went up 18¢ a litre as it gouged Canadians at the pumps. That is what is truly driving affordability. Does he care about that at all?

Mr. Michael Cooper: Madam Speaker, with respect, the member should get his facts straight. A good place to start would be to review the report of the Parliamentary Budget Officer. It established that more than 60% of Canadians lose out with the carbon tax. In other words, they pay more than they get back from the rebate.

What needs to happen, and what Canadians are asking for, is that we axe the tax, and that is something Conservatives are going to do to keep—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): Resuming debate, the hon. member for Red Deer—Mountain View.

Mr. Earl Dreeshen (Red Deer—Mountain View, CPC): Madam Speaker, I will first say that I will be sharing my time with the hon. member for Pitt Meadows—Maple Ridge.

I am honoured to speak to this programming motion, Government Business No. 30, and its amendment today.

Before I start, I would like to pay tribute to a great constituent by the name of Dot Thompson, the spouse of the late member of Parliament Myron Thompson, whose funeral I attended this past weekend. The two were inseparable and always had the community of Sundre in their hearts. Myron was an unforgettable MP who served on town council, was the high school principal and, through his athletic prowess, taught many youth how to play ball. Sundre was lucky to get him as his New York Yankees professional ball career was put on hold as he played backup to Hall of Famer Yogi Berra.

I am sure that Myron Thompson would have seen many pieces of legislation over his time with bills like Bill C-56, an act to amend the Excise Tax Act and the Competition Act, as well as motions that would have found their way to the floor of Centre Block for discussion. During his 1993 to 2005 era, there were many "suggestions" that the official opposition had lifted by the Chrétien and Martin Liberals in order to minimize the economic damage that had occurred from the era of stagflation caused by Trudeau, the elder.

Sadly, that Liberal government chose to drastically cut the transfers of health funding to provinces, which has haunted our provincial health care services for decades. Handcuffing the provinces was an easy fix to change the federal government's bottom line, but downloading the costs onto other levels of government simply took the heat off the feds and pushed it onto the provinces and their local authorities.

I am well aware of how federal neglect and financial shell games work because I was a hospital board chairman during those dark days. The federal Liberals of the 1990s artfully joined with the Friends of Medicare to back provinces into a corner when they were forced to rationalize services. There is no better example than the daily attacks on former premier Ralph Klein when he was faced with the economic reality of federal cuts to health transfers. The effects of that federal action are still evident, but, thankfully, no government has returned to the era of cuts to health care transfers since the Chrétien era.

The reason that I give this historical reference is that there are different paths governments can follow when trying to work their way through, or out of, a crisis. They can download the problems onto other levels of government; they can analyze policies of other parties in the House and, as is usually the case, claim them as their own; or they can at least acknowledge that the official opposition takes its responsibilities to Canadians seriously and that by usurping the learned advice, the government is ignoring the views of a large number of Canadians.

I will get to some of the specifics in the legislation in a minute, but, as many have stated, it is the heavy-handedness of the government and its inability and unwillingness to work with other partners, unless they are willing to rubber-stamp initiatives in exchange for propping up a minority government, that are at issue here.

What we are seized with today is the government's programming motion, Government Business No. 30. Programming motions have the effect of not only limiting debate in the House, which to many is an affront to democracy in itself, but also dictating instructions to the committee as to how it will deal with this legislation once it gets to committee. Issues related to Government Business No. 30 have to do with the expanded scope that the committee must consider. I will read from Government Business No. 30, which says:

> (c) if the bill has been read a second time and referred to the Standing Committee on Finance,
>
> (i) it be an instruction to the committee, that during its consideration of the bill, it be granted the power to expand its scope to,
>
> (A) increase the maximum fixed penalty amounts for abuse...,
>
> (B) allow the Competition Bureau to conduct market study inquiries...,
>
> (C) revise the legal test for abuse of a dominant position prohibition order to be sufficiently met if the Tribunal finds that a dominant player has engaged in either a practice of anti-competitive acts or conduct....

If those points were important, perhaps they could have been in the bill in the first place.

● (1545)

Also, we will then start with a marathon sitting of two days, after the motion's adoption, to gather witness testimony, with amendments to be submitted within 12 hours at the end of the marathon sitting. Then, at the next meeting, once that time is up, no further debate or amendments will be entertained. Finally, after a few other points, we will have closure after the bill is reported, which will once again be guaranteed.

The Conservative amendment tries to infuse some credibility by at least ensuring that the Minister of Finance, the Minister of Innovation, Science and Industry and the Minister of Housing, Infrastructure and Communities will be ordered to appear as witnesses for no less than two hours each. At least some level of accountability will be salvaged if this amendment is adopted.

By forcing Motion No. 30 to the committees through the House process, the Liberals avoid the other option, which is to force a programming motion through the committee. They always say that committees are masters of their own fate, which is true, until, as we see with Motion No. 30, it is not. Programming motions are usually enacted when the government knows it has messed things up royally.

Our responsibility as legislators is manyfold. First, we must thoroughly analyze legislation to minimize potential unintended consequences. As a country that boasts six time zones, the need to have regional voices heard is paramount in order to head off such negative consequences.

Second, it is important that Canadians get an opportunity to have input as well. Those who live in the real world understand how legislation will, good or bad, affect them.

Third, and this is so evident presently at our natural resources committee, once federal legislation has been challenged, once the regions take on their responsibilities to protect their citizens through such initiatives and once such legislation has been deemed unconstitutional, the government must stop using the challenged parts of legislation in its development of new legislation. This procedural motion, Motion No. 30, is to be determined through a vote in the House. Since the Liberal government has found various willing dance partners, that has been virtually assured.

The only time I saw this process sidetracked, ironically, was when the Liberals had a majority government. It became quite evident at the time that the Liberals never really showed up for duty on Monday mornings. The Mulcair NDP managed to create a second reading vote on a prized Liberal bill. It was quite the scramble, but the vote ended in a tie. Because it was at second reading, the Speaker voted with the government so it would live to fight another day, and, oh my, it did fight. It produced a motion that would have stripped the opposition of all tools to do its job of holding the government to account. That motion dictated how things would transpire in the House and would have been one of the most egregious motions ever moved in our Westminster system of government.

When the vote on that motion was to take place, once again, the members of the NDP were milling around and were in the path of our whip Gord Brown. There is a tradition we see all the time where the whips walk toward the mace, acknowledge each other and then, once their members are settled, take their seats to start the vote. The confusion in the aisle caused one of the most unhinged actions I have seen anywhere. The Prime Minister rushed through the crowd, grabbed our whip by the arm and told him to get the "f" in his place. As he did that, he swung around and hit a female NDP member in the chest, which forced her to leave the chamber. That bizarre action caused a question of privilege that continued for days, whereby the juvenile actions of the PM were constantly on trial by his peers. In order to prevent the continued series of questions of privilege, the government relented and withdrew the egregious motion.

Now, with voting apps being used, perhaps the Prime Minister can avoid such a conflict in the future. Of course, maybe by now the government is also aware that there is a time-out provision whereby the vote would take place whether the whips walk down the aisle or not. Hopefully this motion can be defeated without the theatrics.

● (1550)

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, truly, we cannot make this stuff up. At the end of the day, the Conservatives will whine and cry about wanting to have more debate time, but in reality, what do they do? They behave like a bunch of juveniles.

At some point, the members will stand up and move, seconded by so and so, that a person be heard, which will cause the bells to ring for half an hour, instead of voting. Sometimes they will adjourn debate in an attempt to prevent debate from taking place. Most common more recently, it is concurrence motion after concurrence motion.

Why all these games? It is because they do not want to debate legislation. They want to filibuster. They want to prevent. This is the far right wing of the Conservative Party pushing the Conservative Party to be destructive, and the members are very successful.

We are looking at a very extreme right-wing Conservative Party today. Why is the Conservative Party neglecting the vast majority of Canadians in favour of the far right?

● (1555)

Mr. Earl Dreeshen: Madam Speaker, the member can continue to insult. Nothing in what I said indicates in any way, shape or form that I approve of any of his far right allegations. It is something the Liberals chose to talk about today, as they felt this was one of the good things they could do during question period. We have heard it all day. It is just as ridiculous now as it was earlier in the day. Quite frankly, perhaps the member should consider the role and actions of his Prime Minister, because, believe me, everything I said was accurate.

Mr. Peter Julian (New Westminster—Burnaby, NDP): Madam Speaker, I want to ask a serious question of the member. I was here in the House when, under the Harper regime, we saw housing prices double over nine years. They doubled again under the Liberals, but the Conservatives were just as bad.

They have been worse. The Conservative record is far worse when it comes to affordable housing units. Between the two parties, the corporate coalition of Liberals and Conservatives, over a million affordable housing units have been lost over the past 17 years. Some 800,000 of them, or 80%, were lost under the Conservatives' watch.

Conservatives say that finally the Liberals are interested in housing, so I do not understand why they would block a bill to create more housing units and why they would block it so ferociously, in the same way they blocked dental care and the same way they blocked all of the NDP efforts, including to ensure a doubling of the GST credit to put more food on the table. Every single affordability measure the NDP fights for and succeeds in getting, Conservatives block.

Has the member spoken to the constituents in his riding who want to see these measures, including dental care?

Mr. Earl Dreeshen: Madam Speaker, have I spoken to them? Yes, I absolutely have. As a matter of fact, this morning people from FCM, from my riding, were visiting with me and we were talking about all of these issues. We were talking about homelessness issues. We were talking about affordability in housing. We were talking about all of the different initiatives that have been part of governments for years. I speak to constituents constantly about the issues of affordability. I am not sure exactly where the member was going, but, believe me, that is always uppermost in our minds.

[*Translation*]

Mr. Stéphane Lauzon (Parliamentary Secretary to the Minister of Citizens' Services, Lib.): Madam Speaker, I would like to thank my hon. colleague for his speech. He has identified himself as an MP who is not on the far right like his leader.

He talked a lot about inflation. In Canada, the drop in inflation over the record high of 8.1% in June 2022 must be good news for him. However, more needs to be done, without filibustering committees, to get bills passed. Having more affordable housing would be good for his riding. We were able to meet the Federation of Canadian Municipalities. He met different people.

How is the member for Red Deer—Mountain View going to face these organizations that are going to receive the GST rebate and tell them that he is voting against the measure?

● (1600)

[*English*]

Mr. Earl Dreeshen: Madam Speaker, that was one of the discussions I had when a number of members of the FCM were with me this morning, and I know how important it is. Communities have some very good initiatives that they are already incorporating. It is more a case of how we take the good ideas we see from our municipalities and help incorporate them into major ideas that help the provinces and then help the federal government. Believe me, thinking that—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): I have been very generous with the time.

Resuming debate, the hon. member for Pitt Meadows—Maple Ridge.

Mr. Marc Dalton (Pitt Meadows—Maple Ridge, CPC): Madam Speaker, after eight long years of the Liberal Prime Minister, costs have shot up and millions of Canadians are struggling to make ends meet. Housing costs have doubled, rent has doubled, mortgage rates have doubled, grocery prices are soaring and the lineups for food banks are shocking.

I received an email from Tyler, who bought a home a couple of years ago. His mortgage has gone up from $1,600 to $4,000 a month. He says he has no other choice but to sell his home and downgrade to make his life livable.

Candis is from Maple Ridge, and she has seen her payments double also. She can no longer afford new clothes for her children and needs to take them out of sports to try to make ends meet.

Then there is Shaffy. I met him at Seaspan Shipyards in North Vancouver. He is a welder. He showed me on an app that his mortgage is $7,528 a month. He told me that he is not living in a palace. It is a 40-year-old four-bedroom home in one of Vancouver's suburbs. He is being forced to work 10-hour shifts seven days a week and has no freedom. He said he cannot give his body a rest or he is going to lose his home.

These are not just stories. These are real lives, and the same thing is happening across Canada.

The blame rests fully on the members of the Liberal-NDP coalition for their incompetence and ultimately, I would say, their lack of concern for Canadians. They have shown they lack a basic understanding of economics or how to run a country. I will take that back. They are good at running a country into the ground.

It was not that long ago that our nation was one of the richest in the world, but under the Prime Minister, our rankings have been dropping. Country after country is passing us in GDP and per capita ranking.

I met a tourist on the way to Vancouver Island about a month or so ago. He has come to Canada numerous times over the past 40 years. He asked me what has happened to Canada. From his perspective, it just seems to be in decline. Unfortunately, he is right. What has happened to Canada is eight years of being run by an incompetent Liberal government that is joined at the hip with the socialist NDP and Bloc.

Why has everything become so unaffordable? The Liberals went on a crazy spending orgy, doling out hundreds of billions of dollars. The definition of that word is “excessive and indiscriminate indulgence in a specified activity”. We will call that spending.

The Prime Minister has added more debt to Canada than all the prime ministers before him, for 150 years. The Liberals have been absolutely careless with finances and have been racking up, for all intents and purposes, the credit card debt. This has caused great problems and chaos, but they have made sure that their friends, buddies and insiders have gotten their share.

I think of the ArriveCAN app scam, where millions of dollars were spent, essentially given to a two-person company in the basement of a house for no work, other than sending a few emails out. Something that should have cost a few thousand dollars has cost millions of dollars. There has been scandal after scandal. It has almost become part of the narrative.

Last week, we heard about the billion-dollar green slush fund. The chair of Sustainable Development Technology Canada had to resign and is under investigation by the RCMP because money was going directly to her company and to her.

● (1605)

These are some of the buddies we are seeing. This is happening, and I do not have time to talk about all the different situations and the people who have become rich off the Liberals. The Conservatives will turn over these stones. That is our objective here in Parliament, as it will be if we are elected to government.

The message from the Liberals for a long time was essentially that interest rates were low so what was the danger of borrowing. With this borrow and borrow and spend and spend, what has happened? For one thing, interest costs have escalated. We are now spending $51 billion on interest payments alone this year. That is more than we spend in health transfers. It is twice as much as we are spending on the Canadian military. One of the very few things the Liberals decided to cut back on is the Canadian military, at a time of great danger. Look at what happened with Russia attacking Ukraine and the situation with China. With all sorts of threats, the Liberals decided to cut the one important piece they should be increasing, but that is typical for them.

Canadians are suffering by the Liberals' indulgence in spending, their addiction. We keep hearing the word “investing” and that the Liberals are investing in this and that. It is not their money; it is taxpayers' money. Their actions have led not just to increased interest charges but to a significant rise in inflation. Anybody who goes to the grocery store can attest to that. People are not eating as nutritiously as before because of this.

I met with a number of university students last week, and they said they are having a hard time making ends meet. They are using food banks. I talked to the president of a university, who said there are lineups and that the use of food banks has gone up dramatically. Two million Canadians a month are going to food banks. This is not good, and the Liberals and the NDP need to be accountable for this. They can try to blame Harper from eight years ago, but it rests fully square on their shoulders.

What is happening here? The Liberal brain trust, as we see in the bill, has begun to panic. To the Liberals, this is about politics, power and money. As inflation has gone up and costs have gone up, guess what has gone down. It is their poll numbers, and that is causing a bit of panic on the government benches.

What have they been forced to do? They have raised interest rates, which is a time-tested way to lower inflation. However, what they have succeeded in doing is escalating the cost of carrying a mortgage. Half of mortgage owners will be renewing their mortgages in the next two years, 70,000 per month, and it is hitting them hard. This is happening everywhere in Canada, especially in areas with the biggest mortgages, such as metropolitan Vancouver, Toronto, Victoria and other large centres. People are losing their homes and losing their quality of life. This is real and it is painful.

One of the Liberals' solutions is to extend mortgages to 90 years or 100 years so their great-great-great-grandchildren can pay off the mortgage and people can keep their homes. That is not a solution.

The Liberals have realized the big mess they have created and the political urgency, and what they have done is taken a piece of Conservative Party policy, put on their superhero outfits and told people not to fear because they are here to help with solutions. They took one of our solutions, which was to take away the GST from purpose-built rental housing, but there is a lot more they need to do.

● (1610)

Mr. Mark Gerretsen (Kingston and the Islands, Lib.): Madam Speaker, the one thing I did not hear the member talk about was a carbon tax. I know he is a really big fan of the carbon tax, because when he was in the provincial legislature in B.C., he not only voted in favour of it, but he also spoke very highly of it. He said:

> It means that every dollar collected from B.C. carbon tax is given back to the taxpayers in the form of tax credits or tax cuts. Our carbon tax appears to be working.

He said:

> We view this tax as a tool to change behaviour and reduce greenhouse gas emissions.

If a Liberal had said that, he would have been heckling.

An hon. member: Maybe he was a Liberal back then.

Mr. Mark Gerretsen: Madam Speaker, maybe he was a Liberal back then. I do not know. Maybe he could inform me why he is against the carbon tax. Why is he hypocritical?

Mr. Marc Dalton: Madam Speaker, I am proof that there can be redemption. If I can see the light, there is hope for the Liberal Party. It is absolutely clear from one end of Canada to the other that it is a disaster. I totally endorse the removal of the carbon tax from coast to coast to coast.

Mr. Alistair MacGregor (Cowichan—Malahat—Langford, NDP): Madam Speaker, the member for Pitt Meadows—Maple Ridge and his Conservative colleagues are asking Canadians to believe in a fairy tale. They want people to believe that all these problems with housing magically started over the last several years or at least since 2015. In fact, it goes on a lot longer, with the current government, the Harper government before it, the Chrétien government and the Mulroney government. What we are seeing today is the natural conclusion of 40 years of neo-liberal economic policy. This did not happen overnight.

Similarly, when the Conservatives go after the carbon tax but completely ignore the fact that corporate profits are at the highest level ever, which is a key driver of inflation, it is a shame to their constituents and a shame to the political discourse in this chamber.

I have a question on Bill C-56. Does the member at least agree that these measures strengthen the Competition Act and remove the GST? Will he support them? Will he agree that the motion today is thanks to the hard work of the NDP driving the Liberal government to do better, and in fact that the Conservatives have been, again, sitting on the sidelines doing nothing?

Mr. Marc Dalton: Madam Speaker, one of our Conservative members introduced a private member's bill on competition, because we need to have competition in the airline industry, in the banking industry, in telecommunications, in every industry.

Canadians are suffering. We support competition. We need to have competition.

Mrs. Tracy Gray (Kelowna—Lake Country, CPC): Madam Speaker, the hon. member is a colleague from British Columbia, and we know that in British Columbia we have some of the highest housing prices in the country. We know that rent has doubled, and housing costs have doubled.

In this legislation that we are debating today, two of the biggest issues that we are dealing with are inflation and the cost of housing. Inflation has caused interest rates to increase which has then caused interest rate payments to be higher for people.

Could the member tell us if this legislation would address inflation or interest rates?

Mr. Marc Dalton: Madam Speaker, no. This is just a bill of part measures.

It has a couple of pieces that are good, but it does not really address inflation. One of the causes of inflation is that the Liberals have not changed their reckless spending. They have a $15-billion plant that is costing every Canadian family $1,000 to employ 1,600 temporary foreign workers.

The Liberals are still out of control with their spending, and things are only going to get worse, even if they take little pieces here and there. Rather than Canadians having little pieces of what the Liberals are bringing out of Conservative bills, what they need to do is actually vote for the real deal, and see lives positively changed.

● (1615)

Mr. Mark Gerretsen (Kingston and the Islands, Lib.): Madam Speaker, before I get started, I really want to thank the member for Pitt Meadows—Maple Ridge for answering my question. He could have tried to skate around it, but he hit it right on. I question the sincerity in his answer, but at least he answered my question. He did not skate around it. I appreciate that, and I just wanted to put that on the record.

Here we are talking about this very important piece of legislation that has to do with affordable housing and the groceries act and how we can amend other acts in order to improve those two challenges that Canadians are facing right now. However, I have heard at least two Conservatives in this debate. Just moments ago, the member for Red Deer—Mountain View was talking about time allocation and concerned about limiting debate on this, but then he never even talked about the bill. The member for Pitt Meadows—Maple Ridge never even talked about the bill. My original question for him, had I not been waiting to ask him this question on the carbon tax in B.C., was going to be whether he had actually read the bill because what he was talking about had nothing to do with the bill. He did not even reference all the measures that are in the bill. An NDP member asked him a question, and he still did not answer it.

I find it very fascinating that here we have the Conservatives with their full outrage jumping up and saying, “You're not letting us debate” and “You're allocating time.” Meanwhile, with the time that is allocated to discuss this bill, they are not even talking about it. I can only imagine it is not all that important to them if they are not even using the allocated time to actually discuss it.

I am noticing a trend. When we introduced the Canada-Ukraine Free Trade Agreement a few weeks ago, the Conservatives were taking a very similar approach. They talked nothing about the bill and did not seem to have a position on it. However, after it had been tabled for quite a while and there had been a prestudy in committee and it had been going on for quite a while, all of a sudden they decided, “Oh, I think we found something that we could use to justify why we are going to vote against this. It mentions a carbon tax in the preamble. Yes, this is exactly how we will vote against this.” Suddenly, the next week, they focused on this narrative and then they voted against it, but they did not mention it once before that.

I wonder who the award goes to in the Conservative Party for finding that red herring for them. It is absolutely shameful. I say this in the context that this is what is happening with the bill before us. I would love to know if they are going to vote in favour of it or if they are still in the process in the backrooms over there trying to figure out what words they can find in it to justify voting against it.

In this debate, I will try to focus a little bit on what I have heard. I have heard the member for Red Deer—Mountain View and a couple of members earlier talk about the price on pollution, or the carbon tax, and I will take the opportunity to set the record straight on some of that stuff.

Eight out of 10 Canadians are better off with the rebate they get back after the price on pollution. Now, I should clarify, in all honesty, that the two out of 10 Canadians who do not are probably the most well off and probably the base that the Conservatives are banking on and so they spread this misinformation to try to suggest that this is not the case. However, I will give members the facts. This has just recently been published.

The average family of four in Alberta gets $1,544 back per year. The average family of four in Manitoba gets $1,056 back. In Saskatchewan, it is $1,360. In Nova Scotia, it is $992. In P.E.I., it is $960. In Newfoundland, it is $1,312. In New Brunswick, it is $368. In Ontario, my home province, it is $976. As a matter of fact, when we look at the four provinces that are fully under the federal backstop because they have not implemented their own program, the average family spends about $500 on the price on pollution and gets back $804. Eight out of 10 Canadians are better off as a result of what they are getting back.

● (1620)

The parliamentary secretary to the government House leader raised this in a question earlier. Why do they never talk about the rebate? The rebate is such a fundamental core part of this.

Conservatives are more interested in spreading misinformation by suggesting that this is a tax, by suggesting that it contributes to inflation, which we know it does not, and then, most recently, by suggesting that it somehow impacts the Canada-Ukraine Free Trade Agreement.

That was probably the biggest mistake they made. What they did was make a concerted effort to obviously find this little bit in the agreement and say, "Aha, we found it. In the Canada-Ukraine Free Trade Agreement, we found it. It says 'carbon tax' in the preamble. Let us use it."

The genius who discovered that probably did not take the time to look. Had they done that, they would have discovered that Ukraine has had a price on pollution, a carbon tax, since 2011. Ukraine needed to do that because as part of its efforts—

Some hon. members: Oh, oh!

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): This is not a conversation. When the hon. member finishes speaking, hon. members can ask questions.

The hon. member for Kingston and the Islands.

Mr. Mark Gerretsen: Madam Speaker, the reason Ukraine has had that price on pollution since 2011 is that in order to get into the European market, which it had been trying to do for so long, the European market required that it have a price on pollution in order to stay competitive. That is why Ukraine had it. This incredible red herring that we are hearing recently from the Conservatives is nothing more than just that, a red herring.

The reality is that there is a faction within the Conservative Party of Canada. Some of the MPs over there have gone down the rabbit hole of alt-right-wing American politics. Now we are seeing that come out. I kind of always suspected it, because we have been seeing it happen over the last number of years, but I did not realize that this faction actually had a stranglehold on the party.

It is very likely that the Leader of the Opposition is part of that, given everything that he has done. Let us go back to the YouTube meta tags.

If members want to understand the Leader of the Opposition's support for Ukraine, they should just look at his social media posts from when President Zelenskyy visited us in September. He did not tweet about it. He did not put anything on Facebook about it. He did not put anything on Instagram about it. He was completely silent. He never said a word about Zelenskyy's visit.

The irony is that he did say a word about Zelenskyy appearing before this Parliament when he came a year earlier, when he came by video conference. He actually tweeted, at that time, in 2022, how proud he was to see President Zelenskyy appear before Parliament.

Do members know what the member for Calgary Nose Hill did? I do not know if a lot of people caught this, but it was almost a little subtle act of defiance. Do members know what she did? When he came this year in 2023, she quote tweeted his tweet from a year ago, congratulating him on coming. That was clearly a dig at the Leader of the Opposition because she recognized how silent he was on it.

The member for Selkirk—Interlake—Eastman and all Conservatives can stand up and preach to me all they want about how much they support Ukraine, but their actions speak louder than words. They are silent when the president comes here. They are silent when it came to determining what they were going to say on the Ukraine free trade deal, and then they voted against it.

This is a deal that President Zelenskyy asked us to vote in favour of—

● (1625)

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): The hon. member for Cypress Hills—Grasslands is rising on a point of order.

Mr. Jeremy Patzer: Madam Speaker, I would like to ask you to remind the member of the bill we are talking about today. It is Bill C-56. I believe he is talking about Bill C-57, which was passed—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): We are actually talking about Motion No. 30, but I would like to remind the hon. member of that being the subject we are discussing.

Mr. Mark Gerretsen: Madam Speaker, I do not know if the member was sitting in the chamber when his two colleagues just spoke, but neither of them spoke about the bill at all.

The reality is that the Conservative Party of Canada does not support Ukraine. The Conservatives can say all they want about what they do, but their actions speak louder than words. We have seen that, and Canadians have seen that. It is coming to light now, and everybody is becoming aware of it.

It is not supporting Ukraine for the same reason that Matt Gaetz and Marjorie Taylor Greene are not supporting Ukraine, which is that far right influence, and it is in the Conservative Party of Canada. They know it. For those who are still wondering, the real reason the Leader of the Opposition is so petrified to show support for Ukraine is that he would lose votes to Maxime Bernier. It is that simple. He is trying to hold on to a base.

When it comes to this particular piece of legislation, we are talking about increasing competition and, by default, increasing trade. We know that, to ensure we put the right measures in place when we are looking internally within our own country, we have to recognize that there are anti-competitive practices going on. When Loblaw has nearly 40% of the market share of groceries between Loblaw's and Shoppers Drug Mart and every other entity it owns, we quickly start to see that it would be extremely difficult for competition to exist.

In comparison, Walmart in the United States, which is the retailer with the largest grocery share, has about 18% of the marketplace. We know that, in Canada, there is a problem with this. That is why this bill seeks to strengthen the rules around competition. It seeks to empower the Competition Bureau further, providing it with more resources and the money it would need to effectively operate and giving it the tools to make advances and make moves, when it needs to, to ensure that competition exists.

Competition is great, and we need to encourage competition, but sometimes government, or government-charged agencies, have to get involved because we do run into situations where that competition starts to get limited, and then we see price-fixing, as we saw with the Canada Bread Company and its bread price-fixing. That is why this is so incredibly important.

Conservatives are going to tell people that inflation is driven by a price on pollution, when it has virtually no effect on it. They are going to tell people that a price on pollution is why the price of gas and oil has skyrocketed over the last year, and it is simply not true. The reality is that, in the oil and gas sector specifically, the carbon tax added two cents per litre. It is two cents and people get more than that back.

Meanwhile, wholesale profit margins for the large oil distributors rose by 18¢ per litre. I do not hear the outrage about the profits. The profits of Loblaw were announced just yesterday for its third quarter, and it was, again, a double-digit increase in profits over the previous quarter. It is extremely important that we put the right measures in place to assist with this.

I can understand why Conservatives are reluctant to do this. They never seem to fall on the side of those who are struggling, of those who need these supports and tools in place, or of those who need the benefit of healthy competition. This government will do that. I have said this many times in the House before, and I will say it again: I am very glad there is another party in the room who are acting like adults, which is the NDP. It sees this need as well, and it sees the need to push this legislation through for the betterment of all Canadians.

● (1630)

We all know that, if we had not put closure on this today, the bill would be here forever. That is what Conservatives have done with so many other pieces of legislation.

Mr. Richard Cannings (South Okanagan—West Kootenay, NDP): Madam Speaker, the member got to the point towards the end, under your guidance.

I would like to stay on the topic of the bill and talk about one of the main things this bill would do, which is that it would take the GST off of purpose-built rentals to promote the building of new rental accommodations. In my riding of South Okanagan—West Kootenay, it is almost impossible to find rental accommodation. When I talk to the city planners, they say that every day they are building more housing units than they have ever built before, but every day there are fewer affordable housing units because they are being lost to Airbnbs, people buying holiday homes, etc. The people buying the new housing units are the people who can afford them, and they already have houses.

What is the member's government doing to actually build affordable, non-market housing that would really make a difference for Canadians? Getting out of the way and taking the tax off will build more units, but it will not help people who need affordable housing.

Mr. Mark Gerretsen: Madam Speaker, it is the government's job to incentivize various parts of the marketplace from time to time when it sees the need for the betterment for society. Sometimes we do that with respect to encouraging the growth of a particular manufacturing sector, such as we have seen with electric batteries and the car revolution that is coming along with EVs, and sometimes it is about incentivizing through removing the GST on building new rental units.

On the topic of affordable housing specifically, this is just one tool of many. I have made various announcements that are based on different levels of government support. We may see the rents in a particular building being required at 80% of CMHC market rents and sometimes as low as 50% or 60% based on the supports that have been received. We also have supports for rent that is geared to one's income. The member would know that the ministry responsible deals with that as well.

This is one program he mentioned, but there is a whole host of programs. We have to approach housing from a holistic perspective. If we were just doing the one measure he mentioned, it certainly would not be enough, but we are doing a lot more than that.

Mr. Jeremy Patzer (Cypress Hills—Grasslands, CPC): Madam Speaker, the bill we are debating today contains parts of two different Conservative private members' bills buried within it. I am wondering if the member opposite could enlighten us as to how many other great Conservative ideas it will take for his government to get to the point where it can finally look at balancing the budget.

Mr. Mark Gerretsen: Madam Speaker, does the member really think that Canadians care whose idea it was? It is an amazing idea. I thank him very much for it. Let us celebrate it together. Now I hope the member will vote for it. That was such a ridiculous comment.

I know this better than most people. I brought forward a private member's bill in 2016, and before it got voted on, the government put it in a piece of legislation it had brought forward. I rejoiced in that, knowing that Canadians would be better off as a result. Only a petty politician would spend time talking about it being a certain person's idea, not someone else's, and why the other person is getting the credit for it. Who cares? This is for the betterment of our country.

● (1635)

Mr. Peter Julian (New Westminster—Burnaby, NDP): Madam Speaker, the reality is that we have the scale and scope of a housing crisis, and it is manifest right across this country. In fact, in my riding of New Westminster—Burnaby, average rents are now $2,500 a month for a one-bedroom apartment. That means families are homeless or are doubling or tripling up. In some cases, there may be half a dozen people living in a one-bedroom apartment.

With that scale and scope, and knowing how awful the Harper regime was, why did the Liberals not move to immediately build the housing that is absolutely necessary? Why are they looking, through the fall economic statement, to wait two years before the funding that is so crucial to building affordable housing, which is based on 30% of income, and that so many Canadians need now, is put into place? Why are the Liberals, despite the pressure, hesitating on doing the right thing?

Mr. Mark Gerretsen: Madam Speaker, I appreciate the question, but it has a false pretext, which is to assume that nothing else has ever been done, which is not the case.

We have had, for a number of years now, the national housing strategy. I am aware of several projects in my own riding that have been built, as well as those on the west coast and on the east coast.

This is what I find most frustrating about the last two questions. They assume that this is the only measure that has ever been taken by the government on housing. We have been dealing with housing challenges since we came into office. We had the first national housing strategy introduced, I believe around 2018, and we have been trying to tackle this ever since. Yes, the problem has been getting worse. That is why we are throwing even larger measures at it right now, such as the one the member indicated.

Mr. Ken McDonald (Avalon, Lib.): Madam Speaker, on the whole affordability issue, and this bill apparently deals with affordability, how can we guarantee that it is going to go down or get easier for constituents in my, the member's and everybody else's ridings? We have tried this and that, and we have said that we were going to lower prices, but people are still feeling the pinch. How can he say this bill would help Canadians with affordability?

Mr. Mark Gerretsen: Madam Speaker, I cannot guarantee anything. I do not think anybody can guarantee anything realistically.

What I can say is that we look at where the problem is. We know the problem is in food inflation. We know that food prices have inflated much faster than the average. We know there is a small oligopoly in Canada in the major retailers of food. That is why the minister responsible brought those CEOs to Ottawa to talk about what can be done.

That is why this bill would empower the Competition Bureau to do more by putting more teeth into its ability to deal with the problems of anti-competitiveness. Again, this is one measure that I think goes to the heart of competition and to ensuring competition because we recognize that, when there is healthy competition, people get the best value for their dollar, which they are not getting right now specifically as it relates to the retail grocery industry.

Mr. Earl Dreeshen (Red Deer—Mountain View, CPC): Madam Speaker, just so the member is aware, we are talking about Motion No. 30. Therefore, there is no reason why anybody should be chastised for not talking about some of the other issues. Of course, they are important and have been described before.

One thing I would like to mention, because the Liberals seem to feel they have found something special to speak about, is that, yes, Ukraine is part of carbon pricing in the European Union, but that is so it can participate. In 2019, and this comes from McKinsey and Company's Ukraine carbon pricing policy, in Poland it was $1.00, in Sweden it was $139, in Ukraine it was 36¢, and in Canada at that time, to be fair, was $20, which is 55 times more. That is what we are talking about. Therefore, I think it is somewhat rich that the Liberals are taking that position.

The point I wish to make is that I have gone to OECD meetings in Europe where they were discussing the concept of the carbon tax. The major push from this country was that those countries must make sure to put their stamp on Canada's carbon tax. That happened both in Berlin when I was there and in Birmingham two summers ago. These are the types of things the government is pushing, and it continues to do it now.

● (1640)

Mr. Mark Gerretsen: Madam Speaker, I appreciate the member's comment about talking about whatever we want. Maybe he should talk to the member for Cypress Hills—Grasslands about that, as he is the one who called me out on it.

This does not matter because nowhere in this deal does it commit Ukraine to Canada's system. It is a red herring to suggest otherwise.

The member will have to explain to me why Conservatives never raised the issue. First, they started talking about how it was a woke free trade deal. They started out talking about everything but a carbon tax. They only started talking about a carbon tax being in this about a week ago. They just discovered it then. They should not act like they have been on this all along because they have not. They know it is a red herring.

[*Translation*]

Mr. Jean-Denis Garon (Mirabel, BQ): Madam Speaker, I am always happy to see you. I like speaking when you are in the Chair. I know you are eagerly awaiting my speech, but I know you are even more eagerly awaiting that of the colleague with whom I am sharing my time, the member for Saint-Hyacinthe—Bagot, a man so very cultivated that his riding is zoned for agriculture.

I feel like repeating that we are faced with closure yet again. They are reducing our debate time and bypassing the process. They are taking time away from the Standing Committee on Finance for a bill that we feel is important.

The argument the government gives for working this way is this. It says that housing is so important that we need to ram this through by bypassing parliamentary processes and that the Competition Act reform is so important that we need to ram it through before Christmas by bypassing parliamentary processes.

I am not very satisfied with that type of logic for the following reason. There have been problems with the Canadian competition regime for years. In the early 1980s, we had 13 big box stores in Canada. Geographically speaking, Canada is a rather large country. We allowed mergers and acquisitions to occur at the expense of consumers to the point where the minister can now sit down with the entire grocery market around a coffee table in his office one morning. The government let that happen. The Liberals and Conservatives let that happen. We have had alternating Liberal and Conservative governments, and this has never been urgent until now. It was never urgent until the Liberals' pre-session caucus meeting where an argument broke out and then, all of a sudden, they had to move quickly. All of a sudden, this is so urgent that every parliamentarian who is not a Liberal is having their rights violated.

Housing and the GST on housing are so urgent that they have to be rammed through under a gag order. Where did this measure come from? I am not saying it is a bad measure. I am not saying that it will not help increase the supply of housing.

What I can say is that the Liberals had a caucus meeting prior to the parliamentary session. They were down in the polls, they panicked and they had to do something about housing. They came up with the GST measure, but were not even able to include the parameters of a major change to the tax laws in the bill. Now here they are introducing a very flawed bill that will give the government disproportionate regulatory power. Now they are telling us that it has to be passed quickly.

However, they had not thought about it before. This is the government's new way of skirting democratic debate: gag orders.

Today, when we ask questions about the administration of the Canada Revenue Agency's programs, we are told that the CRA is independent.

Now there are new bills where we are given only a framework and everything else is set by regulation. The Liberals had promised help for the disabled. They finally introduced a bill with a framework, but it does not include a penny for the disabled and its parameters are unknown to us.

That is why I have to say that, once again, the Liberal government is disrespecting parliamentarians. I believe in parliamentary work. I disagree with lots of people in the House, but I recognize that they take the time to look at the issues, read the bills, propose amendments, rise in the House and express their views on bills. I think those parliamentarians should have the right to speak. Now the Liberals are talking about the cost of living. They say we have to bypass the whole process because of the cost of living.

The economic statement contained no immediate social housing measures. That is what Quebec wanted. We have permanent programs to build low-income housing and housing co-ops. The federal government has been stalling on handing money over to Quebec for years. The Bloc Québécois had to push to get the last $900 million we were owed. There is virtually nothing in the latest economic statement that acknowledges the urgency of the situation.

Take the cost of living, for one. Now that there are only five major grocery chains left, we have to hustle for legislation they took decades to introduce. On housing, not only is there nothing in the statement, but, to make things worse, they are complicating matters with Quebec by creating the department of interference in Quebec's municipal affairs.

● (1645)

It is a bad idea. Pierre Elliott Trudeau's government tried it back in the day and gave up. That government had no luck doing anything with it. Now it is the son's turn. Repeating a mistake twice is never a sign of common sense. It must be an intergenerational thing.

Small and medium-sized businesses and chambers of commerce in my riding are asking that we give our businesses more time to repay their Canada emergency business account loans. What is this government's contemptuous response? It says that the federal government provided $8 out of $10 of assistance during the pandemic and that it has helped businesses tremendously. However, it did so with our tax dollars, and piled up a debt that our children will have to pay interest on. This is not money that the federal government conjured out of thin air. It is money that the federal government borrowed at the expense of future generations. True, we collectively took the risk. However, the government is telling us that since it helped businesses during the first phase of the crisis, it has the moral right to abandon them during the second.

Now the government is talking to us about competition. When people in my riding go out shopping, how many small businesses, suppliers and shops will be closed? How many fewer stores will people have to choose from? What effect will this have on consumer choice and prices in rural areas, where often the only place people can buy many products is from a small business? Despite all that, the government is doing absolutely nothing.

Earlier, I had a phone conversation with a produce grower in my riding. He called to tell me that he had a bad season, that it was terrible. I see Conservative MPs looking at me and they know that what I am saying is true. We all get these calls. People are asking us when the government is going to pay out emergency support to get them through the year. The government's answer is that it will not do anything. It will not offer them any emergency assistance to make up for the worst season they have ever had. How will consumers be affected when produce markets close? In the world of fruit and vegetables, we need produce growers to provide us with local, environmentally friendly products that are grown nearby, that are homegrown and that revitalize our rural areas and regions. The government is doing absolutely nothing about that.

I understand that the NDP wanted to shut down the debate. I do not know what they got in return, but I am very curious. Everyone in the parliamentary precinct is dying to know what the NDP is getting in return for shutting down the debate. Everyone wants to know how the movie ends. I cannot wait to find out. I do not know what the NDP got but I think it was probably pretty costly for the Liberals, although the NDP did not get anything in the economic update. What we want are measures for the middle class. We want measures for our farmers, for our businesses and for housing, but there are no such measures.

Now, on the substance of the bill, it is a good bill. We have been saying for years that this kind of legislation should be introduced, specifically regarding competition.

In Canada, our competition regime is archaic on every level. It is not that the commissioner of competition does not want to do his job. The Competition Bureau employs competent people, but there are fundamental flaws in their mandate. Among other things, mergers and acquisitions are allowed based on efficiency gains alone. In Canada, when two businesses merge, no one asks whether the cost reduction and efficiency gain will allow them to be more competitive with the others and in turn lower the price consumers pay. They only ask whether they are able to be more efficient and to hell with the consumer.

I do not have enough time to get into the details of the bill, but I can say that it will change this particular situation. It will also prohibit other anti-competitive practices. In Canada, it is prohibited to directly come to an agreement with a competitor to reduce competition, but getting the dirty work done by another is allowed. For example, a business has the right to tell the shopping centre it is renting space from that it cannot rent space to another grocer or another hardware store. They get others to do the dirty work.

This bill contains a number of good things. They include the government giving the Competition Bureau more power to conduct investigations, obtain documents and compel witnesses to testify. That will be a good thing.

I will conclude my speech by saying that a bank merger is coming. HSBC is being acquired by the Royal Bank of Canada, or RBC. This file is on the Minister of Finance's desk, and the Competition Bureau only looked into the efficiencies that would be generated by the transaction.

● (1650)

If the Minister of Innovation, Science and Industry is at all committed to his principles, he will require that the Minister of Finance wait for this legislation to be passed and for the Competition Bureau to conduct a new analysis before authorizing this transaction.

[*English*]

Mr. Chris Bittle (Parliamentary Secretary to the Minister of Housing, Infrastructure and Communities, Lib.): Madam Speaker, I am a little bit puzzled. On the one hand, the hon. member is attacking the NDP, and I guess the government at the same time, in terms of this motion. On the other, he is supporting the contents of the bill. Does he support the continued Conservative filibuster, or does he not want to see residents of Quebec and the rest of Canada actually benefit from the measures he supports?

[*Translation*]

Mr. Jean-Denis Garon: Madam Speaker, first, I am not attacking anyone. I am making some factual observations. The fact is that our right and my right as a parliamentarian to express myself on this matter is being curtailed.

The member across the way talks about the Conservative filibuster. It is not right that we are pushing this bill to the Standing Committee on Finance next week when this is legislation that amends the Excise Tax Act and fundamentally changes the Competition Act. It is not right that such an important bill is getting only two meetings, next Monday and Wednesday until midnight. If the Liberals thought their bill was so important and they, like me, thought that the content of this bill was so important, they would allow the Standing Committee on Finance to do its job properly, but this is absolutely not the case right now.

[*English*]

Ms. Lisa Marie Barron (Nanaimo—Ladysmith, NDP): Madam Speaker, first of all, I empathize with the frustration. I am frustrated too. We are in a position where we have to deal with a party that is blocking legislation after legislation from getting through at a time when people need help. People need to have access to affordable groceries and a roof over their head. We are put in this predicament where we are all impacted by the decisions being made consecutively by the Conservatives to stop anything from going through the House. What does the member propose we do in order for us to see Canadians get the help they need and deserve when there is a party blocking all the legislation Canadians need from going through?

[*Translation*]

Mr. Jean-Denis Garon: Madam Speaker, and there was light.

I understand my colleague's viewpoint and her question. It is a reasonable question. I understand how, from the NDP's perspective, voting for multiple closure motions might seem like a good thing for democracy. Let us say for argument's sake that this is a great closure motion, even though I would disagree.

Not only are they muzzling us at this stage, they are also muzzling us at the committee stage. No one with an iota of intelligence in the world of economics, finance or competition would think that two evening committee meetings are enough for a bill with such potentially deep and long-term effects on our competition system.

What would I have done? I might have done a better job of negotiating.

● (1655)

[*English*]

Mr. Jeremy Patzer (Cypress Hills—Grasslands, CPC): Madam Speaker, maybe there are other measures the member would like to see the government take on that would be beneficial to his constituents in Quebec. Does he want to speak a bit more about what could be done to further enhance competition rather than just simply having a lazy government stealing other parties' bills?

[*Translation*]

Mr. Jean-Denis Garon: Madam Speaker, I get the same kinds of questions from both Liberals and Conservatives. We support the bill. We think its underlying principle is good and its main features will be useful. We do not think these solutions will fix everything, and especially not when it comes to housing, but there are good solutions here for competition issues.

What I think we should do is take a little more time to hear from witnesses so that stakeholders can share their views and we can suggest amendments and work toward improving the bill. If things do come to a standstill at some point, we will discuss all that, but I think that holding a gun to the committee's head and making it work as fast as possible will rob us of a tool that is of vital importance to parliamentary democracy and the legislative process. I find that deeply disappointing.

Mr. Simon-Pierre Savard-Tremblay (Saint-Hyacinthe—Bagot, BQ): Madam Speaker, I will no doubt pick up roughly where my colleague from Mirabel left off. He painted a good picture of the political context. He concluded by speaking to the bill. I will go a bit deeper into the bill.

The government proposal grants the Standing Committee on Finance the power to expand the scope of the bill by incorporating three substantial changes.

First, there is the amendment seeking to increase the penalty amounts. This increase is right out of Bill C-352, introduced by the leader of the NDP. The amendment changes the Competition Act and will render several of its elements obsolete once Bill C-56 is passed. The two other amendments, which deal with abuse of a dominant position and the Competition Bureau's powers of inquiry when conducting market studies, although subject to the wording of amendments to come, appear to have limited scope. Their inclusion seems to be rather intended to give the New Democrats a symbolic victory in order to paper over a major concession on their part. Let us review these three amendments.

The first aims to increase penalties for abuse of a dominant position to $25 million for a first offence and $35 million for subsequent offences. This is taken directly from Bill C-352, introduced by the leader of the NDP. Currently, the maximum penalty that can be levied by the bureau and the tribunal is $5 million for an offending company, along with prison sentences of 14 years for directors who breach the act. This proposed revision is therefore significant, dispelling the idea that penalties are just an inherent cost of doing business. They could now have a deterrent effect comparable to that of European or American legislation. Again, as my colleague asked, if it is already in force elsewhere, why has it taken so long for Canada to wake up? I believe the explanations in the last speech were very powerful.

The second amendment, which gives the Competition Bureau the option of conducting market study inquiries at the direction of the minister or on the recommendation of the commissioner of competition, while requiring prior consultation between these two officials, is quite significant. Currently, the bureau has strict investigative powers, but only if there is a clearly defined infringement. This adopts a quasi-criminal approach. The amendment proposed seeks to address this shortcoming when market studies are conducted in order to ensure greater effectiveness in assessing the dynamics of competition.

The third amendment, which reviews the legal grounds prohibiting abuse of dominance, aims to prevent anti-competitive practices that impede or significantly decrease competition in a relevant market. Even though the current legislation prohibits various restrictive practices, it does not address predatory pricing by businesses in a dominant market position. The NDP's Bill C-352 sought to fill this gap by specifically prohibiting the imposition of excessive prices. Despite the provision's obvious value, the government still seems resistant to passing it, offering instead a procedural amendment to the existing legislation through Bill C-56, without really reinforcing consumers' defences against such practices.

Although it makes positive changes to the Competition Act, Bill C-56 hardly seems an appropriate response to the housing crisis and soaring food prices. An in-depth review of the national housing strategy remains essential, as does redefining abuse of dominance to prevent price increases resulting from a lack of competition. These critical areas persist, independently of whether Bill C-56 is passed.

The Bloc Québécois will vote in favour of the motion and the bill, recognizing certain positive measures and the absence of any downright harmful elements. However, we should point out that it is only a drop in the bucket in terms of current needs. With respect to housing, there is no reason to believe that Bill C-56 will help reduce rental costs.

● (1700)

At the briefing offered to members on September 21, officials were specifically asked to provide the studies on which the Minister of Finance based her claim that Bill C-56 would impact rents. To give credit where credit is due, the question was asked by my colleague from Joliette. Their response to my colleague's question was evasive, suggesting they did not have these studies. That suggests an uncertain future as to the supposed effectiveness of the measures.

It is not very likely that landlords will decide to lower their rents simply because they did not pay GST on the purchase of a new building. Furthermore, the increase in interest rates, affecting all real estate and leading to higher mortgage rates, is a major factor influencing future costs. With or without Bill C-56, tenants might very well have to live with them.

In the best case scenario, eliminating taxes on rental buildings could encourage some builders to choose that type of construction over condominiums, potentially providing a glimmer of hope in this growing housing crisis. However, though it will not have a direct impact on prices, Bill C-56 could still help alleviate the housing shortage, which may get worse in the years to come.

Right now, the Société québécoise des infrastructures says that only 14% of new housing units built by 2030 will be rentals, despite the fact that almost 40% of Quebec households are renting. This growing imbalance foreshadows a terrible national tragedy, and three times as many new constructions will need to be rental units if we want to resolve the housing crisis.

If Bill C-56 manages to increase the proportion of rental housing, even slightly, it would be a modest step forward, but that will not be enough to meet the crying need. However, we note the lack of specifics regarding the types of dwellings or buildings, and the absence of accessibility requirements to be eligible for reimbursement, which hands the government the power to regulate those factors.

During the information sessions for parliamentarians, which my colleague from Joliette attended, we asked officials why the act contained no eligibility criteria, which is an unusual exception in tax matters. Their answer clearly conveyed a sense of urgency and poor preparation, which definitely suggests an off-the-cuff approach.

We can all agree that it would be difficult to impose affordability criteria on builders. They are not the future owners of the buildings under construction. However, the GST could be imposed on buyers if the housing units were rented out at sky-high prices; this is a measure that could be examined in committee to improve the bill's effectiveness, which so far is pretty limited. That might be a good idea.

While amendments to the Competition Act deserve the Bloc Québécois's support, to suggest that they will have any impact on grocery bills is wishful thinking and a misrepresentation of reality. We support the bill, but we have no pats on the back for Ottawa.

● (1705)

[*English*]

Ms. Bonita Zarrillo (Port Moody—Coquitlam, NDP): Madam Speaker, I want to follow up on the last points the member made around rent and who is really going to benefit from the GST exemption.

Of course I believe that the GST exemption is a good idea. I wish it had happened many years ago. Would the member mind just expanding on what we need to do for renters?

In British Columbia, there are above-guideline rent increase papers being served to people. I know that, for one of the residents in my riding, their rent went from $1,100 to $1,400, and they were asked to sign one of these above-guideline rent increases. Could the member expand on what he thinks would be helpful to make sure renters are protected?

[*Translation*]

Mr. Simon-Pierre Savard-Tremblay: Madam Speaker, I want to reiterate some of the things I said. I do not see why a landlord would say that, since he did not pay GST on the purchase of a new building, his rental prices will go down. I do not see how this measure could lead to that. I do not see any automatic or obvious correlation.

Having said that, I believe that if GST were to be imposed, it should be on the buyers if homes were being purchased only to rent them at exorbitant prices. That could be one measure. How can rental housing be improved? It is often a question of supply and demand. To improve the situation, we need a major housing construction strategy. Clearly, we do not have one.

[*English*]

Mr. Chris Bittle (Parliamentary Secretary to the Minister of Housing, Infrastructure and Communities, Lib.): Madam Speaker, that was an interesting answer; the member said he does not see a correlation, then specified the correlation that we need to build more housing. Reducing the cost of building, especially by reducing the GST, would make rental projects more profitable for builders to develop, increase the supply and increase competition in the rental market. Would he not acknowledge that reducing this cost is going to have an impact, which is what we want to see?

[*Translation*]

Mr. Simon-Pierre Savard-Tremblay: Madam Speaker, unfortunately, the member opposite did not listen to what I said. I said that there was no correlation with rental prices. He can listen to that again and we will talk about it again.

Mr. Gabriel Ste-Marie (Joliette, BQ): Madam Speaker, I would just like to check something with my colleague. The Bloc Québécois supports Bill C-56. We support the elements of Bill C-56 amended by the motion, but we oppose the super closure motion, which limits all debate and committee study.

Take, for example, the elimination of the GST on new housing construction. Once again, this government is passing laws and saying that it will decide everything in the regulations. Right now, contractors are asking us questions, since they are entitled to a GST rebate if they started their work after September 14. What if they started laying the foundation before September 14? What if the first floor will be zoned commercially and there will be housing above it? Are they entitled to this rebate or not? We do not know.

I would like my hon. colleague to comment on that.

Mr. Simon-Pierre Savard-Tremblay: Madam Speaker, I think he put his finger on the problem with these super closure motions. My colleague began his question by summarizing our position, which is, of course, to oppose the super closure motion, but support the bill as amended at this stage.

Entrepreneurs are asking us questions and they want to know if they have the right to do certain things. We need to do our job properly on that. Super closure motions do not allow us to do our job properly. They do not allow us to carry out studies and examine the details as we should. This is not the first time that we have rammed a bill through because of a super closure motion only to realize later that the bill is having alarming consequences because of a misplaced comma.

● (1710)

Mr. Peter Julian (New Westminster—Burnaby, NDP): Madam Speaker, we know very well that the Conservatives want to block this legislation. We know that they want to block it so that they can also block the anti-scab bill that the NDP has been pushing for and that is, of course, supported by Quebec's unions.

My question is very simple. Do the Bloc members understand that the Conservatives are blocking this bill so that they can also block the anti-scab bill?

Mr. Simon-Pierre Savard-Tremblay: Madam Speaker, correct me if I am wrong, but it seems to me that the closure motion came after the anti-scab bill issue.

That being said, generally speaking, I too was stonewalled by the Conservatives on a bill I defended at the Standing Committee on International Trade. Those staunch advocates of farmers, the Conservatives, filibustered the defence of supply management. We can clearly see how consistent they are.

However, it never crossed my mind to impose a super closure motion on that, either. Some practices we use can be worse than what we are trying to remedy. A super closure motion is one of them. If democratic procedures are denied, if things get mired in a procedural overload like that on a committee, fortunately, there are rules in place, there is a limited meeting time, despite everything, in case of filibustering.

I understand that it is frustrating, but for something as important as a new competition law that will have a direct impact on the lives of so many people, we must give ourselves the time to do things properly and—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): The member has already gone over his allotted time.

Resuming debate. The hon. member for Cowichan—Malahat—Langford.

[*English*]

Mr. Alistair MacGregor (Cowichan—Malahat—Langford, NDP): Madam Speaker, I want to say what a privilege it is for me to be able to speak in what is an important debate for all parliamentarians and to again speak on behalf of the good people of Cowichan—Malahat—Langford. For their benefit, I will explain that we are debating essentially two things today. Nominally, this is about Motion No. 30, the programming motion, but it is also about Bill C-56, the actual bill that the motion is seeking to get through the House to committee, where important work has to be done.

I will start with Motion No. 30, because it has to be put in the context of what the NDP, with our 25 members, has been able to do in this Parliament. I want to give particular thanks to my leader, the NDP leader and member for Burnaby South. We have to make mention in this place of his private member's bill, Bill C-352, because important elements of that bill were adopted in Motion No. 30. I will highlight some of the relevant parts of Motion No. 30 for the benefit of constituents back home.

Essentially, the really important part of Motion No. 30 centres on a number of things that would include some of the elements of the private member's bill from the member for Burnaby South in Bill C-56. I think this would strengthen the bill through a number of measures, such as increasing maximum penalty amounts for the abuse of dominance so that whenever we have market concentration and some corporate entities are abusing their dominance, we would have increased fines to make sure they are brought into compliance. Another measure is allowing the Competition Bureau to conduct market studies and inquiries if it is either directed by the minister responsible for the act or recommended by the Commissioner of the Competition Bureau. Another is to revise the legal test for abuse of a dominant position prohibition order to be sufficiently met if the tribunal finds that a dominant player has engaged either in a practice of anti-competitive acts or in conduct other than superior competitive performance.

In other words, these are three important measures in the motion that are basically lifted out of the PMB from the member for Burnaby South, showing once again that, as New Democrats, we are here to strengthen government bills, respond to the needs of our constituents and make sure we are passing laws that would address the serious issues of today.

I will now move to Bill C-56, which is not a very big government bill in the scale of things but one that essentially seeks to do two things: remove the GST from construction costs on new rental units and enable the Competition Bureau to better conduct investigations, while removing efficiency exemptions during mergers to improve competition. That is the specific section of the bill we would be improving through Motion No. 30.

Before I go on, I think we need to place the conversation around Bill C-56 in a larger context. I want to go back to when this Parliament started. Canadians are very familiar with the fact that in both the 2019 and the 2021 elections, Canadians, in their wisdom, decided to return minority Parliaments. I think that was the voice of the Canadian people saying that they did not trust all of the power in this place to any one party. It was a resounding message that parties had to come here and find ways to work together.

At the start of this Parliament in 2021, we as New Democrats essentially had two choices. We could have chosen to stay on the sidelines, like my Conservative friends, and just complain while achieving nothing, or we could have realized that Canadians expected us to roll up our sleeves, put our heads down and get to work. We chose the latter option, and that is why, thanks to New Democrats, we are achieving some incredibly concrete things for Canadians.

Dental care is a massive program that is going to really help so many Canadians. We know that millions of Canadians are unable to afford to go to the dentist. Thanks to New Democrats, we are pushing that forward so the most disadvantaged people from coast to coast to coast are going to be able to afford and get proper dental care.

● (1715)

We forced the government to double the GST credit. Of course, something I am personally very proud of having done, both here in the House and at the Standing Committee on Agriculture and Agri-food, which does specifically relate to the conversation we are having today, is that we also started an investigation into food price inflation. I think it was the public and political pressure of that moment that led us to where we are today, talking about Bill C-56. Not only did I get a unanimous vote in the House of Commons, so I believe that all parties unanimously recommended that this was an issue of great concern to their constituents, but we also got a unanimous vote at the Standing Committee on Agriculture and Agri-food to really put the issue of food price inflation under the microscope and to do a deep dive into the real causes. I will be happy to talk about that a little bit later in my speech.

We also forced the government to come up with a grocery rebate and anti-scab legislation that is going to help unions realize the collective bargaining power they have. When we are talking in this place about helping the working class, we need to make sure we are actually standing up for legislation that would do just that. For far too long in our country's history, working men and women who belong to the trade union movement have been at a disadvantage when it comes to the relationship with their employers. Employers have considerable financial resources. They have been able to wait out workers. They have been able to use replacement workers. In some cases, they have just waited for Liberal and Conservative governments to come to their rescue with back-to-work legislation. It is time, thanks to the NDP, that someone in this place truly stood up for the working class, not just with words, like the Conservatives are fond of doing, but with real action, actually changing our laws so an employer, with all of their resources, would no longer be able to undermine working-class men and women with replacement workers. One of the most powerful things the working class has at its disposal is the guaranteed freedom to withhold its labour in order to fight for a better deal.

Thanks to the NDP, we are going to change federal laws so we have the backs of workers in federally regulated industries, whether they work in the train system, in shipping, in the banking industry, etc. We are going to make sure the legislation before us gets over the finish line and serves as an example right across the country for all provincial jurisdictions. I am also very proud that, thanks to the NDP, we are leading the way in developing a sustainable jobs act. It was thanks to the NDP that we got labour at the table with the government and brought in those changes to the law before it was finally introduced. Again, this demonstrates that when it comes to defending working people in Canada, the NDP is the party that is pushing the ball here, not just with words but also with sincere action.

Something I am incredibly proud of, as we work toward the end of the 2023 year, is that we are actively working with the government on bringing in pharmacare legislation. Again, the cost of living crisis is something that Bill C-56 is inherently trying to deal with. We have to make sure we deal with the economic shortfall that so many working-class Canadians are experiencing. In addition to lack of dental care, one of the biggest challenges for families is their inability to pay for expensive medication because they do not have the benefit of a workplace plan. Often, I have spoken to constituents who are skipping their medications altogether or are cutting them in half, and that can lead to extremely poor health outcomes later on. Yes, it might seem like a significant investment, but we have to put it in the context of the billions of dollars of savings that would result, not only for working families' budgets as we are trying to help them get by, but also for our health care system as a whole. When we look after people and establish methods whereby they can seek preventative health measures, this is how we save our health care system money, and it is how we look after families' budgets.

I am proud to be a member of a caucus that is standing up for all of those measures. I think there are days when my Conservative friends must be incredibly frustrated that they are being outworked and outdelivered by a party with a quarter of the number of their seats. I want to highlight a few examples because I listen to Conservatives talk every single day about the cost of living crisis, and I want to highlight a few of the hypocrisies we hear in this place from that particular party.

● (1720)

Number one is the carbon tax. I do not think that the oil and gas industry actually needs to spend all of that money on lobbying the federal government, because it already has a political party that does it for free. The Conservative Party's members stand in this place and, at every single opportunity, rail on the carbon tax while completely ignoring the oil and gas profiteering that has been happening over the last three years. It is a real disservice to the substance of the debate.

We only need to look at the evidence. We have seen this at committee, not only when we were dealing with food price inflation but also in a whole host of other committees. The evidence is there for everyone to see. If someone wants to see the real driver of inflation, they only need to look at some key industries and how much their profits have increased over the last three years. The most notable example is oil and gas. Since 2019, the industry's net profits have increased by over 1,000%. The Conservatives want to concoct a fairy tale that the carbon tax is the root of all evil, when we know that the wild price fluctuations we see on the cost of fuel are the result of market pressures and of corporations' gouging our constituents. However, there is not a word from my Conservative friends.

I have to single out the member for Carleton, the Conservative leader, because he has the temerity to stand in this place and vote against dental care for his constituents, for my constituents and for people from coast to coast to coast while having enjoyed taxpayer-funded dental benefits for the last 19 years as a member of Parliament. I guess the Conservative motto is "It is okay for me but not for thee." That is essentially the message I am getting from him.

Of course, there was a vote earlier this week on the Ukrainian free trade agreement. The Conservatives were absolutely grasping at straws to find a way to vote against it. At a time when Ukraine needs solidarity from the people of Canada, it would have sent a strong message if we could have had a unanimous vote in the House of Commons to show the Ukrainian people that we stand firmly with them. That is something President Zelenskyy wanted, yet one party decided to vote against the free trade agreement, and that was the Conservative Party. The shocking thing is that a vote at second reading is a vote for the principle of a bill. The principle of the bill is free trade with Ukraine. Someone may have problems with the bill, and that is fine, but do they agree with the principle of the bill? I do not always agree with bills that I vote for at second reading, but I do it under the condition of getting better results at committee. It is a strong message. Does one agree with the principle of the bill? Unfortunately, I think the Conservatives scored on their own net with that vote.

Let us talk about the housing crisis, because a significant part of Bill C-56 would be the removal of the GST for new rental units. There is a fairy tale being concocted in this place by my Conservative friends. They want people to magically believe that the housing crisis started just in the last few years, or eight years ago in 2015. That is absolutely false. The housing crisis we are seeing today is the natural conclusion of over 40 years of neo-liberal economic policy that has been pursued with glee by both Liberals and Conservatives. It did not start just with the current government and the current Prime Minister. It was happening over Stephen Harper's time, Paul Martin's time, Jean Chrétien's time and Brian Mulroney's time. We could not get to the shortfall we have in affordable housing just overnight. It is the result of a systematic abandoning of the federal government's role in building affordable housing, and the chickens are coming home to roost right now.

Again, we do need serious action, and Bill C-56 would be a small measure, removing the GST to spur on more housing development. If we look at the recent fall economic statement and at some of the spending items in the next few years for affordable housing, the Liberals have decided to delay spending on critical areas until the 2025 fiscal year. It is a totally shameful response and extremely inadequate to the crisis moment so many Canadians are facing right now.

● (1725)

With food price inflation, I think Canadians are sick and tired of both parties taking potshots at each other when, for 20 months now, we have seen food prices rise at such a high rate, a rate far higher than the general rate of inflation. The Minister of Innovation, Science and Industry made that grand announcement in October, when he said he was going to summon the grocery CEOs to Ottawa for what amounted to a stern talking to. What did we learn today? We learned from Metro's CEO that discussion had zero impact on food price inflation.

This is why the agriculture committee is again examining this issue. It wants to hear from the minister and the grocery CEOs. It was my motion that sent for the corporate documents, which are now under lock and key at 131 Queen Street, so we can see what the corporations have agreed to and what their plan is. We also want to hold the government to account to see exactly what promises the minister tried to extract.

We are facing a situation where Canadians have been playing by the rules and doing everything right. However, there is corporate gouging in multiple sectors. In the housing market there are increased rents and renovictions and the buying-up of affordable housing stock. Grocery and fuel prices are constantly going up. It is all a result of corporate profits driving inflation, and there is only one party in this place that is daring to call it out.

I think back to the old tale, Mouseland. Canadians are being asked to pick between the black cats and the white cats, but they are both cats. They are both going to pursue the same economic policies. I think, at their heart, Liberals and Conservatives believe in the same thing. They believe in market-based solutions, which is what have gotten us into the mess we are in. They like to show the differences between the two, but I fundamentally believe those two parties are but two different sides of the same coin. If we want something different, we cannot keep doing the same thing. Trading Liberals for Conservatives is simply going to continue us down the path that we have been on for the last 40 years.

Canadians deserve a break. I am proud to say that through New Democrats' efforts on Bill C-56 and Government Business No. 30, we are delivering concrete results. We have rolled up our sleeves to get to work to improve this bill and insert some language that I believe is going to make the bill stronger and finally give the Competition Bureau the muscle, resources and legislative flex it needs to tackle the extreme marketplace concentration that we see in so many sectors, whether it is the grocery sector, telecommunications, oil and gas, name it, it is time.

I believe, Madam Speaker, I am getting a signal from you that—

● (1730)

The Assistant Deputy Speaker (Mrs. Carol Hughes): The hon. member will have two minutes remaining the next time this matter is before the House.

It being 5:30 p.m., the House will now proceed to the consideration of Private Members' Business as listed on today's Order Paper.

PRIVATE MEMBERS' BUSINESS

[*English*]

PROTECTING YOUNG PERSONS FROM EXPOSURE TO PORNOGRAPHY ACT

Mrs. Karen Vecchio (Elgin—Middlesex—London, CPC) moved that Bill S-210, An Act to restrict young persons' online access to sexually explicit material, be read the second time and referred to a committee.

She said: Madam Speaker, it is truly an honour to rise in the House and talk about such an important bill.

Bill S-210 is the protecting young persons from exposure to pornography act. This bill would restrict young persons' online access to sexually explicit material.

Tonight I am honoured to speak to this bill. We have talked about pornography in this place before, and we recognize the impact of pornography, the impact on our youth, and why it is important that we sit down and actually talk about this.

I want to talk about why we need to do this. A lot has to do with unintentional viewing of pornography by our youth. We are here today to talk about what we can put in place to ensure that when our children are turning on their laptops, when they are looking at videos that the next thing that comes on is not pornography, that it is not something that is sexually explicit.

I recall, back in the 42nd Parliament, having the opportunity to speak to Motion No. 47, which looked at pornography. That was studied at committee. I spoke to Motion No. 47 because I had had my own experience with my son. It was following a commercial that I had watched on an Air Canada flight. I shared this story back in 2016-17, but I think it is worth sharing again. It has a lot to do with something so simple turning into something so wrong.

It started off with a simple underwear commercial on an Air Canada flight. As I was flying home, I watched a commercial with two men talking to one another about how cosy they were and how life was so good. Then it zoomed back, and it is two men talking inside a pair of underwear. They represented testicles. To me, that is just what it is. They were talking about how comfortable they were. To me, it was not pornographic, and it was not sexually exploitive. It was just a really great way of selling a pair of underwear.

I thought I would show my son and my husband. At home I turned on the TV and went to one of the sites. After showing my family this video that I thought was so hilarious, it turned into soft porn. That is when I personally subjected my own child to it, without knowing. That is me as an adult user, and please do not hold that against me.

We have to look at how simple something like this could happen. It happened to me as a mom, and we know that it happens to children. Sixty-three per cent of children who have seen pornography reported that their first encounter with pornography was unintentional. Sixty-three per cent. Why is that important?

It is important because of what pornography does to a child. They looked at what the issue was. It was children having access to pornography. When surveyed, 83% of parents have suggested there should be robust age verification. That is why I am going to put on my status of women's hat now.

I have had the honour of working on really important files since 2015, working with the status of women, working as the shadow minister for women and gender equality. I understand the correlation between pornography and sexually violent acts.

A lot has to do with understanding that 41% of these children who have seen pornography have indicated that it has had a negative impact on their own relationships and their views of the opposite sex. We know that when it comes to misogyny, patriarchy and sexual violence, a lot of it is a power imbalance. That is exactly what we see in pornography.

What children are seeing is something that is not reality. Instead, they are seeing something very fictitious, very fantasy-like. With their level of maturity and processing the information in their brains, it becomes a reality. In time, they find that this sexualness, the things that they do become okay. It becomes normalized. These are things that we should really care about.

I watched an incredible documentary called *Over 18*. We also saw it here. It focused on a young boy, and different things about a family that was dealing with a child and other children who had come into contact with pornography. In the documentary, it was showing this young boy. The parents talked about the fact that they were sitting in the same room while he was watching pornography. Children become addicted to this kind of stuff. We know what happens with addiction, what happens to the brain. We have to know what happens when we are dealing with young children and when their brain development is being messed up.

In 2021, pornography sites got more traffic in the United States than Twitter, Instagram, TikTok, Netflix, Pinterest and Zoom combined. Studies show that most young people are exposed to pornography starting at age 13. More than half of these minors see explicit sexual material without even wanting to. That is exactly what we heard earlier from my colleague from Elgin—Middlesex—London, who, I would remind the House, is also the sponsor of this bill. There is a false sense of security.

Research commissioned by the British Board of Film Classification revealed a discrepancy between parents' views and what children were actually experiencing. Three-quarters of parents, or 75%, felt that their child would not have seen pornography online, but more than half of their children, or 53%, said they had in fact seen it. This shows that we cannot simply fall back on parental supervision or rely exclusively on parental responsibility. We have to go one step further and push a little harder, because parents are living with a false sense of security, as these statistics show.

● (1825)

On average, children have their first encounter with pornography at age 11. Here in Canada, 40% of high school boys have seen pornography online, 28% seek it out at least once a day or once a week, and 7% of girls also watch it. According to the National Centre on Sexual Exploitation, 87% of scenes in pornography depict acts of violence against women. That is a lot of figures and a lot of information, but I think that we need them to do our work and to understand the issue properly, because it is so important. Here is some more information, and I quote:

> Scientific research is making more and more worrisome connections between the consumption of pornography and the health or behaviour of young people. When adolescents frequently view pornography, it can lead to compulsive consumption, create unrealistic expectations about expected activities, generate fear and anxiety, damage their self-esteem by distorting their perception of their own bodies, cause symptoms of depression and impair social functioning.
>
> What do young people, boys in particular, absorb from what they see? Repeated consumption of pornography by adolescents reinforces gender stereotypes and perpetuates sexist beliefs and the objectification of women.

I want to take this issue a little further. Pornography is not reality. Pornography contains a lot of violence. As I said, 87% of pornographic scenes depict acts of violence. Boys who view pornography see behaviour that they will consider to be normal. Teenagers or young people may want to copy some of those behaviours because that is what they have as a model, these gender stereotypes. Everyone here knows very well that that is not reality. I do not think that I have time to give some of the quotes from experts that I wanted to share with the House, but I think that my colleagues have already talked a lot about that.

This week, the newspaper La Presse published a very interesting series of articles about a paradigm shift in what boys think of girls. Right now, there is a trend of sorts happening that is being led by a very influential and important man who is very present on the Internet. He is the subject of one of the articles in that series, entitled "Becoming a fan of Andrew Tate at age 15". This man, Andrew Tate, is spreading a negative image of women and girls. He says that a woman's place is in the kitchen and that women should not be working. He says that, even if women do work outside the home, they are not smart enough or talented enough to do so.

I read that this week in La Presse and I took it as a warning. It is high time that the House of Commons supported a bill like the one before us today to protect our young people when they go on the Internet, to block their access to pornography and to ensure that companies conduct age verification checks as they should.

The bill is sure to be referred to a parliamentary committee. The format and process remain to be determined. I have neither the skills nor the knowledge today to say what process should be chosen, but I think we have reached the point where this is necessary, and we need to take care of our young people.

● (1830)

[*English*]

The Assistant Deputy Speaker (Mrs. Carol Hughes): The time provided for the consideration of Private Members' Business has now expired and the order is dropped to the bottom of the order of precedence on the Order Paper.

GOVERNMENT ORDERS

[*English*]

GOVERNMENT BUSINESS NO. 30—PROCEEDINGS ON BILL C-56

The House resumed consideration of the motion, and of the amendment.

Mr. Alistair MacGregor (Cowichan—Malahat—Langford, NDP): Madam Speaker, I think it is important to also raise the issue, since we are talking about affordability, of the Canada emergency business account. For months, New Democrats have been calling for a year-long extension so that small businesses have the time to repay their loan. However, the 18-day extension announced by this Liberal government is a cruel joke.

I have just heard from small businesses in my riding, and I am proud to stand in this place and defend their interests to make sure that they can continue serving. I got an email from a business representative in my riding that says, "Our data shows that only 49% of businesses are back to prepandemic sales, and our last media release indicated that business start-ups are at a historical low and 20%, one out of five, will be out of business by next year if that CEBA loan is not extended until the end of 2024."

Given that we have been talking about affordability issues, I think we also need to address the shortcomings of the CEBA. On behalf of small businesses in my riding, I urge this Liberal government to listen to them. How does it make sense to let all of these small businesses fail when a one-year extension would be so meaningful?

To conclude, I think I have outlined all the reasons why the additions to Motion No. 30 are so important. I am glad to see, as a New Democrat at caucus, that all 25 of us have rolled up our sleeves, put in the work and offered some constructive amendments to the bill. We are looking forward to seeing it voted on, passed on to committee and making sure that we deliver that legislative fix to help Canadians get through the cost of living crisis and new rental housing start-ups.

With that, I welcome any questions or comments from my colleagues.

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, in regards to small businesses, the government has been very supportive of small businesses in Canada and continues to work with small businesses. I think that our record will clearly demonstrate that through the pandemic, prepandemic and to where we are today.

With regards to the legislation, my question to the member is with respect to the efficiency argument and how the legislation would actually ensure that there is a healthier sense of competition into the future by the amendments to the Competition Act, particularly with the Competition Bureau's ability and enhancing that ability, to ensure that Canadian consumers are taken into consideration far more than they currently are. Could the member give his thoughts on that issue?

Mr. Alistair MacGregor: Madam Speaker, I will respond to the member's first part of his intervention on small businesses.

The email I read was received today. I acknowledge that, yes, during the pandemic we were there with supports, collectively, the whole House was there, but small businesses are saying that the measures announced by this government are not enough; they need a further extension, otherwise one out of five are going to go out of business. It does not make sense to be holding the line, and I think the government needs to extend it to the end of 2024.

On the second part of the member's question, when I was at the Standing Committee on Agriculture and Agri-Food, we were doing an in-depth dive into food price inflation, and based on a study that I moved at committee, some of our witnesses were from the Competition Bureau of Canada. They expressed a sincere wish to have not only more human resources but I think a little bit more of a legislative flex in the Competition Act. Bill C-56 would deliver that. There was a significant improvement made to the bill, thanks to the efforts of the NDP and particularly our leader, the member forBurnaby South. New Democrats are here to work. We are delivering some constructive changes, and we are looking forward to seeing this legislation progress.

● (1835)

Ms. Lisa Marie Barron (Nanaimo—Ladysmith, NDP): Madam Speaker, because of consecutive Liberal and Conservative government inaction over the years, we are seeing the housing crisis that we are in today. Canada needs to develop 5.8 million new homes, including two million rental units by 2030, to tackle housing affordability.

The member is my neighbour on Vancouver Island. I wonder if he can share what his constituents on Vancouver Island are saying is needed to be done today to move forward to have the housing that people need to keep a roof over their heads. What needs to be done in order for us to move forward?

Mr. Alistair MacGregor: Madam Speaker, I would like to thank my great neighbour to the north, the member for Nanaimo—Ladysmith. It really is such a pleasure to serve in this House with her. I was first inspired to run back in 2015 because of the actions of the Harper government. I saw exactly how the policies and legislation enacted under that regime were affecting my constituents. I am glad that not only in 2015, but in 2019 and 2021, I have been returned to serve their interests.

What I mentioned in my speech is that we did not get here overnight. This is the result of consecutive Liberal and Conservative governments pursuing neo-liberal economic policies, and that has gotten us to where we are today. There is a solution. We do not have to look very far back. We could look at the post-World War II era. The federal government was directly involved in the construction of new housing to accommodate returning veterans and to also help rural communities, like mine in Lake Cowichan, that were experiencing incredible resource booms and needed to have the workforce housed.

We have had similar situations now, but we need to get the federal government more actively involved in building those units.

Mr. Randy Hoback (Prince Albert, CPC): Madam Speaker, I am kind of curious. This is basically a bill to address affordability in Canada.

For young families that have a mortgage right now that is coming up for renewal in the next month, and it is going to from 2% to 8%, what is in here that is going to help? What is in any type of Liberal legislation at this point in time that is actually going to help that family renew that mortgage, take the hit on the increase of the mortgage payment, and be able to heat their homes and put food on the table?

Mr. Alistair MacGregor: Madam Speaker, Bill C-56 has a fairly narrow focus, but that is why we were hoping, not only through the fall economic statement but in the budget next year, to start to see measures that would address this.

I will remind the member that we got to the rates we are at today precisely because of the corporate profits that have been driving inflation. If Canadians want to understand why rates are so high, it is because we are trying to cool down a market that was caused by corporate greed. It was caused by oil and gas companies having net profits go up by over 1,000% in three years. It was caused by grocery CEOs digging in their greedy hands, off the backs of working families.

If we want to truly calm inflation down, we have to stop the policies that are championed by both the Conservatives and the Liberals. We need to swing the pendulum back in favour of working families, and stop the corporate deference that both of these parties love to champion whenever they are in government.

[*Translation*]

Mr. Simon-Pierre Savard-Tremblay (Saint-Hyacinthe—Bagot, BQ): Madam Speaker, the Bloc and the NDP agree on a number of points, including that the bill does not go far enough, but there are some good things in it.

I will still come back to my question. Why is the government using a closure motion, never mind a super closure motion?

I am well aware that there is filibustering. Filibustering harms everything. It is detrimental to our work, to what we want to achieve. Still, it seems to me that a super closure motion should be used as a last resort.

Does my colleague not get the impression that the cure is worse than the disease in this case?

[*English*]

Mr. Alistair MacGregor: Madam Speaker, time is of the essence right now.

These are powers, legislative fixes that the Competition Bureau was asking for months ago. I cannot control when the government decides to schedule Bill C-56 for debate. However, I do know that many members in this place have already had the opportunity to give their thoughts at second reading.

This is a vote on the principle of the bill, and I think everyone agrees on the principle, getting the GST off new rental housing construction and making sure the Competition Bureau has the powers to go after that corporate stranglehold that we have in so many critical sectors. It is something that we should be voting on.

I am proud that through Motion 30, we have taken the work that was put in the bill by the member for Burnaby South, and we are going to add those provisions to Bill C-56. I see this as an opportunity where the NDP has rolled up our sleeves, has put our heads down and are getting to work to make sure the changes are happening in this place, unlike my Conservative colleagues.

● (1840)

Mr. Peter Julian (New Westminster—Burnaby, NDP): Madam Speaker, the member for Cowichan—Malahat—Langford has spoken very eloquently about the Liberals inaction up until the time that the NDP pushed them to actually do the right thing.

I want to ask the member for Cowichan—Malahat—Langford, who lived through the dismal nine years, the dark years of the Harper regime, where housing prices doubled and 800,000 affordable housing units, thousands in Cowichan—Malahat—Langford, were ripped away from the hands of the families that actually needed access to that affordable housing. Conservatives find that funny, the devastation that they reaped, including increasing the age of retirement, forcing seniors to work longer and harder.

Could my hon. colleague talk about the devastating impacts on Cowichan—Malahat—Langford and, of course, across Vancouver Island?

Mr. Alistair MacGregor: Madam Speaker, I will tell my colleague how bad it was. It was so bad that the Conservatives fell to third place in the 2015 election. My riding is not known to be a Liberal stronghold, but they actually got second place because of how bad the Conservative government was.

Do members know that the current leader of the Conservative Party really motivated me to run for office because he was Harper's spokesperson. He was there front and centre, putting in the policies that wreaked such havoc in my community, and I am glad to say that we are finally in a place, in a minority Parliament, where I have the opportunity, as my community's representative, to bring in some concrete fixes.

We are only just getting started. We have a lot more to do, but I am glad to serve with a 25-member caucus that, every single day, is coming to this place to make the lives of Canadians better from coast to coast to coast.

Mr. Dan Albas (Central Okanagan—Similkameen—Nicola, CPC): Madam Speaker, it is always an honour to rise in this place to join the debate. I will be sharing my time with the excellent member of Parliament for Prince Albert.

Bill C-56 is an interesting bill, and I must give the Liberal government some credit for taking a page directly from the leader of the official opposition's affordability plan and proposing to remove the GST from purpose-built rental housing. This is something that Conservatives support.

I must admit that I was a bit surprised to see the Liberal government admit that removing a tax, in this case, the GST, is a good way to increase affordability, much as I was shocked to see the Liberal government admit that removing its carbon tax on home heating oil is also a good way to increase affordability. If only it would remove its carbon tax on propane and natural gas to increase affordability for all Canadians and not just those in certain regions of the country.

[*Translation*]

Back to the bill, I also support the proposed amendments to the Competition Act, just as I supported my colleague from Bay of Quinte when he introduced his Bill C-339.

It is refreshing to see a Liberal government adopt Conservative solutions. I even have to give the Prime Minister a little credit. Removing the tax on goods and services relating to the construction of rental housing means that builders and developers will save money. It means that less money will end up here in Ottawa. We all know how much this Prime Minister likes spending other people's money. Despite reduced revenue, our perennially spendy Prime Minister did not label this an austerity bill—not yet, anyway. Maybe he will change his mind when he reads the bill and realizes he is endorsing Conservative ideas.

Regardless, the Prime Minister has demonstrated remarkable restraint by introducing a bill that will reduce Ottawa's revenue and not calling it an austerity measure.

● (1845)

[*English*]

I pause for a moment, though, to ask this place a question. If the Liberal government is capable of understanding that removing the GST from rental housing increases affordability and that removing the carbon tax from home heating oil also increases affordability, why does it still refuse to remove the carbon tax from natural gas and propane to increase affordability? Do Canadian families who heat their homes with natural gas and propane and who cannot pay their bills not matter?

I have heard the Liberal excuses around this. Home heating oil is expensive and the carbon tax makes it more expensive, so that is why they are giving them a carbon tax break, but the same is also true for those who heat with natural gas and propane. Basically, this government is telling them that they do not matter. This is a Prime Minister who once said, “a Canadian is a Canadian is a Canadian”, but that is no longer true if one heats one's home with natural gas or propane. Sure, one might be on the verge of bankruptcy or hitting the food bank every day, but this Liberal government just does not care.

I know some members would say that I am getting a bit off track, that we should be debating what is in this bill. That is my point. The things in this bill would help, but the things we could do to most help Canadians right now, such as removing the carbon tax from all home heating fuels, we are not doing solely because the government is punitive.

This morning, we read about the Liberals' so-called affordability retreat, where taxpayers got stuck with a bill for $160,000, including rooms that cost anywhere from $1,200 to $3,200 apiece. The very Liberals who stayed in those rooms have the audacity to tell those who can no longer afford to heat their home at the end of the month that they will get no help. Worse, their carbon tax bill will actually be quadrupled. I would simply ask the obvious: Why not do more?

[*Translation*]

Why not offer Canadians who heat their homes with natural gas and propane the same carbon tax relief as those who heat their homes with home heating oil? Why does this Prime Minister always have to divide Canadians? This time, he is dividing them based on their heating fuel. Canadians have had enough of this.

Every poll sends the message loud and clear about where the Liberals stand, yet the Liberal government ignores that message. To what end? I know there are good people on the government side, but the arrogance of the Prime Minister and his powerful group of unelected insiders is hurting many Canadians.

Yes, the proposals in this bill will help. It is a start, but we seriously need to do more. That is why I talked about doing more. That is why the leader of the official opposition listens to Canadians every day. They are asking us to do more. Polls show they want relief from the carbon tax on their home heating bills.

[*English*]

Farmers want and need a break as well. Here in Canada, we introduced something called “marked gas”. The idea was that farmers could buy gasoline and diesel at lower costs, without additional taxes, because all of our predecessors from all political parties recognized that keeping farmers' costs low was in the public interest. Now the Liberal government is literally driving up the costs for farmers for ideological reasons.

I will share a story of a local small business owner. This small business owner is a value-added food processor. It is very important to this small business owner that, when his goods arrive at local grocery stores, they proudly say that they are 100% Canadian. Here is the thing: When he gets his raw goods, they come from Quebec and Atlantic Canada, and when he has them shipped out via transport truck, he now pays a carbon tax surcharge on the bill.

He must raise his prices to offset the extra carbon tax that he pays. If he were to get the same raw goods out of the United States or overseas, he would not have that same large carbon tax surcharge from goods being shipped across Canada. He might be at that point where the only way he can lower his prices and remain competitive would be to switch because many of his competitors in the same grocery stores cannot say that they are also made in Canada. They are made in other jurisdictions where there is no carbon tax. When times are tough, as they are right now, fewer people can afford to pay extra for goods solely because they are made here in Canada.

I hope the government realizes the long-term structural damage its carbon tax is creating. It would be a different story if our largest trading partners had the same carbon tax and it was a level playing field. The Liberals like to say that they are taking a leadership role with the carbon tax. However, when no one else is following, they are not leading the way.

● (1850)

[*Translation*]

Some may think that I was not objective in this debate, but when I go home and my constituents ask me what we are doing in Ottawa to make life more affordable for them, I would like to have more to offer than simply saying that I supported this bill. At least I can tell that small business owner and others like him that I shared their stories.

Unfortunately, however, we have a Prime Minister and a Prime Minister's Office who do not care about any of them, unless they use home heating oil, of course.

That said, yes, I will support this bill and I will continue to ask this Liberal government to adopt and better support our Conservative ideas. Let us put all home heating fuels on a level playing field and suspend the carbon tax.

[*English*]

Let us ensure that the carbon tax on farming is gone. Let us all read the Scotiabank report that tells of how government spending at all levels has created over 40% of the rise in basis points from the Bank of Canada. It is not austerity to think like a taxpayer and deliver value for money. What a concept. It is not an app that costs over $54 million or funding the Asian Infrastructure Investment Bank. How about the Canada Infrastructure Bank, which does not deliver any infrastructure?

Literally every day, we read about a new spending scandal from the Liberal government and appointed insiders funnelling money to their own companies. How could someone not know that was wrong and unacceptable? How are people such as Laith Marouf on the government contract list? Why is there never any ministerial accountability?

Instead of fiscal waste, we should be doing more with what is here. I urge all members of the House of Commons to consider doing more and adopting our Conservative ideas to provide Canadians a carbon tax break on home heating, and let us have a carbon tax carve-out for our farmers.

The Assistant Deputy Speaker (Mrs. Carol Hughes): Before we go to questions and comments, I would like to say to the member that his French is really improving. I would like to thank him for his efforts.

Mr. Chad Collins (Hamilton East—Stoney Creek, Lib.): Madam Speaker, there was not a lot in that on the bill in front of us on the Competition Act or removing GST from purpose-built rentals, but I will take the member up on his reference to plagiarism. We have certainly witnessed a lot of political plagiarism over the last several weeks. The Leader of the Opposition has almost taken every page out of Donald Trump's political playbook in threatening to defund the media. He has talked about firing people with our own Canadian version of *The Apprentice*. Of course, he has also taken on Mike Harris's common-sense revolution tag.

What is the Leader of the Opposition's fascination with political plagiarism? Does he have any original ideas of his own? If he does, when will we hear them?

Mr. Dan Albas: Madam Speaker, I am going to ask for your patience with me because I am going to describe that particular question, not the questioner but the question, as political loser talk. If he wants to come to this place to talk about affordability, with doing things like increasing competition, which the member for Bay of Quinte originally proposed and is now incorporated in this bill, we could have that discussion.

Instead, he wants to trash-talk my leader. I am going to be holding the Prime Minister to account for the actions of his government. I am going to give some credit where it is due when he takes good ideas, such as tax cuts and increased competition, from Conservative benches and incorporates them into bills. I will give Liberals credit when they do that, but when they trash-talk, I am going to call them out. That member is guilty of trash talk and should be fined by the court of public opinion in his constituency.

The Assistant Deputy Speaker (Mrs. Carol Hughes): I would remind members to make sure their questions, comments and speeches are focused on the business before the House.

Questions and comments, the hon. member for Longueuil—Saint-Hubert.

[*Translation*]

Mr. Denis Trudel (Longueuil—Saint-Hubert, BQ): Madam Speaker, I thank my colleague. More than that, I want to congratulate him on his French. I think he delivered about half of his speech in French, which is amazing. Seriously, kudos to him, and I am very happy to hear French in the House.

At its press conference in Ottawa today, the Federation of Canadian Municipalities said that, to build the millions of housing units we need, they would require $600 billion in infrastructure such as transportation, roads, public transit and sewers. I would just like to know what a future Conservative government—not that we want one—would say to the Federation of Canadian Municipalities about that.

● (1855)

[*English*]

Mr. Dan Albas: Madam Speaker, the member is one hundred per cent right. We are going through a housing crisis, and it is because municipal gatekeepers, right across the country, have held tight to old ideas such as zoning that basically keeps municipalities as they are. As our immigration grows, and as our population grows, we see there are just not enough places for everyone.

In Bill C-56, the government's solution is a Conservative one, and it is to take the GST off and create more demand for something by lowering the cost of it. However, the problem is the speNDP-Liberal government's continued obsession with spending at any cost, any time, anywhere and any place, and we end up seeing much higher inflation.

As I said in my speech, the Scotiabank report said that up to 40% of the basis points of the Bank of Canada have gone up. We will not see significant market investments or significant government investments go forward unless we have lower interest rates. It is the economics that are a pressure here. Maybe Bill C-56 would allow some Venn diagram where everything falls into place of some projects now being viable, but I am already seeing in my area of the Okanagan projects dropping. We are seeing, in the Statistics Canada numbers, a drop in permits. That is inevitable until the economy turns around, and it will not do that if the government keeps spending like there is no tomorrow.

Mr. Alistair MacGregor (Cowichan—Malahat—Langford, NDP): Madam Speaker, I want to question my friend from British Columbia on his last point because he was referencing the Scotiabank number. Just so everyone understands, could he confirm that that number also includes all of the spending by Canada's provincial governments and that a great amount of it was approved spending during the pandemic, which, if I recall correctly, many Conservatives also supported to keep businesses afloat so people could continue working. Would he be able to confirm those figures?

Mr. Dan Albas: Madam Speaker, I actually wrote in my MP report to my constituents this week exactly that: All levels of government have been overspending.

However, let us not forget what I called the Prime Minister earlier this week: "our deficit-maker-in-chief". No one has the fiscal power like the current federal government. No one has the tax power like the current federal government. What were the members of the government doing this week? Instead of actually trying to show some leadership and actually reducing, they have been going through an NDP wish list, which is one of the reasons we keep referring to the fact that after eight long years of the NDP-Liberal government, it is just not worth the cost. It is Canadians who are paying that bill, and they will keep paying that bill until they kick the current government out.

Mr. Randy Hoback (Prince Albert, CPC): Madam Speaker, what a great presentation that was from my colleague from of British Columbia. The common-sense ideas that he presented just reflect the common sense of a young Conservative Party that is ready to take over the reins here in Canada and bring about some new ideas to help Canadians as it progresses, goes forward and brings back the Canadian dream of home ownership.

When I first read Bill C-56, I thought that it was not that bad and that there were some things in it that looked pretty good. Then I remembered: I know why they look good; it is because they are actually Conservative ideas. They are actually things the Conservatives talked about six years ago, and I am glad the Liberals copied them. I am very flattered they copied our ideas. That is great.

Then I looked at it and thought, "Wait a minute, the bill is regarding GST on rental properties." If we are really looking at this and at affordability across Canada, we are dealing with such a small part of where there are affordability problems. Let us take, for example, the young family who owns a house. Let us say they have a mortgage of $250,000. They bought their house three or four years ago. The mortgage is coming up for renewal now, and they are going from a 1.9% or 2.5% interest rate to roughly an 8.5% or 8.7% interest rate. Their monthly mortgage payment is going from $1,200 a month up to $1,800 or $1,900 a month. They have to find another $700 a month, so that is $8,400 a year of after-tax dollars just to pay the interest increase. That is an affordability problem. Is there anything in the bill that would address that? No, there is not. Is there anything in the Liberals' ideas they talked about yesterday, moving forward, that would address helping those people out? Have there been any ideas to work with the banks to say they could extend things out? Have there been any ideas to work with institutions to say that we could actually help people manoeuvre so they could actually afford to stay in their house?

I can see why the Liberals talked only about rental properties in this piece of legislation, because what will happen is that people are going to give up their house because they cannot afford it, and they are going to have to have a place to rent. Let us look at the legislation again. Okay, we would build lots of apartments. When would they be done? Would it be two years or three years from now? People lose their house next month, and they have to wait three years for an apartment? Where do they go? What do they do?

There has been no imagination in the government. The Liberals are out of ideas. They are old and tired, and they have no concept of what is actually going on in this country. They have done nothing to work with the municipalities and the provinces to ask how they can make things more affordable and whether there are things they can do together and leverage among themselves to make life easier for Canadians. There is nothing. We have a few examples where maybe they worked with one city here and one city there, but generally, across Canada, have they worked with anybody? No, they have not. They have picked a targeted approach based on political will and political expedience.

We saw it with home heating when the Liberals removed the GST on oil. Did they apply that to propane? Did they apply it to natural gas? Did they apply it to wood or coal? I come from Saskatchewan. We still use coal; that is way worse than diesel. We still use wood; that is probably still worse than diesel. Was there any relief for that? No, there was not. We use propane and natural gas, which are better than diesel, but the cost has gone up so much because of the carbon tax that it is really hurting. People are saying to us all the time, "I cannot pay my bills." They are going into winter now and are asking what they will do. They are saying, "My mortgage is going to go up. My heating is now going up. My property tax is going up. What do I do?" What does the government say to them? It says crickets. It tells them to pay it, and if their wallet is empty, to borrow more money at a higher interest rate and pay it. Is there any relief there? No, there is not. Has there been any compassion shown? No, there has not.

That is the reality of what the government has done, and do members know why? The government is tired. It is out of ideas. It has no imagination. It does not understand economics. The reality is that this is very true, because if the Liberals understood economics, they would have realized five years ago, when they started borrowing money like drunken sailors, that it was not a good idea. When they started putting money into things that did not have any type of return on GDP or efficiencies, that was a bad idea.

When we look at things now, we have to pay those interest rates. It is a tremendous amount of interest we are now paying on our debt. It is more than what we pay in health care. I was around before, when people had to wait two years to get surgery. My mother had cancer. She had to wait before she could get diagnosed, because those were the days when we were paying a higher amount in interest than we were paying for health care. It took a Liberal government, in co-operation with a Conservative government and the Reform Party in opposition, to get that tackled and under control.

● (1900)

Did we learn from history? No, we did not. What did the Prime Minister do? He started borrowing, not just a small amount like he promised in 2015, not just $10 billion, but $40 billion, $60 billion and $100 billion. The numbers are staggering, and now, we cannot get that back. How do we get back to a balanced budget? It is going to take a tremendous amount of effort.

Not only did we spend more, but we also brought in legislation that starves businesses. We brought in legislation that kicks people out of Canada so they invest everywhere else. We kept our natural resources in the ground. We did not defend our forestry sector when it was unfairly hit with tariffs out of the U.S. What has the government done? It has done nothing. It has shown no imagination. When we talk to it about this, it blames everybody else.

Affordability is the basis of what is going on here. Let us look at things in a more macro and holistic sense. Let us break it down to a family that buys groceries. Groceries are more expensive. The inflation rate for groceries is tremendous. There is the war in Ukraine and a variety of things that have brought commodity prices up through the roof, no question about it, but there are things the government could do to alleviate some of the pain.

I have no issues with change to the Competition Bureau. I have a few concerns, but no issues. Again, when would we get the results from the changes? Would they help us next week or next month, or a year, two years or 10 years from now? There are no deadlines. There are no time frames for allowing us to see any type of reduction in prices based on the changes. There is nothing there that would immediately help the family that needs the help today, so has the government done anything on affordability in the legislation? No, it has not. It has laid out some good targets to move forward in the future, four years or five years down the road when it is no longer in government, but what has it done today? What it has done is spend more money on things Canada cannot afford. It has put money into programs that do not help Canadians at this point in time. It has taken money out of their pockets that they need in their pockets.

This is why we asked the government to just freeze the GST. Never mind the quadrupling, even just freezing it would alone at least help Canadians. If the government reduced it, it would show compassion. If it reduced it for all Canadians, it would show that it genuinely cared about this country and did not pick favourites on one side or the other based on political expediency. If you showed some consistency, we would be in better shape and in a better position in this Parliament, but you have not; you have divided Canadians by region, by different sectors—

● (1905)

The Assistant Deputy Speaker (Mrs. Carol Hughes): I would remind the hon. member that he is to address all questions and comments through the chair.

The hon. member for Prince Albert.

Mr. Randy Hoback: Madam Speaker, Canadians are being divided, and when they are hurting, they get divided even more. When one starts picking winners and losers, it gets even worse.

The government just spent $30 billion on two companies for electric batteries. It is probably $35 billion from what we are hearing now. It does not mean we should or should not do it, but that is $30 billion. Let us make sure that investment is going to happen, that it is done in such a way that Canadians are going to benefit from it. We do not know, as we cannot see the agreement. Canadians do not know what is in it. It is hidden. Why is it hidden? Maybe there is a reason to have foreign jobs. Maybe they are training the trainer and things like that; I could live with that, but I do not know. The government should show the agreement to us and to Canadians so they understand. It has spent a lot of money at a time when Canadians do not have a lot of money. It has tried to build the next sector of industry with huge government subsidization. Did it try to create a competitive environment here in Canada so businesses want to be here? Did it want to take advantage of the natural advantages we have in Canada: our diverse population, our multiple languages and the abilities we have? Those are the things it has to look at.

If we look at the Canadian GDP per person, since 2017, it stagnated and now it has dropped. Basically, our standard of living compared to that in other parts of the world is going down. When we compare it to that of the U.S., ours has dropped 2.5%, and the Americans' has been rising 5.5% this last year. If we look at the graphs, theirs is going up and ours is going sideways and down. The government has to change that. If it continues, our families are going to get into worse problems.

Canada is at a crossroads right now. Canadians are hurting. They are in pain. The government has done nothing to relieve that pain and has shown no compassion or empathy in regard to that.

Mr. Michael Coteau (Don Valley East, Lib.): Madam Speaker, I think the member opposite needs a time machine, because if he goes back to the period from 2010 to 2015, he will know that the Harper Conservative government ran five straight deficits, with $55 billion in deficits in 2010 to 2011 alone. Do people know what we got with that? We got the exact same plan. Every single time the Conservatives come into power, it is like a game plan that is always put in place. They make massive cuts, which hurts people. They even raised the age of retirement. With a Conservative government, we get cuts and deficits, and people get hurt.

To the member, is it true or not that the Harper government, over a five-year period from 2010 to 2015, ran deficits of almost $100 billion, yes or no?

● (1910)

Mr. Randy Hoback: Madam Speaker, yes, we ran deficits, and I know why. It is because we were in the greatest global meltdown of our banks that Canada and the world had ever seen. Where did that money go? I can tell the House where it went in my riding. It went to lift stations, to water treatment plants and to sewer lines. It went to things that Canadians actually needed. It was spent to actually create jobs and employment. It was returned to the economy and came back in taxes. That is where that money went.

Tell me where the Liberal government's money went. Where did the billions of dollars go? I do not know. We got the ArriveCAN app; maybe some of it went there. Where else did it go? It is like the $40 million; nobody knows.

[*Translation*]

Mr. Denis Trudel (Longueuil—Saint-Hubert, BQ): Madam Speaker, the federal housing advocate, which is a body tasked by the federal government with ensuring that the right to housing is respected in this country, issued a report a few weeks ago stating that Canada will need a staggering 9 million housing units and 3.3 million social housing units in the next 10 years.

I want to know how many social housing units would be built by a Conservative government, not that we want one.

[*English*]

Mr. Randy Hoback: Madam Speaker, actually, it is not up to government to build houses. It is up to the marketplace to build houses. It is up to government to actually set the stage, to put the environment in place so houses get built. It is up to government to make sure the platform is there so developers and homeowners who want to build a new house can actually do that. What have we done here? We have taxed them. We have taken away all of their disposable income. We have made it tough to actually even afford groceries, so how are they supposed to build a house? Talking about revenue properties and social housing, there is a role for government in social housing; there is no question about that for municipal, federal and provincial governments. Let us have a proper game plan to see that happen.

Do members know what? It is pretty tough when the cupboard is bare because the money was spent on things we cannot find.

Ms. Lindsay Mathyssen (London—Fanshawe, NDP): Madam Speaker, I am at a loss in terms of the ridiculousness of the answer to the previous question, saying that the government has no place in housing. That is why we are in this crisis in the first place. It is because government has stepped away from the business of building houses and has left it to the market when, ultimately, housing is a human right. We cannot live without it, and we therefore expect that a government has to take it into account.

I have heard from home builders. They are doing wonderful things in our community, but they do not do it out of the goodness of their heart. They do it for a profit, and that cannot continue when people are left homeless and dying on our streets as winter comes forward.

How can the member possibly defend his position?

Mr. Randy Hoback: Madam Speaker, the NDP have a philosophy that they should own and be involved in everything. They think that the government can actually do things better than the marketplace; that is their philosophy. The reality is that we have seen that when the government is involved in things—

Some hon. members: Oh, oh!

The Assistant Deputy Speaker (Mrs. Carol Hughes): As I mentioned a while ago, when someone has had an opportunity to ask a question, they should not be wanting to participate again unless recognized. No member in the House should be trying to speak when somebody else has the floor.

The hon. member for Prince Albert.

Mr. Randy Hoback: Madam Speaker, I appreciate your defending me there, because there is a lot of battering coming from that side.

To get back to what I was trying to say, I think there is a role for government to be involved in social housing; there is no question about it. When it comes to homelessness, government can help people up from poverty and give them a hand up. We have seen that in the past with Conservative governments, and we will see it in the future with Conservative governments. This is done properly in partnership with municipalities, NGOs and the provinces.

When it comes to private housing, there is a place for the marketplace to be involved. When the government spends $1 billion to build houses, the marketplace could probably spend $100 billion. The reality of leveraging in the marketplace is a lot better than the government trying to do it by itself. We are never going to build all these houses through government. We have to get the private sector involved, and if we do not, it will never happen.

● (1915)

[*Translation*]

Mr. Stéphane Lauzon (Parliamentary Secretary to the Minister of Citizens' Services, Lib.): Madam Speaker, first and foremost, I would like to inform you that I will be sharing my time with the member for Ottawa—Vanier.

Today I had the honour of participating in the discussion on Motion No. 30 and listening to remarks from our Conservative friends, which sort of made my hair stand on end. Our goal is to put an end to Conservative obstruction of this bill. That is what we are working on.

Bill C-56 is about affordable housing and groceries. It is most unfortunate that the Conservatives have resorted to filibustering and delay tactics to stop such a critical bill. This has led to over 20 hours of debate in five days in this chamber. I confess that I would rather be with my family tonight than here in the House debating this with the Conservatives.

They obviously have no intention of letting this bill to get to a vote even though some of their own members support it. For example, the Conservative member for Mission—Matsqui—Fraser Canyon told the House he would vote in favour of the bill over a month ago. On October 5, he said, “I will be joining my Conservatives colleagues in voting to move this bill forward to committee”.

That sounds great, but 49 days have passed since then, which is why I am looking forward to hearing where my Conservative colleagues stand now. Before they share that with us, though, I want to emphasize the importance of this bill and why passing it is crucial for Quebec, for Canada, and for the people of Argenteuil—La Petite-Nation.

We are all well aware of the toll that rising food prices and the lack of affordable housing are taking on Canadian families. I am very pleased to clarify the measures set out in Bill C-56 to address these urgent problems.

As far as affordable housing goes, home ownership is clearly slipping beyond the reach of many Canadians, especially young people and newcomers. I have two daughters who are about to buy their first home, and even buying a small house under the current conditions is very difficult for them. I have never been so proud of our government, which is trying to introduce these measures to help young people buy their first home.

Bill C-56 proposes improvements to the rebate on the goods and services tax, or GST, for new purpose-built rental housing. This improvement encourages the construction of more rental housing, including apartments, student housing and seniors' residences. The bill will also facilitate tax relief. For example, a two-bedroom rental unit valued at $500,000 will deliver $25,000 in tax relief.

These measures seek to create conditions that are conducive to building housing tailored to the needs of families, which is sorely lacking. What is more, the bill removes restrictions on the existing GST rules to ensure that public service bodies, such as universities, hospitals, charities and qualifying not-for-profit organizations, can claim the GST rental rebate, which has increased to 100%. We are also asking the provinces and local governments to buy in to our new rental housing rebate and to make it easier to have housing built near public transit and services.

At the same time, the rising cost of food is cause for concern. We have already provided targeted inflation relief to millions of modest- or low-income Canadians through a one-time grocery rebate in July.

● (1920)

To further stabilize the cost of groceries, Bill C-56 amends the Competition Act. These amendments allow the Competition Bureau to conduct in-depth market studies, eliminate the efficiencies argument to stop anti-competitive mergers and take measures to block collaboration efforts that undermine competition and consumer choice, especially those that put small competitors at a disadvantage compared to large grocery chains.

What is the next step in our government's economic plan? It is very simple. We will continue the government's work to support Canadians. The 2023 fall economic statement presented by the Deputy Prime Minister and Minister of Finance earlier this week is directly connected to the initiatives outlined in this bill.

My colleague opposite just clearly stated in his speech that all responsibilities should fall to the private sector. I would like to remind him that, during the pandemic, we were there for businesses, for citizens, for workers and for organizations. We were there for the arts, for culture and for seniors. He voted in favour of our measures every time. Now he is saying that we should not have taken on all those responsibilities. Once again, we support our communities. My colleague's main argument seems to be that we should not be doing what we are doing for Canadians. He believes that we should make cuts to affordability and housing measures.

The foundations of our economic plan have produced encouraging results. We have seen that over one million additional Canadians have jobs today. We have recovered all the jobs lost during the pandemic, and more. Inflation is down, and wage increases are outpacing inflation, which is a testament to our resilient economic policies. This year, the fall economic statement focused on two key challenges: strengthening support for the middle class and accelerating the construction of new housing. When new housing is built, it directly helps families in need. It stimulates the economy, helps families and helps send young people to school to support them in their everyday lives.

We recognize the need to stabilize prices and ease the burden of imminent mortgage renewals for Canadians. Our government responded with targeted measures in the fall economic statement.

These strategic measures seek to stabilize prices, help Canadians overcome mortgage difficulties and make life more affordable for everyone. Similarly, we are injecting billions of dollars in new funding to support our commitment to accelerate the pace of housing construction. What is more, we are cracking down on disruptive short-term rentals in order to make housing more accessible and affordable across Canada.

The fall economic statement is fully in keeping with our ongoing efforts to improve the lives of Canadians. We have a strong record when it comes to providing benefits, as demonstrated by our historic investments in affordable child care, the quarterly carbon tax rebates, the enhancement of the Canada workers benefit and the increase in Canada child benefit payments.

Our government is also proposing crucial amendments to the Competition Act to make groceries more affordable by eliminating junk fees and to remove the GST on essential services, such as psychotherapy and counselling.

This statement is not just a plan for economic growth. It is something we are genuinely excited about. It is a testament to our commitment to a cleaner, more sustainable future. The key measures it outlines, such as tax credits for investing in Canada's clean economy, the Canada growth fund's carbon contracts for difference, and advancing the indigenous loan guarantee program, demonstrate our commitment to supporting a robust economy that can stand up to global changes.

Crucially, the fall economic statement builds on our ongoing commitment to making housing more affordable.

● (1925)

In conclusion, we believe that passing Bill C-56 is essential. I hope all members of the House will vote in favour of it.

Mr. Marc Dalton (Pitt Meadows—Maple Ridge, CPC): Madam Speaker, it is great that the Liberals stole our ideas to bring down the price of housing, especially units built for the rental market. We support that.

However, does the member not see that out-of-control government spending has resulted in rampant inflation and interest rates that are hitting Canadians hard? Does he not see that?

Mr. Stéphane Lauzon: Madam Speaker, earlier on, we were accused of wanting to manage affordability and housing. We are not to blame for the pandemic or climate change. We know that the Conservatives do not believe in climate change, which has caused tornadoes and flooding across the country, perhaps even in the member's own riding. I know that there have been some in my riding.

Today, the cost of inflation is due to the war in Ukraine and the whole global economic situation. Today, we still have an AAA credit rating. Canada has the lowest deficit in the G7. Today, we can affirm that our financial position is good, despite the debt-to-GDP ratio.

Today, we are proud that we helped Canadians during the pandemic. I am pleased that my colleague voted in favour of all the measures we put in place during the pandemic to help his constituents and the businesses and workers in his riding.

Mr. Peter Julian (New Westminster—Burnaby, NDP): Madam Speaker, the housing crisis is affecting the entire country. As we know, in New Westminster—Burnaby, a one-bedroom apartment costs $2,500 a month. Becauase of this crisis, people simply cannot afford to put a roof over their heads. It is not an exaggeration to say that.

This crisis has been brewing for 17 years. We saw it first under the Conservatives, and after that the Liberals did virtually nothing for many years. Now, with pressure from the NDP, they are just starting to take action. However, the reality is that we are still far behind where we should be in terms of building houses.

I would like to ask my colleague the following question. Why is the government waiting two years before making the investments that would allow the construction of social, co-operative and affordable housing to begin right away?

Mr. Stéphane Lauzon: Madam Speaker, in politics, it is never too late to take positive action.

We have adopted several good measures, including the family benefit for children and families. We have also helped Canadians with housing through other programs.

What we are putting in place today is aimed precisely at responding to the housing crisis. We know that when there is a housing crisis, investing in affordable housing has a domino effect. When we invest in affordable housing, other units become available. People who are a little better off will be able to afford slightly larger homes for their family. There are going to be more homeowners. The wheel keeps turning. We need to act quickly, now.

The Assistant Deputy Speaker (Mrs. Carol Hughes): The hon. member for Longueuil—Saint-Hubert for a brief question.

Mr. Denis Trudel (Longueuil—Saint-Hubert, BQ): Madam Speaker, I am wondering what country my colleague actually lives in. I listened to him brag about what his government has done to deal with the housing crisis. The Liberals have been in power for eight years.

I did a tour of Quebec. I travelled all around the province. Homelessness has increased by 40%. Right now, 10,000 people in Quebec are homeless. There are homeless people everywhere: Saint-Jérôme, Val-d'Or, Lac-Saint-Jean, Rimouski, Gaspé, Sherbrooke and likely in my colleague's riding too. I heard what the Minister of Innovation, Science and Industry said earlier. There are also homeless people in Shawinigan. It is a problem everywhere.

We asked for an emergency fund so that people are not dying on Quebec's riverbanks. There was nothing about that in the economic update. As my colleague—

● (1930)

The Assistant Deputy Speaker (Mrs. Carol Hughes): I am sorry, but I must interrupt the hon. member. I asked him to keep his question brief.

The hon. parliamentary secretary.

Mr. Stéphane Lauzon: Madam Speaker, I will answer his first question. I am in Quebec, in Canada, in my riding, and I am proud to be here.

As for homelessness, my colleague has been shouting at us since the beginning of this session about respecting our jurisdictions and not meddling in Quebec's jurisdictions. We take the issue of homelessness to heart. Even though we are the federal government, we care about people in need. We are investing in mental health. We are investing in housing. We want to get people off the streets, and we want to work with the Bloc Québécois to help the homeless.

[*English*]

Hon. Mona Fortier (Ottawa—Vanier, Lib.): Madam Speaker, I am thankful for the opportunity to speak to Motion No. 30, which is designed to unlock the support for Canadians laid out in Bill C-56, the affordable housing and groceries act. I feel compelled to share that I met with many constituents from Ottawa—Vanier who asked me to support this bill, and I will explain why in the next few minutes.

It is unfortunate that the urgency of delivering on these priorities for Canadians has been pushed aside by the delay tactics employed by members of the Conservative Party. Despite members of their own party saying they support the measures, as the member for Mission—Matsqui—Fraser Canyon has done, they have spent over 20 hours of debate across five days filibustering this important legislation. While the opposition is focused on delays, our government is focused on pushing for results.

We know that the challenges of securing affordable housing persist. That is why, in addition to Bill C-56, the fall economic statement unveiled by the Minister of Finance earlier this week underscores our commitment to the middle class by introducing measures to mitigate the impact of high prices and impending mortgage renewals, offering targeted relief to make life more affordable for Canadians.

In addition, the fall economic statement focuses on accelerating home construction as a critical solution to the housing crisis. The need for more homes across Canada is acute, especially with young individuals and newcomers finding home ownership increasingly out of reach and the rising cost of rent straining household budgets. This is a priority that Ottawa—Vanier residents have compelled me to work on. One of my focuses is to make sure that this measure, along with all the other measures we have been bringing forward in the national housing strategy, works to accelerate home construction.

Moreover, the fall economic statement proposes significant funding increases to bolster home construction efforts. The infusion of $15 billion in new loan funding is expected to support the creation of over 30,000 additional homes throughout the country. These initiatives, combined with removing the GST on new co-op rental housing and tightening regulations on non-compliant short-term rentals, signify our dedication to fostering a more accessible housing market for Canadians.

It is important to note the stark contrast between our government's proactive stance on housing and the lack of substantive proposals from the opposition. While Conservatives offer slogans and rhetoric, we remain steadfast in our commitment to building a fair and accessible housing market for all Canadians. This year, federal investment in housing is $9 billion higher than it was in 2013-14. Since 2015, the average annual federal housing investment has more than doubled compared with that of the previous government.

Bill C-56 plays a pivotal role in these ongoing efforts. It introduces enhancements to the goods and services tax, the GST and the rental rebate, encouraging the construction of purpose-built rental housing. This measure aims to alleviate the housing shortage by incentivizing the development of rental properties, including apartments, student housing and residences for seniors.

Earlier this week, the Leader of the Opposition actually described our plan to deliver more homes for Canadians as “disgusting”. What is disgusting is Conservatives delaying this important bill. While Conservatives provide nothing but slogans, the bedrock of our economic blueprint is yielding results. With over a million more Canadians gainfully employed today compared with the prepandemic era, coupled with a downward trend in inflation, as we witness wage increases outpacing inflation rates, the resilience of our economic policies is unmistakable.

● (1935)

This year's fall economic statement zeroes in on two paramount challenges: supporting the middle class and expediting the construction of more homes. These pivotal actions are aimed at stabilizing housing prices, extending support to Canadians, navigating mortgage challenges and rendering life more affordable for all. In parallel, our commitment to accelerating home construction is underscored by the injection of billions in new financing. Furthermore, we are taking resolute steps to curb the disruptions caused by short-term rentals, ensuring greater accessibility and affordability in housing across Canada.

Building on the measures outlined in Bill C-56, the fall economic statement seamlessly aligns with our sustained effort to elevate the lives of Canadians with an intensified focus on housing. Our unwavering commitment to affordable housing is emphasized by the substantial increase in federal investment, paving the way for the creation of more than 30,000 additional homes across Canada through new funding. Notably, the removal of GST from new co-op rental housing and protective measures introduced via the Canadian mortgage charter serve as a crucial step in our ongoing mission to make housing more accessible and affordable.

While the federal government is leading the national effort to build more homes by bringing together provincial, territorial and municipal governments in partnership with home builders, financiers, community housing providers, post-secondary institutions and indigenous organizations and governments, we are also doing more work to stabilize prices.

A point of critical importance about Bill C-56 is that it would make changes to the Competition Act to ensure more effective and modern competition law. This would promote affordability for Canadians and help our economic growth. That is why we are introducing amendments that would stop big business mergers with anti-competitive effects, enabling the Competition Bureau to conduct precise market studies and stop anti-competitive collaborations that stifle small businesses, especially small grocers.

Our government recognizes the fundamental role that housing plays in fostering economic stability and societal well-being. The efforts outlined in Bill C-56, supported by the fall economic statement, reflect our dedication to both ensuring that all individuals and families have a place to call home and stabilizing prices for Canadians. Again, I have been knocking on doors and talking with residents of Ottawa—Vanier, and they have told me time and time again that we need to continue to bring those measures for housing.

In closing, I urge all members to support Bill C-56, the affordable housing and groceries act, as a crucial step forward in our mission to create an economy that works for everyone.

● (1940)

Mr. Marc Dalton (Pitt Meadows—Maple Ridge, CPC): Mr. Speaker, I know that the Liberals are patting themselves on the back for introducing the bill. Actually, what they should be doing is congratulating the member for Carleton, the Conservative Party leader, for bringing forth the building homes not bureaucracy private member's bill. They have taken pieces of it and highlighted it in their plan. Well, they have only taken half measures; there is a lot more to it.

I want to bring up one point. I met with the CEO of a company that does purpose-built rentals here in Ottawa, and he says that the biggest issue they are facing is bureaucracy. It takes him a lot longer to get through some of the bureaucracy than to actually get things built.

According to the member, does the bill address bureaucracy?

Hon. Mona Fortier: Mr. Speaker, I thank the hon. colleague for sharing his thoughts on this bill. It would be great if he could support this measure, which has been brought forward by developers for the last many years, who say that the GST removal would give them a break and help them move forward in building. This is one of the many measures we have been bringing forward.

The other one that I know is big talk in Ottawa right now is about how we are going to bring forward the accelerator fund. The housing accelerator fund is another measure that will help everyone, such as the builders, the community housing associations or organizations and also the federal government, to support the city to move forward. I believe we are on a path where we have many measures that will accelerate access to safe homes for Canadians, especially in Ottawa—Vanier.

Ms. Jenny Kwan (Vancouver East, NDP): Mr. Speaker, the member for Ottawa—Vanier talked a lot about housing and affordable housing. No doubt here in Ottawa there is a desperate need for housing. If the member really supports her community and her constituents in getting access to safe, secure and affordable housing, why then would she not raise the issue with her own government slow-walking the delivery of housing in the fall economic statement? There are two major initiatives the government is going to delay the funding for until 2025. Just as an FYI, the average time to get a project off the ground is five years. Add another two years to wait for the funding to come in and that is seven years. It will not be until at least 2030 before real housing gets built for people to access. How is that supporting her constituents? Will she actually do what is right and tell her own government to fix that problem and roll out the money now?

[*Translation*]

Hon. Mona Fortier: Mr. Speaker, I am going to respond in French because I want to make it clear to the residents of Ottawa—Vanier, and to all Canadians, that since we took office in 2015, the Government of Canada, the Liberal government, has been focused on a housing strategy across the country, and that includes affordable housing. I can say that there is a big difference in the riding of Ottawa—Vanier and in the national capital region. I have seen a number of construction projects that suggest we are taking advantage of different levers, different tools to make progress on housing affordability.

We know we need many more such tools. That is why the federal government is putting measures in place today and will continue to do so in the coming years.

● (1945)

[*English*]

Mr. Chad Collins (Hamilton East—Stoney Creek, Lib.): Mr. Speaker, my friend and colleague highlighted the difference between our housing platform and the opposition's. While the Leader of the Opposition seems to be applying for the position of the Canadian *The Apprentice* host, we are busy working with stakeholders. Instead of threatening to fire people, we have used the carrot approach in incentivizing the private sector and not-for-profit sector. I ask my friend and colleague to comment on why it is important to work with stakeholders in this space in order to see new affordable supply across all of Canada.

[*Translation*]

Hon. Mona Fortier: Mr. Speaker, my colleague makes it easy to see why this is the only way forward and the only way to create more housing across the country. We have to work with partners, including cities, the provinces, co-operatives and organizations. This affects everyone, and that is why partnerships at the federal level and investment in our communities make things better.

[*English*]

Mr. Peter Julian (New Westminster—Burnaby, NDP): Mr. Speaker, I am pleased to rise tonight to speak on Bill C-56 and on Motion No. 30. I think that these are important initiatives that the NDP has brought forward.

I want to start off my speech by expressing my disappointment in the fall economic statement. There are two things that I believe need to be highlighted.

First off, and this is something that the NDP will continue to fight for, the fact that in the fall economic statement, there was no money allocated to the Canada disability benefit, to provide supports for people with disabilities, is a profound disappointment. It is disrespectful to people with disabilities.

We know that half of the people who go to food banks to make ends meet and half of the people who are homeless are Canadians with disabilities. The government has a responsibility to put the Canada disability benefit in place immediately. That is something that the member for Burnaby South, the member for Port Moody—Coquitlam and the entire NDP caucus is not going to stop fighting for.

Second, we have all, across the country, heard from small businesses that are concerned about the fact that there is not an extension of the CEBA loans. Small businesses are struggling. I know that in New Westminster—Burnaby, many small businesses have been approaching us, needing that extension for that repayment.

I am reminded by my colleague, the member for Algoma—Manitoulin—Kapuskasing, that businesses in her riding as well are raising those concerns, including Dan Osborne from Gore Bay, who has said that the NDP needs to keep fighting to have that CEBA loan extension. New Democrats are committing to continue to fight for the CEBA loan extension for Dan Osborne, for businesses in New Westminster—Burnaby and right across the country, to ensure that this is in place. There is no doubt that we are going to keep fighting.

When we talk about this bill, I think it is important to talk about the last 17 years and what we saw first under the corporate Conservatives and now under the Liberals, in terms of what has actually happened in housing. Housing costs doubled under the Conservatives. We saw this during the dismal years of the Harper regime. They doubled again under the Liberals. Between the two of them, both the Liberal government and the Conservative government lost over a million homes that were affordable, homes that people could live in, homes that were based on 30% of income or a little bit more, homes that Canadians could afford.

I had a press conference last week with the member for Port Moody—Coquitlam, where we talked about rents in our area.

In New Westminster, it is $2,500 a month for a one-bedroom, on average. In Coquitlam, it is $2,600. In Burnaby, it is $2,500. These are all costs that are simply too heavy for Canadians to pay. The idea that we would put into place immediate measures to help housing is why we are supportive of some of the measures that we forced to be in Bill C-56.

Motion No. 30 helps to improve that and includes, as well, important issues that help to support the Competition Bureau and the fact that, as a federal government, there is a responsibility to crack down on food price gouging, as my colleague from Cowichan—Malahat—Langford has been so outspoken on, as well as the member for Burnaby South.

As for the food price gouging and the fact that the Competition Bureau does not have the powers that it needs, this is absolutely essential. That is why we are very supportive of this bill and of the motion as well. It is NDP-inspired, because New Democrats stand up for their constituents.

When we talk about the years of the Harper Conservatives and what they did to housing, losing over 800,000 units across the country, we have to really think about what planet the member for Carleton is on when he talks about the golden age of the Harper regime. I remember something quite different. I remember the erosion of affordable housing units.

The average Conservative MP, of course, is a proud owner of having lost over 2,400, on average, affordable housing units in their constituencies, as housing costs rose under the Harper regime and as affordable housing units disappeared, were either sold or converted to corporate landlords.

● (1950)

We think of the member for Carleton now in Stornoway. He lives a gilded-age life, with the French cravat and everything. It is so clear to me that he is out of touch with Canadians when he pretends that somehow the housing crisis is going to magically be solved just by giving more leeway to corporate landlords. That is the way it was under the Harper Conservatives. It certainly did not, in any way, make a difference.

In fact, it was the contrary. We saw a deterioration right across the country of housing stability and housing affordability. When the Conservatives say we do not have to do anything and we just have to give corporate landlords more leeway, we see what Doug Ford in Ontario has brought. He has brought the destruction of the Greenbelt, the unbelievable selling out of the public good for private profit. It is simply not a solution.

If we want to bring it home for people in this country, we need to make the kinds of investments the NDP is calling for, some of which are reflected in Bill C-56. Some are reflected in the improvements that we have made, that we forced the government to put into place.

The reality is, on this side of the House, the NDP absolutely believes that every Canadian has a right to have a roof over their head each night and that they should have the ability to put food on their table every day. It is more than that. We actually believe that Canadians have the right to a universal health care system and that they have a right to universal pharma care.

We should not have constituents struggling, as some of mine are a few blocks from my home. It is a thousand dollars a month for heart medication and families have to make that tough choice between whether they keep a roof over their head by paying their rent, or whether they pay for that life-saving heart medication. In a country as wealthy as this, there should be no Canadian who has to make the choice between life-sustaining medication, putting food on the table and keeping a roof over their head. Not a single Canadian should have to face that choice every day, and that is the reality.

That is why we are here in this House. There are 25 New Democrats who are fighting, along with our leader, the member for Burnaby South, to change that situation and to make a difference for people so that we actually take that enormous wealth that we have in this country and ensure that we are actually providing essential needs for every single Canadian across the length and breadth of this land.

Conservatives and Liberals, as they are wont to do, usually ask at this point who is going to pay for it. If people heard the response of our finance critic, the member for Elmwood—Transcona, to the fall economic statement, he raised the issue that we have the lowest corporate taxes in the OECD. We should actually be thinking potentially of raising business taxes by 1% or 2%. It used to be 28% and now it is 15%. For every percentage point rise, there is $3 billion available for essential needs for, for example, affordable housing in this country.

Let us talk more about the Harper record because the Parliamentary Budget Officer, who is an independent, non-partisan officer of Parliament, who does objective work, evaluated the total cost of the Harper tax haven treaties just a few years ago. How much did we give away in Harper tax haven treaties, these sweetheart deals that the Harper government signed in order to allow billionaires and wealthy corporations to take their money offshore?

Members know how it works, or they may not, so let me explain it. If someone takes their money offshore to a tax haven treaty holder, like the Bahamas that has a 0% taxation rate, and declares income there, then they do not have to pay taxes in Canada.

The Parliamentary Budget Officer looked at all of that and made the conservative estimate that the Harper tax haven treaties, and the fact that the Liberal government sadly signed more of those treaties after it came into power, costs Canadians over $30 billion each year in taxpayers' money. This figure is profoundly disturbing.

● (1955)

What is the cumulative impact of that over the eight years the Liberals have been in power? Members can do the math. A quarter of a trillion dollars was handed over to billionaires and wealthy corporations and then to overseas tax havens. Now let us look at what the Conservatives did over the same period. This is a conservative estimate. The PBO was very clear that the estimate could go well beyond the figures in its landmark study on the impact of the Harper tax haven treaties, back in 2019. Over a nearly 10-year period, it was $300 billion.

If we put the two figures together, we are talking about over half a trillion dollars that has been spent not on housing, not on pensions, not on health care, not on pharmacare, not on providing clean water for indigenous communities and not on providing for reconciliation or indigenous-led housing developments. No. It has gone to the wealthy. It has gone to billionaires. It has gone to corporations that are extraordinarily profitable and not paying their fair share of taxes.

When Conservatives and Liberals ask how to pay for it, our response to them is to ask how they have paid for the massive tax breaks they have given to wealthy Canadians and profitable corporations over the course of the last 17 years. How did they pay for that? They paid for it by depriving seniors of their pensions. They paid for it by forcing students to go into debt. They paid for it by not putting in place a Canada disability benefit. They paid for it by not having affordable housing in place. They paid for it by undermining our health care system.

It is time that wealthy corporations pay their fair share, that wealthy Canadians pay their fair share and that Canadians stop paying for the incredible largesse of Conservatives and Liberals. It is profoundly disappointing to me that the resources of our country are mobilized for the very rich when they should be mobilized to pay for the needs of Canadians right across the length and breadth of this land.

I only have a few minutes left, so I want to come back to the vote that took place on the Day of Dignity and Freedom, on Tuesday, to be in solidarity with the Ukrainian people, commemorated in Ukraine, of course, and around the world in the Ukrainian diaspora. Tuesday was the 10-year anniversary of the fight for freedom and democracy in Ukraine.

This is an important symbolic date because of the force of the violence of the Putin regime. The Putin regime is violent, of course, domestically. There are human rights' violations, as we have seen, and hatred. We have seen the defenestration of political opponents. However, the violence that has been reaped on Ukraine, the Ukrainian people and Ukrainian democracy is profoundly sad to freedom-loving people, the people who stand for democracy and human rights.

That day, the Day of Dignity and Freedom, was being commemorated around the world because Ukrainians could not celebrate. They are defending their homes. They are defending their farms. They are defending their communities. They are trying to keep their hospitals open. They are trying to avoid their schools from being attacked by missiles and bombs. They could not commemorate it, but it was that day that every single Conservative MP chose to vote against Ukraine and vote against the principle of having a trade agreement between Canada and Ukraine. Not a single Conservative member stood up and said to the member for Carleton that this was wrong, that his obsession with the price on carbon is unhealthy, that this unhealthy obsession doesn't make any sense when we're talking about supporting people who are fighting for their liberty. However, every single Conservative MP stood in their place and voted down the Canada-Ukraine trade deal.

● (2000)

That was profoundly sad to me. It was shocking, I think, to Canadians of Ukrainian origin, one and a half million strong, who were calling on Conservatives to do the right thing and support Ukraine. Not a single Conservative was willing to do that.

It was shocking to the Zelenskyy regime, his government. President Zelenskyy was here in this House asking Conservatives to vote for the deal, to vote for that agreement, that symbolic and important support for the Ukrainian people, yet every single Conservative MP said no.

This is tragic. I want to say how profoundly disappointing it was to all the other members of Parliament in this House who heard President Zelenskyy's call and who responded appropriately. All the other parties, all the other members of Parliament, voted in favour of the principle of a trade agreement with a people who are fighting for their democracy, their lands, their cities and their freedom. However, because of the extremism of the member for Carleton, the Conservatives were all forced to vote against it.

I know they are hearing from constituents—

Mrs. Cathay Wagantall: Mr. Speaker, on a point of order, I think it is time for the member to move on to the topic of debate tonight. I know it is late and there are very few people in this room and that he can go on and on with his misrepresentation of the facts. I am a proud Ukrainian person from Canada, and I am tired of hearing this in our House. It is time to move on.

The Deputy Speaker: I thank the hon. member for bringing that up.

I will remind folks that we are speaking to a specific motion, Government Business No. 30, on Bill C-56. I want to make sure we all do that.

The hon. member for New Westminster—Burnaby.

Mr. Peter Julian: Mr. Speaker, I can understand the member being embarrassed by her vote, but she should not have voted the way she did.

[*Translation*]

Mr. Luc Berthold: Mr. Speaker, I rise on a point of order. I think my colleague's message was very clear, yet the first thing my NDP colleague did was carry on with his insinuations and disinformation about the deeper reasons why the Conservative Party voted against an agreement imposed on Ukraine when it was in a position of weakness.

The Deputy Speaker: I believe that is a matter of debate again.

[*English*]

Relevance is important when we debate. I have called for a little relevance.

The hon. member for New Westminster—Burnaby.

Mr. Peter Julian: Mr. Speaker, I mean no disrespect by remaining standing. Unfortunately I toppled over my water glass, so my seat is wet. That is why I am not sitting down.

I do want to respond to my colleague. Disinformation is the Leader of the Opposition standing in this House and announcing a terrorist attack because he saw on the Fox propaganda network that—

● (2005)

[*Translation*]

The Deputy Speaker: The hon. member for Mégantic—L'Érable on a point of order again.

Mr. Luc Berthold: Mr. Speaker, for the third time, I would urge my colleague to ensure his comments are germane. He is currently using his right to speak to spread more disinformation. I urge him to keep things relevant.

The Deputy Speaker: Once again, this is a matter of debate, but relevance is very important to the discussion.

The hon. member for New Westminster—Burnaby has three minutes to finish his speech.

Mr. Peter Julian: Indeed, Mr. Speaker, I think that the member for Carleton should apologize for making comments that fuelled disinformation—

The Deputy Speaker: We have another point of order from the hon. member for Mégantic—L'Érable.

Mr. Luc Berthold: Mr. Speaker, I will be brief. I make a plea for relevance.

[*English*]

The Deputy Speaker: This is the fourth time I have asked for relevance. Let us get to the crux of the issue, because I think we all want to get to the next part.

The hon. member for New Westminster—Burnaby.

[*Translation*]

Mr. Peter Julian: Mr. Speaker, the Conservatives are in an awkward position. It is up to them to manage that—

[*English*]

The Deputy Speaker: We have a point of order from the hon. member for South Shore—St. Margarets.

Mr. Rick Perkins: Mr. Speaker, the member for New Westminster—Burnaby seems to have trouble with relevance and is acting like a Russian disinformation officer, which he generally is in the House. I would urge him to stick somewhere close to the truth.

The Deputy Speaker: I want to thank the member for South Shore—St. Margarets for bringing that up. That is, again, mostly debate, but I know the hon. member was just finishing up his speech on the issue at hand.

The hon. member for New Westminster—Burnaby.

Mr. Peter Julian: Mr. Speaker, I have just three words to conclude: He should know.

In terms of Bill C-56 and Motion No. 30, the important thing for Conservatives to remember is that, rather than blocking this bill, which is what they have been trying to do, they should be looking to support it. They say they are concerned about affordable housing. Their record shows the contrary; they have a deplorable record on affordable housing. However, if they really believe in ensuring there is more construction in this country of affordable housing, they should be supporting this bill, which, of course, has been inspired and pushed by the NDP. Like many of the other good things that have happened in this Parliament, it is because of the member for Burnaby South and a very dedicated NDP caucus that this is happening.

Canadians should have more consumer protection, and more weight should be given to the Competition Bureau to crack down on the food price gouging we have seen from corporate CEOs, the gas price gouging we have seen from the very profitable oil and gas sector, with profits of over $38 billion last year, and all of the other ways that Canadians are being gouged, like through cellphones and Internet, which Canadians are paying the highest fees in the world for. If the Conservatives truly believe in that, they should be supporting this motion, which would enhance the Competition Bureau and would ensure that Canadians finally get some protection.

For 17 years, Conservatives and Liberals have not protected consumers at all in this country, and the NDP and the member for Burnaby South are standing up and saying that enough is enough. They need to make sure we have protection for consumers in this country. That is what the NDP is fighting for. If Conservatives really believe in all the things they have been saying, they can make up for their past track record, which is absolutely deplorable, and vote for the motion and the bill.

We are not going to stop fighting for Canadians. The 25 members of the NDP caucus have had a huge weight in pushing the government to do the right thing. We are very proud of our record. We expect all members of Parliament to adopt the bill and adopt the motion. Then, of course, we will move on to anti-scab legislation that all members of Parliament should be supporting as well.

● (2010)

[*Translation*]

The Deputy Speaker: It being 8:10 p.m., pursuant to order made earlier today, it is my duty to interrupt the proceedings and put forthwith every question necessary to dispose of Motion No. 30 under Government Business, which is now before the House.

[*English*]

The question is on the amendment.

If a member participating in person wishes that the amendment be carried or carried on division, or if a member of a recognized party participating in person wishes to request a recorded division, I invite them to rise and indicate it to the Chair.

Mr. Chris Bittle: Mr. Speaker, we request a recorded division.

The Deputy Speaker: Call in the members.

Before the taking of the vote:

● (2040)

[*Translation*]

Mr. Luc Berthold: Mr. Speaker, I rise on a point of order. We all learned a few minutes ago that there have been problems with the voting application for members participating remotely. As we can see, many members are participating remotely.

I would therefore like to seek the unanimous consent of the House to adopt on division the amendment moved by the Conservatives and, subsequently, to adopt on division the motion as amended by the Conservative amendment.

The Deputy Speaker: All those opposed to the hon. member's moving the motion will please say nay.

Some hon. members: Nay.

● (2055)

[*English*]

(The House divided on the amendment, which was negatived on the following division:)

(Division No. 454)

YEAS

Members

Aboultaif	Aitchison
Albas	Allison
Arnold	Baldinelli
Barlow	Barrett
Barsalou-Duval	Beaulieu
Bergeron	Berthold
Bérubé	Bezan
Blanchet	Blanchette-Joncas
Block	Bragdon
Brassard	Brock
Brunelle-Duceppe	Calkins
Caputo	Carrie
Chambers	Champoux
Chong	Cooper
Dalton	Davidson
DeBellefeuille	Deltell
Desbiens	Desilets
Doherty	Dowdall
Dreeshen	Duncan (Stormont—Dundas—South Glengarry)
Ellis	Epp
Falk (Battlefords—Lloydminster)	Falk (Provencher)
Fast	Ferreri
Findlay	Fortin
Gallant	Garon
Gaudreau	Généreux
Gill	Gladu
Goodridge	Gourde
Gray	Hallan
Hoback	Kelly
Khanna	Kitchen
Kmiec	Kram
Kramp-Neuman	Kurek
Kusie	Lake
Lantsman	Larouche
Lawrence	Lehoux
Lemire	Leslie
Lewis (Essex)	Lewis (Haldimand—Norfolk)
Liepert	Lloyd
Lobb	Maguire
Majumdar	Martel
Mazier	McCauley (Edmonton West)
McLean	Melillo
Michaud	Moore

Morantz
Morrice
Motz
Muys
Nater
Normandin
Patzer
Paul-Hus
Pauzé
Perkins
Poilievre
Redekopp
Rempel Garner
Richards
Roberts
Rood
Ruff
Savard-Tremblay
Scheer
Schmale
Seeback
Shields
Shipley
Simard
Sinclair-Desgagné
Small
Soroka
Steinley
Ste-Marie
Stewart
Strahl
Stubbs
Thériault
Thomas
Tochor
Tolmie
Trudel
Uppal
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NAYS

Members

Aldag
Alghabra
Ali
Anand
Anandasangaree
Angus
Arseneault
Ashton
Atwin
Bachrach
Badawey
Bains
Baker
Barron
Battiste
Beech
Bendayan
Bennett
Bibeau
Bittle
Blaikie
Blair
Blaney
Blois
Boissonnault
Boulerice
Bradford
Brière
Cannings
Carr
Casey
Chagger
Chahal
Champagne
Chatel
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Collins (Hamilton East—Stoney Creek)
Cormier
Coteau
Dabrusin
Damoff
Davies
Desjarlais
Dhaliwal
Dhillon
Diab
Drouin
Dubourg
Duclos
Duguid
Dzerowicz
El-Khoury
Erskine-Smith
Fillmore
Fisher
Fonseca
Fortier
Fragiskatos
Fraser
Freeland
Fry
Gaheer
Gainey
Garrison
Gerretsen
Gould
Green
Guilbeault
Hajdu
Hanley
Hardie
Hepfner
Holland
Housefather
Hughes
Hussen
Hutchings
Iacono
Idlout
Ien
Jaczek
Johns
Joly
Jones
Jowhari
Julian
Kayabaga
Kelloway
Khera
Koutrakis
Kusmierczyk
Kwan
Lalonde
Lambropoulos
Lametti
Lamoureux
Lapointe
Lattanzio
Lauzon
LeBlanc
Lebouthillier
Lightbound
Long
Longfield
Louis (Kitchener—Conestoga)
MacAulay (Cardigan)
MacDonald (Malpeque)
MacGregor
MacKinnon (Gatineau)
Maloney
Martinez Ferrada
Masse
Mathyssen
May (Cambridge)
May (Saanich—Gulf Islands)
McDonald (Avalon)
McGuinty
McKay
McKinnon (Coquitlam—Port Coquitlam)
McLeod
McPherson
Mendès
Mendicino
Miao
Miller
Morrissey
Naqvi
Ng
Noormohamed
O'Connell
Oliphant
O'Regan
Petitpas Taylor
Powlowski
Qualtrough
Rayes
Robillard
Rodriguez
Rogers
Romanado
Rota
Sahota
Sajjan
Saks
Samson
Sarai
Scarpaleggia
Schiefke
Serré
Sgro
Shanahan
Sidhu (Brampton East)
Sidhu (Brampton South)
Singh
Sorbara
Sousa
St-Onge
Sudds
Tassi
Taylor Roy
Thompson
Turnbull
Valdez
Van Bynen
van Koeverden
Vandal
Vandenbeld
Virani
Weiler
Yip
Zahid
Zarrillo
Zuberi– — 174

PAIRED

Members

Chabot
Fry
Housefather
Khalid
Lantsman
Mendicino
Morantz
Morrison
Perron
Rempel Garner
Sarai
Sheehan– — 12

The Deputy Speaker: I declare the amendment defeated.

The next question is on the main motion.

If a member participating in person wishes that the motion be carried or carried on division or if a member of a recognized party participating in person wishes to request a recorded division, I would invite them to rise and indicate it to the Chair.

● (2100)

Mr. Mark Gerretsen: Mr. Speaker, I request a recorded division.

● (2110)

[*Translation*]

(The House divided on the motion, which was agreed to on the following division:)

(Division No. 455)

YEAS

Members

Aldag
Ali
Anandasangaree
Arseneault
Atwin
Badawey
Baker
Battiste
Bendayan
Bibeau
Blaikie
Blaney
Boissonnault
Bradford
Cannings
Casey
Chahal
Chatel
Chiang
Cormier
Dabrusin
Davies
Dhaliwal
Diab
Dubourg
Duguid
El-Khoury
Fillmore
Fonseca
Fragiskatos
Freeland
Gaheer
Garrison
Gould
Guilbeault
Hanley
Hepfner
Housefather
Hutchings
Idlout
Jaczek
Joly
Jowhari
Kayabaga
Khera
Kusmierczyk
Lalonde
Lametti
Lapointe
Lauzon
Lebouthillier
Long
Louis (Kitchener—Conestoga)
MacDonald (Malpeque)
MacKinnon (Gatineau)
Martinez Ferrada
Mathyssen
May (Saanich—Gulf Islands)
McGuinty
McKinnon (Coquitlam—Port Coquitlam)
McPherson
Mendicino
Alghabra
Anand
Angus
Ashton
Bachrach
Bains
Barron
Beech
Bennett
Bittle
Blair
Blois
Boulerice
Brière
Carr
Chagger
Champagne
Chen
Collins (Hamilton East—Stoney Creek)
Coteau
Damoff
Desjarlais
Dhillon
Drouin
Duclos
Dzerowicz
Erskine-Smith
Fisher
Fortier
Fraser
Fry
Gainey
Gerretsen
Green
Hajdu
Hardie
Holland
Hughes
Iacono
Ien
Johns
Jones
Julian
Kelloway
Koutrakis
Kwan
Lambropoulos
Lamoureux
Lattanzio
LeBlanc
Lightbound
Longfield
MacAulay (Cardigan)
MacGregor
Maloney
Masse
May (Cambridge)
McDonald (Avalon)
McKay
McLeod
Mendès
Miao
Miller
Morrissey
Ng
O'Connell
O'Regan
Powlowski
Robillard
Rogers
Rota
Sajjan
Samson
Scarpaleggia
Serré
Shanahan
Singh
Sousa
Sudds
Thompson
Valdez
van Koeverden
Vandenbeld
Weiler
Zahid
Zuberi– — 171
Morrice
Naqvi
Noormohamed
Oliphant
Petitpas Taylor
Qualtrough
Rodriguez
Romanado
Sahota
Saks
Sarai
Schiefke
Sgro
Sidhu (Brampton East)
Sorbara
St-Onge
Tassi
Turnbull
Van Bynen
Vandal
Virani
Yip
Zarrillo

NAYS

Members

Aboultaif
Albas
Arnold
Barlow
Barsalou-Duval
Bergeron
Bérubé
Blanchet
Block
Brock
Calkins
Carrie
Champoux
Cooper
Davidson
Deltell
Desilets
Dowdall
Duncan (Stormont—Dundas—South Glengarry)
Epp
Falk (Provencher)
Ferreri
Fortin
Garon
Généreux
Goodridge
Gray
Hoback
Khanna
Kmiec
Kramp-Neuman
Kusie
Lantsman
Lawrence
Lemire
Lewis (Essex)
Liepert
Lobb
Majumdar
Mazier
McLean
Michaud
Morantz
Muys
Normandin
Aitchison
Allison
Baldinelli
Barrett
Beaulieu
Berthold
Bezan
Blanchette-Joncas
Brassard
Brunelle-Duceppe
Caputo
Chambers
Chong
Dalton
DeBellefeuille
Desbiens
Doherty
Dreeshen
Ellis
Falk (Battlefords—Lloydminster)
Fast
Findlay
Gallant
Gaudreau
Gill
Gourde
Hallan
Kelly
Kitchen
Kram
Kurek
Lake
Larouche
Lehoux
Leslie
Lewis (Haldimand—Norfolk)
Lloyd
Maguire
Martel
McCauley (Edmonton West)
Melillo
Moore
Motz
Nater
Patzer

Paul-Hus	Pauzé
Perkins	Poilievre
Redekopp	Rempel Garner
Richards	Roberts
Rood	Ruff
Savard-Tremblay	Scheer
Schmale	Seeback
Shields	Shipley
Simard	Sinclair-Desgagné
Small	Soroka
Steinley	Ste-Marie
Stewart	Strahl
Stubbs	Thériault
Therrien	Thomas
Tochor	Trudel
Uppal	Van Popta
Vecchio	Vidal
Vien	Viersen
Vignola	Villemure
Vuong	Wagantall
Waugh	Webber
Williams	Williamson
Zimmer– — 135	

PAIRED

Members

Chabot	Fry
Housefather	Khalid
Lantsman	Mendicino
Morantz	Morrison
Perron	Rempel Garner
Sarai	Sheehan– — 12

The Deputy Speaker: I declare the motion carried.

* * *

● (2115)

[*English*]

AFFORDABLE HOUSING AND GROCERIES ACT

The House resumed from October 5 consideration of the motion that Bill C-56, An Act to amend the Excise Tax Act and the Competition Act, be read the second time and referred to a committee.

Mr. Chris Bittle (Parliamentary Secretary to the Minister of Housing, Infrastructure and Communities, Lib.): Mr. Speaker, before I begin, I would like to say that I am sharing my time with the hon. member for Don Valley East.

We are here today to talk about Bill C-56. This bill, unfortunately, has been delayed by the Conservatives, time after time. We have seen their obstructionist policies throughout this Parliament, but specifically on this bill, which would bring relief to Canadians.

It is interesting to watch. I have been sitting here for a while, listening to speeches. The argument from the Conservatives is that they did not have enough time to debate this piece of legislation. At the same time, when they have gotten up, none of the members have actually talked about the legislation. They have not talked about what is going on. They talk about the carbon tax or whatever else it is they are interested in, except what is going in the bill. It is fascinating.

It is a sign of a sure filibuster that the Conservatives do not want to talk about this, because they know it is beneficial and it would help Canadians. They know it would get housing built, especially in eliminating the GST on purpose-built rentals. We are already seeing the benefits. We are already seeing developers across Canada switching their construction to purpose-built rentals, because they know this is coming. We need to build more housing in this country.

There is this mythical 45 minutes a day during question period when the Conservatives pretend to care about getting housing built and the concerns of Canadians. They churn out slogans and repeat them, repeat them, repeat them, repeat them. Did I do that four times?

Clearly, as they are shouting at me about the carbon tax again, the only environmental plan the Conservatives have is recycling slogans. They are so obsessed with it that they would vote against Ukraine in a time of war, even though Ukraine already has a price on pollution. The Conservatives would abandon Ukraine during war, when Ukraine asked us to pass that legislation.

The Conservatives are yelling about a price on pollution. They are clearly eager about that. It is getting under their skin, because they are hearing from their constituents, who expected the Conservative Party to stand up for the Ukrainian people. They are yelling. They cannot handle it. They cannot take the heat on this file.

The hon. member from Newfoundland cannot handle it, that his constituents expect him to stand up for—

Some hon. members: Oh, oh!

The Deputy Speaker: Order, order. We just had a great vote, and everything went really well, I thought. Let us continue that collegiality on this.

The hon. parliamentary secretary has the floor.

Mr. Chris Bittle: Mr. Speaker, since this is time allocated, I am happy to be up here as long as they want me to be, through points of order. I am happy to be here until 11 o'clock or whenever the next series of votes happens.

The hon. member from Newfoundland, from the Conservative Party, was and still is yelling at the top of his lungs. I guess it is his first day here. He does not know that it is not his turn. He is from the island of Newfoundland. He is from the province of Newfoundland and Labrador—

The Deputy Speaker: When it is time for questions and comments, I will put the hon. member for Coast of Bays—Central—Notre Dame up first. I will make sure he gets an opportunity to ask the hon. member a question.

The hon. parliamentary secretary.

Mr. Chris Bittle: Mr. Speaker, to be clear, I am sure the member for Avalon will back me up on this. It is the province of Newfoundland and Labrador, but I believe the hon. member is from the Island of Newfoundland proper. I am sure he will yell out something a little later.

Clearly, the embarrassment is real for what the Conservatives have done and how they have betrayed Ukraine. It is absolutely shameful.

An hon. member: Oh, oh!

Mr. Chris Bittle: That is a good point from my colleague, Mr. Speaker, that MAGA politics are making their way into the Conservative Party. It is an embarrassment.

Some hon. members: Oh, oh!

Mr. Chris Bittle: Mr. Speaker, I am happy to respond to all the comments. I was going to move on, but it is clear that the Conservative Party is getting upset any time we mention Ukraine. We cannot mention Ukraine, because they are going to get—

● (2120)

The Deputy Speaker: We have a point of order from the hon. member for Calgary Rocky Ridge.

Mr. Pat Kelly: Mr. Speaker, it is a rule in the House that we address the matter at hand, which is the bill up for debate. I would ask you to bring this member to order. We have had enough of this nonsense. He is spreading misinformation, which is not unlike what we see coming out of the Kremlin. I would like him to bring it back to the matter at hand.

The Deputy Speaker: We should all try to stick to the bill we are debating. We are later in the day than normal, so maybe people are getting tired.

Mrs. Cathay Wagantall: Mr. Speaker, I rise on a point of order. We are not allowed, according to the government's Speaker in the chair, to do something indirectly that we cannot do directly. This has happened over and over today, and now this speaker is challenging my Canadian-Ukrainian heritage on this side of the floor, as though somehow, because I made a choice in the House to vote a different way than he did, he has the right to stand here to challenge—

Mr. Chris Bittle: Speak through the Speaker and not to me.

Mrs. Cathay Wagantall: I said "he".

Mr. Speaker, he is challenging my heritage. My grandfather came to this country just before the Holodomor took place. I would encourage him to get off of his rant—

The Deputy Speaker: I want to shut this down as soon as I possibly can because I want to get on with the orders of the day.

Mr. Peter Julian: Mr. Speaker, on the same point of order, I listened very attentively, and there was no challenge to the member's heritage. There was a challenge of her vote, and that is something that she—

The Deputy Speaker: I thank the hon. member for his intervention.

I will say that members should be judicious in their discussions here tonight and stick to the debate on Bill C-56 as it is before us. If there were fewer attempts to create a diversion in the House, that would be wonderful.

The hon. member for St. Catharines.

Mr. Chris Bittle: Mr. Speaker, it is funny because I have been sitting here all afternoon and not one Conservative member has actually talked about what is in the bill. Not one of them has, yet any point—

An hon. member: Oh, oh!

Mr. Chris Bittle: Mr. Speaker, I am responding to their heckles, and the hon. member for Medicine Hat—Cardston—Warner is screaming at the top of his lungs because he does not want me to—

Mr. Pat Kelly: Mr. Speaker, I rise on a point of order. It is a common practice of the House to allow members to withdraw a comment when they make misleading or false statements.

The member said that no Conservative had addressed this bill in debate today. That is untrue. The member for Prince Albert addressed it quite well in his speech not that long ago. I invite the member to withdraw his comment and apologize for misleading the House.

The Deputy Speaker: I will say that the hon. member for Prince Albert did speak to it. The hon. member for St. Catharines could maybe withdraw just that piece and get back to the bill at hand.

Mr. Chris Bittle: Mr. Speaker, that was the member who said that the government had no business in the place of housing. The speeches I have heard have not been relevant to the—

The Deputy Speaker: I did ask the member to withdraw that piece in which he said that no one has spoken to it because the member for Prince Albert has spoken to it.

Mr. Chris Bittle: Mr. Speaker, I withdraw that with respect to the hon. member for Prince Albert. Wow, the skin is thin.

Back to the point—

The Deputy Speaker: The hon. member for Pitt Meadows—Maple Ridge.

Mr. Marc Dalton: Mr. Speaker, on that point of order, I would be happy to provide my notes, as I spoke to the issue as well.

● (2125)

The Deputy Speaker: We are starting to get into further debate, and I will be happy to call on members to ask questions when the hon. member is done. I am sure the hon. member for St. Catharines has a point to make in his speech.

Mr. Chris Bittle: Mr. Speaker, I have been making a clear point throughout the entirety of my speech and the Conservatives have been trying to shout me down, which they also tried to do to the member for New Westminster—Burnaby because they are embarrassed of their record.

What they should be embarrassed of is their record on housing. I was talking about, before I was interrupted, this mythical 45 minutes during the day which is question period when they pretend to care about Canadians who are struggling with housing, but they come up with a plan that would raise taxes on construction of housing. It would actually cut funding to municipalities. This is their plan.

The member who got up and said that there were Conservatives talking about the bill said that the government has no business in housing. It is shameful, but it shows where the Conservatives are at with respect to this. They talk a big game in question period and deliver nothing. They talk about Mike Harris' common-sense revolution, but we saw what happened during that time. We saw cuts. We saw hospital closures. We saw horrific things that communities are still dealing with to this day in Ontario, and the Conservatives seek to mimic it.

As I said, question period for them is about recycling slogans. There is no seriousness about their effort to fight homelessness and to build more housing. It is absolutely shocking that the Leader of the Opposition would go across the country to say that he is going to get housing built and not have a serious plan to deliver on it.

We have shown, in the fall economic statement, that we have a serious plan through the housing accelerator fund. We have seen announcements across the country, and we are seeing growth in housing starts through Stats Canada. We are seeing the results of this government's plan of action, and we are serious about this issue. The Conservatives are not. They have delayed and obstructed and they are continuing to do it. I do not know how many points of order the Conservatives have risen on during my speech.

The Leader of the Opposition even called co-op housing "Soviet-style" housing. It is absolutely shameful. I have constituents in my riding, and I think they would have constituents in their ridings, who rely on co-op housing as an effective means to get housing built. It is an effective means for affordable housing and a good way to build housing, and the Leader of the Opposition dismisses it. Again, he does not have a plan at all. He does not have a plan on climate change, and he does not have a plan on housing. They get up to talk about a big gain, but offer nothing except obstruction, yelling and heckling, and they are continuing the heckling. It is absolutely shocking.

They talk about food prices, and I genuinely believe them. We hear from our constituents, but the Conservatives have no plan. They talk about the price on pollution, but do not talk about the cost of food with respect to the costs of climate change. They do not talk about Bill C-56, which would enact competition law that would bring forward better regulations on competition and would have impacts. Again, it is just delay and deny. If only the rhetoric of question period, that 45 minutes of the day when the Conservatives pretend to care, could match the reality of the crisis. I wish that were the case. Sadly, it is not.

The Deputy Speaker: I will remind the hon. member that question period is more than 45 minutes these days because it does go on long. It would be lovely if we could get it back to 45 minutes.

Questions and comments, the hon. member for North Okanagan—Shuswap.

Mr. Mel Arnold (North Okanagan—Shuswap, CPC): Mr. Speaker, the member for St. Catharines seems to have forgotten to fit into his speech, which is supposed to be about the affordable housing and groceries act, that his Prime Minister had this big meeting with officers from all of the major grocery chains, and he promised to bring down the price of groceries by Thanksgiving. How much did that meeting bring down the cost of groceries by Thanksgiving?

● (2130)

Mr. Chris Bittle: Mr. Speaker, the Conservatives talk a big game, but this legislation was tabled well before Thanksgiving. All we have seen is delay, obstruction and no action by the Conservatives. There is no care of Canadian food pricing. Again, the Conservatives talk a big game. They heckle, shout and yell, but their voting record speaks for itself, and it is not for Canadians.

[*Translation*]

Ms. Monique Pauzé (Repentigny, BQ): Mr. Speaker, I think it is going to be a long night.

I thank my colleague for his speech because it went in all directions, especially at first. If we truly come back to Bill C-56, the Minister of Finance said that there were studies that prove that Bill C-56 would lower the cost of rent. My question is on the housing crisis, which has become a national emergency.

After the Bloc Québécois asked officials the question during the briefing for members, the officials said that there were no studies and that they may contact us later. That was on September 21. November 21 just passed and we are still waiting for the studies.

Does the member have any studies on hand proving that Bill C-56 will lower the cost of rent?

[*English*]

Mr. Chris Bittle: Mr. Speaker, the housing crisis is about getting more housing supply built. Reducing GST on purpose-built rentals will get more rentals built. We are already seeing the results with developers announcing thousands of units of housing being built. The member can wait for studies; I am going to listen to experts. We are seeing the results on the street and on construction sites. It is going to get the job done.

Ms. Jenny Kwan (Vancouver East, NDP): Mr. Speaker, the member talked a lot about housing. The government, of course, purports that it wants to see more housing built faster, yet in the fall economic statement, it has slow-walked the rollout of money that would actually build housing Canadians could afford. That does not make any sense.

Now, on this particular bill, another thing that does not make sense is that the government is not making the GST exemption available to existing co-op and social housing projects. If they do not get access to that funding, some of these projects may actually become unviable.

If the member truly supports housing and seeing social and co-op housing being developed in this country, will he call on his own government to allow the exemption for existing projects?

Mr. Chris Bittle: Mr. Speaker, I am proud of the government's record on housing. I was proud to cut the ribbon for the first affordable and subsidized housing units in the city of St. Catharines in my lifetime.

More work needs to be done, which is why I am excited by the announcements in the fall economic statement. Let us see more purpose-built rentals getting built under Bill C-56. The hon. member can keep yelling, but we are focused on Canadians, and we are going to get more housing built.

Mr. Clifford Small (Coast of Bays—Central—Notre Dame, CPC): Mr. Speaker, with all due respect, when an individual is elected to this place, he should know a little bit about geography and that the name of the province that I come from is not Newfoundland but Newfoundland and Labrador.

I am not going to ask a question. I am going to call for this member to apologize to the people of Newfoundland and Labrador for calling our province simply "Newfoundland". Will he do so?

Mr. Chris Bittle: Mr. Speaker, I think I was specific in my comments. I specifically said that the province was named Newfoundland and Labrador and that the member is from the Island of Newfoundland. The province is the Province of Newfoundland and Labrador, which I acknowledged in my speech.

That is if the member was listening. Clearly, he was yelling too loudly during the heckling portion of his time over there, unfortunately. I did say that, and he can go back to Hansard or he can keep heckling all night long. I am sure that is what he is going to do.

Mr. Michael Coteau (Don Valley East, Lib.): Mr. Speaker, I appreciate the opportunity to stand in the House of Commons on behalf of the good people of Don Valley East and speak to this important bill that really looks at housing. It looks at providing a GST rebate, and it really does speak to making life more affordable for Canadians.

I am proud to be a Liberal. I have always been proud of being a Liberal. I am proud to be a Liberal because I believe that the government can help to make life easier for people, to put in place programs and services that are designed to help people.

There is something I remember when I was back at Carleton University learning about the social contract. It is really the relationship between the state and the citizen. I remember learning a bit about Rousseau, Hobbes and Locke, and the development of the social contract. I believe that there is an obligation of government to put in place different types of services, programs, understandings and agreements that look for ways to better position people. I think that Bill C-56 does exactly this.

This bill will look at ways to build more capacity in the system to build more homes. We know that during the Conservatives' time in power under former prime minister Harper from, I believe, 2009 to 2015, a lot of changes took place in this country when it came to housing. For example, there were 800,000 fewer units of affordable housing. The price of homes from 2009 to 2015 doubled in this country. According to TRREB, the Toronto real estate board in my area, homes went from about $300,000 to $600,000. That was under the Conservative government.

The big question is: What did the Conservative government do to actually look at maintaining affordable prices in the city I represent, Toronto? The answer is simple. The Conservatives did absolutely nothing. On top of that, they ran massive deficits. The Harper government, back in 2009-10, ran a $55-billion deficit that year. In 2011, it was $33 billion. In 2013, it was $18 billion. That amounts to over $100 billion in a six-year period by the Conservative government when it was in power. At the same time, it made massive cuts. It did not invest in affordable housing or housing in general. What it did was to actually make cuts in the system and hurt people.

There is an ideological difference between being a Conservative and being a Liberal in this House. On one side, the Conservatives will make massive cuts and reward the richest and big businesses by giving out subsidies and, at the same time, run massive deficits. The largest deficit to date, during those time periods, was under the government of Stephen Harper.

When we run deficits, it is to invest in people. When we invest in public education, infrastructure, health care, dental care and child care, we are investing in the people of this country, unlike the Conservatives when they are in power. They actually wanted to take things like the retirement age and move it from 65 to 67. They made life harder for people. Under the previous Conservative government, 800,000 affordable units were gone and now Conservatives have the audacity to stand up in this House and say they believe in making these types of investments.

The member for Prince Albert was very clear. I wrote this down as I was here listening. He said that "it is not up to government to build houses."

● (2135)

On one side we have a government that is making the types of investments that are put back into investing in people, and on the other side we have an opposition that has a track record. Conservatives do have a track record in this House. One just has to look a few years back to see their track record. It is about making cuts to the system.

I have been in this House for two years, and in two years I have seen the Conservatives opposite vote against some really good pieces of legislation that invest in people. Removing the GST from homes is about building more capacity in the system. Investing in dental care for young people is about investing in our future. Investing in child care in this country, which Conservatives for months spoke against, is the best investment. I have always said that, from day one.

The best investment a country can make is to invest in the young people of tomorrow, but the Conservatives have an ideological difference compared to the Liberals on this side. They believe in making cuts to these types of programs. They believe in providing more resources to those who have the most. They do not believe in taking those resources Canadians bring together through that social contract, though that belief system that we can all work together to build a better country. They do not believe in making those types of investments in people.

We provided a grocery rebate. They voted against it. On the $10-a-day child care, they voted against it. Maybe a few of them changed their mind near the end, but throughout the entire discourse, they were ideologically against it. With dental care—

● (2140)

[*Translation*]

The Speaker: The hon. member for Mégantic—L'Érable is rising on a point of order.

Mr. Luc Berthold: Mr. Speaker, I just want to offer my colleague a chance to do the honourable thing.

While he was speaking, he realized that he had said something that was untrue. He said that we voted against the grocery rebates, when that is completely false.

I am asking him to withdraw his remarks.

[*English*]

Mr. Michael Coteau: I will continue, Mr. Speaker. Thanks for the advice.

Some hon. members: Oh, oh!

The Speaker: Before you continue, the hon. member for Mégantic—L'Érable raised an issue, and I hope it will be reflected so that the record will stand.

Mr. Michael Coteau: Mr. Speaker, maybe tomorrow the member opposite can go through Hansard to look at exactly what I said, and he will find the answer in Hansard because it is recorded. I will continue. I do not appreciate the interruptions. Sometimes the truth hurts.

Mrs. Cathay Wagantall: Mr. Speaker, I rise on a point of order. Again, in another case, the member indicated we did not support with our vote the child care bill, which is not true. I would appreciate it if he would correct his record.

The Speaker: In consultation, it is clear the voting record is a voting record, but it is not a point of order that can be raised here. However, I would encourage all members to please make sure they do reflect accurately what has gone on and what is a matter of record in the House of Commons in order to make sure members do not introduce comments that could be disorderly to the House if they are inaccurate.

The hon. member for Don Valley East has the floor.

Mr. Michael Coteau: Mr. Speaker, sometimes the truth hurts. When Conservatives stand in this House and vote against a free trade agreement with Ukraine, it hurts members on the other side because sometimes they do not have the power to stand up and actually do what they believe and they just follow the direction, through party discipline, of their leader. I understand it can hurt sometimes. Then they look for other ways to compensate by standing up and using procedural processes, or—

The Speaker: The hon. member for Yorkton—Melville is rising on another point of order.

Mrs. Cathay Wagantall: Mr. Speaker, you have made it clear that we cannot say indirectly what we cannot say directly. This individual, like all others across the floor who spoke to our vote on Ukraine, has misled this House. I am a Canadian Ukrainian and I chose my vote. No one told me on this side of the floor how to vote. This is inappropriate and misleading.

● (2145)

The Speaker: That is ranging into debate at this point.

I will turn the floor back to the member for Don Valley East.

Mr. Michael Coteau: Mr. Speaker, I have been interrupted several times by members opposite, because it does hurt Conservatives. Half of them probably believe in climate change and maybe the other half do not. I am making that assumption based on previous statements and voting records. It must really hurt to be part of a party that does not believe in climate change or a free trade agreement with Ukraine to help support the folks who need the help in Ukraine.

My main point at the end of day is that there is an ideological difference between Liberals and Conservatives when it comes to how we invest in people. Conservatives have a track record of always putting in place the same plan no matter where they are. They could be in a provincial legislature, a school board, a council or in the federal chamber, but it is the exact same formula. They say they are going to cut taxes and then they invest in those who have the most. They place the burden on the people who need the most help and cut programs and services.

We can look at their track record. This is a proven fact. The Harper government is a perfect example. It had a $55-billion deficit in 2010-11, and what did Canadian citizens get? They got nothing, except cuts. This is the track record of the Conservative government and that is why it is important for us, as Liberals on this side of the House, to make sure we continue to support Canadians by making sure bills like Bill C-56 go forward, continue to invest in people and build this country up.

[*Translation*]

Mr. Gabriel Ste-Marie (Joliette, BQ): Mr. Speaker, my question for my hon. colleague concerns the parliamentary secretary's response to my colleague from Repentigny.

My colleague asked him about the goods and services tax rebate on rental buildings. What is its impact? How many more housing units are we expecting to be built as a result of this measure? How much can we expect rents to drop?

We want to base our decisions on science and scientific knowledge, but the parliamentary secretary practically told my colleague to take a hike by saying it was not important, that she could wait for studies, and that it was a question of ideology.

Does the hon. member agree with his parliamentary secretary?

I was very disappointed in his response.

[*English*]

Mr. Michael Coteau: Mr. Speaker, I thank the member for recognizing this important program that is essentially going to build thousands and thousands of units across this country. I am proud to be part of a government that is investing in a GST rebate that will not only be for apartments. We are going to be investing in co-ops, in first-time buyers and building the next generation of homes across this country.

Mr. James Bezan (Selkirk—Interlake—Eastman, CPC): Mr. Speaker, Liberal times are always tough times. All we have to do is look at their record. When we look at the misery index, which is the combination of inflation rates, unemployment rates and mortgage rates that usually lead to the highest suicide rates, they happened 40 years ago under Pierre Elliott Trudeau and they are happening today under the Liberals. Housing costs have doubled, violent crime is up 39% and two million people are standing in lines at food banks because these guys have mismanaged the economy.

We have a situation where the Liberals continue to talk the game, but, in reality, have made things worse. The member wants to talk about deficits. They have not balanced the books yet. Under the Prime Minister, they have doubled the national debt that is more than all previous prime ministers in the history of Canada combined. The member has nothing to brag about. Liberals are making things worse and they are going to be punishing our kids, our grandkids and our great-grandchildren with these huge deficits, high interest rates and high mortgages.

● (2150)

Mr. Michael Coteau: Mr. Speaker, the member talked about hard times. As he was asking the question, I reflected on the fact that I had the opportunity to meet three young people from Ukraine in the back today. I was thinking about their hard times. In Canada, we have some pretty rough times. There is an affordability challenge. Ukraine right now is going through a war, and the Conservative Party, the opposition, voted against a free trade agreement to help stabilize that region. To me, that is unacceptable, and I think it should reconsider how it can support the free trade agreement in the future.

Ms. Jenny Kwan (Vancouver East, NDP): Mr. Speaker, the NDP got the government to include co-ops in the GST exemption. We are also calling on it to apply the GST exemption to existing co-operatives and social housing projects that may otherwise become unviable, in which case we would lose those units. Will the member support the NDP's call to apply the GST exemption to existing social housing and co-ops?

Mr. Michael Coteau: Mr. Speaker, it takes many of us in this room to build good strategies and good plans to put in place to really help Canadians.

The government believes in what the member just said with respect to co-operatives. We believe in co-operatives, and we believe that they are a pathway for the future to build more affordability. We will continue to work with the NDP and any member of the House, even Conservatives, if they would like to support co-ops. However, I think it was the leader of the Conservatives who called co-ops Soviet-style housing. I was a bit offended, because my mother lived in a co-op. I just want to make sure that, at the end of the day, we can all work together to do what is best for every citizen in this country.

[*Translation*]

Mr. Luc Berthold (Mégantic—L'Érable, CPC): Mr. Speaker, I will be sharing my time with my colleague from Renfrew—Nipissing—Pembroke and I look forward to hearing her speech.

It was October 5. What is so special about that date? That is the last time we debated Bill C-56. It was October 5.

At the time, I was prepared to deliver a speech to share my comments and my position on Bill C-56. Since October 5, this government, and only this government, is responsible for the fact that Bill C-56 still has not been adopted.

Now it is urgent. That is what the minister said. She said today that time is of the essence and her government was going to get the bill passed following a motion to muzzle the opposition once again, to limit the speaking time of members when we are at a very critical time in our economy.

People across the country are suffering. The cost of living is high. Inflation is at a peak. The cost of food is so high that people are using food banks by the millions. There were two million people in just one month, numbers we have never seen in the history of our country.

However, as I was saying, Bill C-56 could have been debated a long time ago, but the Liberals did not see it as urgent. I have been waiting since October 5. For over 50 days, I have been asking the Leader of the Government in the House of Commons almost every week when we would be debating Bill C-56 so that we can finally talk about homes, housing and solutions to help Quebeckers and Canadians. It has been radio silence.

The government was in no hurry to pass Bill C-56. We could have passed this bill at second reading six, five, four or three weeks ago. The bill could have already been sent to committee, but no, they did not put the bill on the agenda. All of a sudden, it is urgent this week.

By doing it this way, the government even prevented its own members from giving voice to the suffering and hardships faced by people in Liberal ridings, but that was not important. There was no hurry.

Quebeckers and Canadians are paying the price for this incompetence every day. We have come to realize that the Liberals are simply incapable of managing the business of the House properly. The only way they can get anything passed is to find a partner and impose a gag order. Apparently it took longer to convince the NDP this time, but they succeeded. There was nothing stopping the government from putting Bill C-56 on the agenda much sooner.

There is one thing I agree with. Today the minister said that this is urgent, and I think she is right. Half of Canadians say they are living paycheque to paycheque. More and more people are having to find a second job just to get by. The government did nothing for two months and now, as time goes on, it is becoming increasingly urgent because people simply cannot pay the price for Liberal incompetence any longer.

The Liberals' inflationary deficits were back again in this week's mini-budget. Not only did they prove that they cannot do anything about the inflation crisis, the cost of living crisis, but also, they continue to make it even worse. We were horrified to learn that, as of next year, Canada will spend more on the interest payments alone on the national debt than on health transfer payments. Next year, Canada will spend twice as much on interest payments on the national debt as on national defence. That is what we get after eight years of Liberal government incompetence. Nobody else is to blame. The Prime Minister has been in power for eight years. The Liberals have been promising the world and spending recklessly for eight years. Now, because of them, Canadians everywhere cannot make ends meet and are having to resort to food banks.

● (2155)

This is happening in my riding. Last week, the headline on the front page of our local paper, the Courrier Frontenac, read, and I am not making this up, “Requests for food aid skyrocket”. The number of people who have had to use food banks has gone up by 40% in recent months.

The Liberals will say that this is because of the global economic situation and wars. There are all sorts of reasons, but Scotiabank is telling it like it is. The bank calculated that this government's inflationary spending drove interest rates up by 2%. Do members know what 2% can mean for a family with an average house? That is $700 a month. People need wage increases to be able to afford $700 more a month for their mortgage payment, but unfortunately, wages are not keeping up.

How many families will lose their homes because of the Liberals' wilful blindness? Who will pay in the end? It is families, mothers and children.

Before, people in Canada had hope. Every young person had the hope of being able to buy a house one day and of being able to pay it off in 25 years. They had the hope of a decent retirement with a house and, one day, being able to sell that house and have even more time to enjoy life. Today, it takes 25 years to save up for a down payment on a house. I have spoken with so many young people who no longer have any hope that they will be able to find a house and live the Canadian dream, which has basically become a nightmare. Once again, all of this is because of eight years of wilful blindness.

I remember when the Prime Minister asked if we knew why the government was going into debt, that it was to prevent Canadians from going into debt and that we needed to take on the debt so that Canadians would be able to live a good life.

This attitude and this Prime Minister who said that he was not really concerned about monetary policy, that it did not interest him, have created the worst crisis in the history of Canada when it comes to access to housing and land. We are in Canada to boot, a country with a lot of land and places to build. Unfortunately, that dream is shattered. It will take years to fix the mistakes of these Liberals.

The Conservative leader presented a plan to find solutions, or to at least help with the housing crisis. It is a very clear and precise plan. Let me share a few points that would have enabled us to move forward. The government could have put it on the agenda. I am talking about Bill C-356 from the member for Carleton. The bill called for cutting unnecessary bureaucracy and holding Canada Mortgage and Housing Corporation executives to account. It is common sense. We will push cities to speed up construction projects and encourage density to increase construction in cities by 15% a year, reward the good performers and make sure the laggards get moving. Since Bill C-356 was introduced, cities have started moving. As if by magic, cities have realized they have a role to play, and that is because the Conservative leader has made it clear. He told them they had a role to play. The cities got the message. So much the better, but with Bill C-356, it would have been even easier and quicker.

This will breathe new life into empty federal offices and free up federal lands for development. That is what the Liberals promised years ago. There has been zero construction, and zero federal buildings have been converted into housing. I believe one development happened on federal lands, but I am not even sure it is done.

The bill does have the GST refund to stimulate the construction of units that cost less than the average.

What Canadians want is efficient, competent, common-sense government. That is what they will get with a Conservative government.

● (2200)

Mr. Gabriel Ste-Marie (Joliette, BQ): Mr. Speaker, my colleague talked about his leader's bill, Bill C-356. With that bill, Ottawa would require all municipalities with high housing costs—the list is getting longer and longer—to increase housing starts by 15% over the previous year.

If a municipality's housing starts do not increase as required by Ottawa, the Conservative leader is proposing to cut its gas tax transfer and public transit transfer by 1% for every percentage shortfall from the target he has unilaterally set. For example, in Quebec, housing starts are down 60% this year, mainly due to interest rates, rather than up 15%. That is a difference of 75%, so transfers would be reduced by 75% for cities and towns in Quebec.

In the economic statement, the Minister of Finance said that she wants to do something similar. Could my colleague comment on that?

Mr. Luc Berthold: Mr. Speaker, the Conservative leader said that he would compensate municipalities that meet the new housing start targets. There is a need for 860,000 more housing units in Quebec, and something needs to be done. We cannot stand back and do nothing. The municipalities are in charge.

Since we talked about that and introduced that bill, what have we heard from the Government of Quebec? All of a sudden, it is saying that it will eliminate the red tape so that projects can be approved in just one month. Just talking about it got things moving.

I think that, when we take office, people will understand that it pays to build housing. There will be many more advantages than disadvantages for them, as my colleague was trying to suggest.

[*English*]

Mr. Chad Collins (Hamilton East—Stoney Creek, Lib.): Mr. Speaker, that was a bit hard to listen to, because I was a municipal councillor at the time the member for Carleton was the housing minister. Municipalities begged and pleaded with the minister of the day for housing resources and none came.

When we talk about support for municipalities, the leader continues to play the blame game. He is not helping municipal councils. He is blaming municipalities today, the small-town mayors and councillors who are trying to get housing supply out the door. He had his chance as part of a government to support municipalities for many years. In fact, we came individually and then went through FCM, and all of those efforts were rejected by the member and his government.

It is hard to listen to the speech today by the member opposite when he talks about supporting municipalities. The Conservatives have no intention of doing that. If they did, they would have done it when their leader was in government prior.

● (2205)

[*Translation*]

Mr. Luc Berthold: Mr. Speaker, here are a few numbers that show just how empty the Liberal rhetoric is.

When the member for Carleton was minister, the average cost of rent in Canada was $950 a month. It is now over $2,000. The average mortgage payment on a new home was just $1,400. Now it is $3,500. When he was housing minister, housing was not just affordable, it was cheap. Canadians could still afford to buy a home. Young people could still dream of owning a home.

The Liberals have completely killed the dream of young Canadians who had one day hoped to be homeowners. That is the sad reality after eight years of this Liberal government.

Mr. Denis Trudel (Longueuil—Saint-Hubert, BQ): Mr. Speaker, Conservatives always sound a bit off when they talk about human misery. They talk about food banks being at capacity. They talk about people struggling.

A month ago, the mayor of Quebec City, the only place where the Conservatives are able to get their people elected, held a summit on homelessness. Oddly enough, I did not see a single Conservative MP there. A lot of provincial elected representatives were there. I was there too. We talked about homelessness and tried to come up with solutions. Not a single Conservative MP was there.

I have one very specific question for my colleague. The Federation of Canadian Municipalities held a press conference in Ottawa today. Its spokespeople said that municipalities would need $600 billion to support the construction of the millions of housing units the country needs. That money is needed to pay for roads, public transit and sewers.

How much would a Conservative government—which nobody here wants—be prepared to give municipalities to address those needs?

Mr. Luc Berthold: Mr. Speaker, I find it rather ironic to hear a member question my good faith about food banks and my willingness to help people. I think it is totally unacceptable and inappropriate of him.

What I gather is that this member in particular wants to make life even more difficult for all Canadians. It is this member who supports a drastic increase in the carbon taxes to the detriment of all Canadians. A drastic increase in the carbon taxes would mean groceries will cost more, shipping goods will cost more. It means a higher cost of living for all Canadians. That creates poverty.

Mr. Gabriel Ste-Marie: Mr. Speaker, I rise on a point of order. I just want to note that it is the Parliamentary Budget Officer who said that and my colleague simply repeated what he said.

The Speaker: The member for Joliette knows that is not a point of order and more a matter of debate.

[*English*]

Resuming debate, the hon. member for Renfrew—Nipissing—Pembroke.

Mrs. Cheryl Gallant (Renfrew—Nipissing—Pembroke, CPC): Mr. Speaker, I am pleased to rise on behalf of my constituents in the food-producing riding of Renfrew—Nipissing—Pembroke.

Normally, Canadians would have to first elect a Conservative government before they could receive Conservative legislation. After eight years, it is possible that the gravity of the financial hole the Liberal-NDP government has plunged us into is warping space and time. The other possibility is that a desperate Prime Minister, down in the polls, will steal any idea he can to save his tired, worn-out, socialist coalition. It might be a tired cliché, but if imitation is the sincerest form of flattery, Bill C-56 might just be a Liberal love letter to the Conservative Party. The Liberals think that if they can walk like Conservatives and talk like Conservatives, maybe they will poll like Conservatives.

The bill is what the Internet likes to call “copypasta”, which refers to any text-based meme copied and shared on the Internet, what people born in the last century used to call “quotes”. The bill copies and pastes text from the member for Bay of Quinte's private member's bill on competition reform into the legislation before us. The bill also copies and pastes the policy of the leader of His Majesty's official opposition to eliminate GST on purpose-built rental housing.

Nonetheless, even when the NDP-Liberal government takes a break from bankrupting the country to pass Conservative legislation, it does so in the most deceptive way possible. It is calling the legislation the "affordable housing and groceries act". Back in the days when Canada had a strong, stable economy and a strong, stable Conservative prime minister, the Liberals used to complain constantly about our approach to naming legislation with obvious political messaging. The Liberal member for Winnipeg North rose 22 times to complain about the presence of a single word in a short title. Since we are debating copypasta legislation, I am just going to borrow four sentences from the member for Winnipeg North when he sat on this side of the House. He said:

> One of the biggest issues I have with the [Liberal] government is the type of propaganda and political spin it puts on the legislation it brings to the House of Commons. We see this yet again with Bill [C-56]. The Government of Canada and the Prime Minister are trying to give the impression that if we pass this legislation there will be [affordable groceries]. If the [Liberals] were honest with Canadians, which is a rarity with the government, they would acknowledge that achieving [affordable groceries] is not as easy as just saying it in the title of a bill and then having [338] members of Parliament voting in favour of the legislation.

The actual bill the member for Winnipeg North was referring to was the Drug-Free Prisons Act. The bill specifically addressed the issue of drugs in our prisons. He said that the Conservative government was trying to give the impression that passing this would mean prisons were drug-free. Any reasonable Canadian could look at the bill and say, "Yes, the Conservative government wants prisons to be drug-free." It was not called the "100% drug-free prisons act". It was not called the "totally drug-free prisons act". It was just the Drug-Free Prisons Act, yet that was enough for the Liberals to accuse us of misleading Canadians.

The hypocrisy of the Liberal Party truly knows no limits. For Liberals to call the legislation before us the "affordable housing and groceries act" is a slap in the face to every single Canadian struggling with the cost of living. Canadians are struggling to afford food, and the Liberal government is trying to gaslight them into thinking the legislation would somehow undo the grocery cartels, but the bill would address only threats to competition from mergers going forward. That would be an important change to make in a country that suffers from a lack of competition in banking, transportation and telecommunications, which are, not coincidentally, all federally regulated industries. The NDP-Liberal government knows the legislation would have zero impact on food prices, yet it calls it the "affordable housing and groceries act". That is pure propaganda, and it is insulting.

However, Canadians are not stupid. They can clearly see the NDP-Liberal government's real grocery policy is higher prices. Every Canadian knows this is the official policy of the Liberal Party: to increase the cost of energy. It is Liberal policy to increase prices on everything made using energy, everything shipped using energy and everything grown using energy.

● (2210)

That is the purpose of the carbon tax. That is the purpose of the costly fuel regulations. That is the purpose of the blackout electricity regulations. Together, these policies represent a triple threat to affordable food prices—

The Speaker: The member for St. Catharines is rising on a point of order.

Mr. Chris Bittle: Mr. Speaker, I know we have been hearing a lot about the price on pollution in debate today, but when I stood up, the Conservatives were very eager to keep us on track with the bill, and we are wavering on relevance here. As loud as the hon. member yells, she needs to get back to the bill.

Some hon. members: Oh, oh!

The Speaker: Order. Relevance is always important, but the member for Renfrew—Nipissing—Pembroke appears to me to be on message.

I will return the floor to the member for Renfrew—Nipissing—Pembroke.

Mrs. Cheryl Gallant: Mr. Speaker, together, these policies represent a triple threat to affordable food prices, but that was not enough for the proudly socialist coalition. They were not happy enough with Canadians sucking up bad policies through paper straws. That is why the minister for Communist China's environment is using a pollution prevention order to ban plastic food packaging. The Liberals are not passing legislation. They are not even using regulation. They are issuing an order under the Environmental Protection Act.

The government was given extraordinary power by Parliament to protect the environment from actual danger. Past orders included requiring dentists to prevent mercury from getting into the environment when disposing of dental amalgams. They were never meant for taking recyclable food containers off store shelves. This is another obvious abuse of power.

It is the same as when the Liberals illegally banned plastic straws. They knew this sneaky policy will increase the price of food, the same way they knew imposing the carbon tax and the costly fuel regulations would hammer Atlantic Canada especially hard. They knew it and they did it anyhow. They knew their policies would make life unaffordable. They knew making energy more expensive would make food more expensive. They knew it, but they did not care about Canadians struggling with the cost of living.

Their ideological obsession has morphed into a religious obsession. The church of climate socialism believes we must repent for the sin of capitalism or else we will face a climate apocalypse. Anyone who dissents from climate socialism is branded a heretic. The Liberals need this deep faith in their own righteousness to justify to themselves that it is okay to call this an affordable groceries bill when it has nothing to do with grocery prices. As I said from the start, the contents of the bill were lifted from Conservative bills. Conservatives put forward positive policies. We look forward to seeing how they can be improved in committee.

The government could have chosen plenty of positive-sounding political titles to market the bill. Instead, the Prime Minister made the decision to gaslight Canadians. He will fly around the country dumping tonnes of carbon into the atmosphere claiming he has an affordable groceries bill that proves he is not completely out of touch. Meanwhile, the environment minister, the unrepentant vandal who once attacked the home of Ralph Klein and terrorized his wife, seeks to increase the cost of food with more plastic bans. Not only will this plastic packaging ban lead to higher prices, but it will also reduce competition. This would be like Harper introducing the drug-free prison act while Peter MacKay and Jason Kenney are going around handing out crack pipes to convicts. I can just imagine what the member for Winnipeg North would have to say about that.

Let us get the bill to committee. Even though it has been plagiarized from Conservative bills, we have to go over it with a fine-tooth comb. We know the Liberals like to copy and paste things into legislation. We know it because they did it when they tried to ban hunting rifles. That bill was riddled with the kinds of typographical errors that come from copying and pasting text between different types of documents. That Liberals are lazy and lackadaisical about legislation is not a surprise to lawful firearms owners, but after eight years, one would have thought they would be making fewer errors with experience.

The truth is that they are tired and worn out. That is why we have seen a steady march of senior Liberal staffers out of government and into senior lobbying positions. The smart ones are fleeing a sinking ship. The desperate ones are trying to bail it out. The bad ones claim the ship is not sinking. The Liberals claim the ship is flying full of affordable food. Canadians will pay a heavy price for Liberal delusions. The Prime Minister is not worth the cost.

● (2215)

Mr. Pat Kelly: Mr. Speaker, I rise on a point of order. There seemed to be such enthusiasm in the House for the member's speech. If she has anything more to add, I wonder if there is unanimous consent to give her a few more minutes.

● (2220)

The Speaker: Is there consent?

An hon. member: No.

[*Translation*]

Ms. Monique Pauzé (Repentigny, BQ): Mr. Speaker, this is not easy.

I tried to keep up, but it was very difficult, because the member's speech was all over the map. I will try to narrow the focus, because—I just have to say it—I am very professional. We are talking about Bill C-56, so I will talk about Bill C-56. If we were talking about something else, I would talk about that.

Let us get back to Bill C-56 and take a look back at the Conservative opposition day on April 28, when the Conservatives announced that they wanted to penalize municipalities that were not building enough housing. I would like to come back to the importance of municipal politics. Municipalities know their area and the needs of their population. They provide services directly, and they are the ones that manage the living environments in their neighbourhoods.

When I hear the Conservatives say that municipalities and cities are the ones delaying the process, what message does that send? We are led to believe that they might want the municipalities to dodge public consultations so that real estate developers can take over. I would like to know what the member thinks about that, although I admit that I do not expect to get a real answer to my question.

[*English*]

Mrs. Cheryl Gallant: Mr. Speaker, it is no surprise to hear this kind of question from the "block everything" party. In fact, what our legislation was going to say is that what would happen is that we would—

Some hon. members: Oh, oh!

The Speaker: Order. The hon. member for New Westminster—Burnaby is rising on a point of order.

Mr. Peter Julian: Mr. Speaker, the Conservatives are the "block everything" party.

The Speaker: That is not a point of order.

I will allow the hon. member for Renfrew—Nipissing—Pembroke to answer the question.

Mrs. Cheryl Gallant: Mr. Speaker, Conservative legislation would have provided extra incentive for the municipalities that chose to build more housing and remove the barriers, such as costly development fees that do not justify what the work being done is or the building permit cost that, right now, is $15,000 a house in some places.

Ms. Lindsay Mathyssen (London—Fanshawe, NDP): Mr. Speaker, I am going to give it to the hon. member. She did something that is quite unique in this place. She brought a lot of us together tonight in agreement on, maybe, the ridiculousness of the speech. However, I really want the member to continue to explain to me what the "church of climate socialism" means.

Mrs. Cheryl Gallant: Mr. Speaker, I am a Christian. I only hear the proselytizing from the other parties, so I have not joined that and I have not attended one of their religious meetings. I think this time it is going to be held in the United Arab Emirates, or perhaps it is going on right now. Perhaps they will tell one of the crowd of people who have been dispatched from Canada to tell us about it when they come back and explain that particular curriculum.

Mr. Chad Collins (Hamilton East—Stoney Creek, Lib.): Mr. Speaker, honestly, if I did not work here, I would pay money to just hear stuff like that every day of the week.

In all seriousness, we have heard a couple of references this evening and today about plagiarism. Political plagiarism reigns supreme on the other side of the House. The Leader of the Opposition continues to steal political themes from former president Trump. He has adopted Mike Harris's "common sense revolution" tag. If the Leader of the Opposition has any original ideas when it comes to housing or the bill that is in front of us, when can we expect to hear them in the House?

● (2225)

Mrs. Cheryl Gallant: Mr. Speaker, that is misinformation, disinformation and malinformation. Call up the Kremlin and have them bring their spy back over there. The next thing we know, we are going to be watching an episode of what the member of Parliament has been doing on *Spy Ops*. We will have to tune into Netflix if it is not censored yet.

Mr. Dan Mazier (Dauphin—Swan River—Neepawa, CPC): Mr. Speaker, I was wondering, to wind up, if the member had anything to add to her remarks.

Mrs. Cheryl Gallant: Mr. Speaker, I can say that Canadians, especially the ones I have been talking to across the country, know they are being gaslit and are tired of it. Not only that, they are tired of the carbon tax being applied to the gaslighting fuel the Liberals are gaslighting them with.

[*Translation*]

Mr. Gabriel Ste-Marie (Joliette, BQ): Mr. Speaker, it is disappointing to see that the House will have to once again sit until midnight to discuss this bill. Why? Because this government chose to impose a super closure motion. We think that this approach, the muzzling of parliamentarians, makes a mockery of democracy. Everyone here was elected by the people in our ridings, and this government should give more weight to our voices. This just shows how much respect the Liberals have for our democratic institutions.

An even more serious problem with this super closure motion is the short period of time allocated to study the bill in committee. Only two evenings are allocated, and that is it. Even though my party supports the principle of the bill, we think it is essential to study it in depth in committee. However, this super closure motion forces us to skip over the study in committee. It would therefore not be surprising if there are still problems with the bill after it is studied in committee, and that is really disappointing.

Let me give an example. The first part of the bill exempts rental property construction from the GST. It applies as of September 14. If the bill becomes law, construction projects undertaken on or after September 14 will be able to benefit from the measure. However, the bill does not say what constitutes the start of the project. Is it when the first shovel hits the ground? Is it when the first payment is made for the plans? Is it when the land is purchased? If the building has a dual purpose, what constitutes the beginning? We have no idea, because the bill does not define these concepts.

Let us use a concrete example to illustrate the uncertainty this creates for businesses. A company is planning to build a rental property. The ground floor will be occupied by commercial premises, so not part of the project, but all the upper floors will be used for rental housing. On September 14, work had not yet started on any of the rental housing floors, but work had begun on the ground floor. I repeat, the ground floor will be used for commercial purposes, so it is not a part of the rental project. The company does not know whether it will be entitled to benefit from the measure for the upper floors because of the date and the lack of definition in the bill. We also know that with skyrocketing construction costs, high interest rates and a shortage of skilled labour, developing a housing project is complex, and not having clear information from the government about its bill does nothing to help the company in its current choices. The fog caused by this bill, which was drafted too quickly, is creating uncertainty for businesses.

Will we be able to clarify the situation in committee in just two evenings? There are no guarantees. We will work on it, but I would like to remind the House that it would have been really important not to shut down the committee's work in this way.

As members know, Bill C-56 has two parts. The first part provides a GST rebate to the builder of a rental housing building. The rebate will be given during the sale or pending sale if the builder becomes an owner.

The rebate does not apply when the buyer is already totally exempt, as in the case of a government agency or a municipality, or partially exempt, as in the case of a not-for-profit organization or a housing co-operative. Bill C-56 will have no impact on the cost of social or community housing projects. It only pertains to private housing.

In practice, the rental housing builder will bill the GST to the government instead of to the buyer at the time of sale. To qualify for the rebate, the building will have had to have been under construction between September 14, 2023, and December 31, 2030, and the project will have to be completed before December 31, 2035.

However, the bill does not include any details on the type of building or housing nor does it specify any affordability requirements to qualify for the rebate. Instead, the bill gives the government the power to clarify these issues through regulations. We are seeing the government gloss over its bills by giving too much power to the minister, who will be able to complete the bill with his own regulations once it has been implemented. That is not an approach that we appreciate.

It would be hard to impose affordability criteria on builders because they do not own buildings once they are built. However, it is possible to make the buyer pay the GST after the fact if the units are rented at exorbitant prices. These are the kinds of amendments and clarifications the committee should look at, but will it have time?

● (2230)

I would also point out that, in our view, it would have been possible to do more to promote the construction of housing, particularly social housing, by allocating the same amount, but implementing other measures. Obviously, we are debating what the government is proposing, and that is what we will be voting on, but we will continue to make suggestions, just in case it decides to listen.

The second part of the bill makes three amendments to the Competition Act.

The first amendment gives the commissioner of competition real power. Right now, when the Competition Bureau examines the competitive environment of a given sector, it cannot compel anyone to testify or order the production of documents. It will be able to do so under Bill C-56. The Bloc Québécois has been calling for that change for 20-odd years.

The second amendment broadens the scope of anti-competitive practices prohibited by the act. Right now, the act prohibits agreements between competitors to remove a player from the market. With this bill, it will also be prohibited to reach an agreement with someone who is not a competitor in order to reduce competition. Let me give an example. When a grocery store rents a space in a mall, it is standard practice for the contract to contain clauses prohibiting the landlord from renting a space to another grocery store. This type of practice, which limits competition, will now be prohibited under Bill C-56. We applaud that measure.

The third amendment will make mergers and acquisitions more difficult. Currently, when a company wants to buy a competitor, the Competition Act states that the Competition Bureau will allow it if it can be demonstrated that the takeover will result in efficiency gains, even if the merger shrinks competition. This provision, which favours concentration and is unique in the industrialized world, is repealed in Bill C-56. We have also been calling for this change for a long time, and the member for Terrebonne has been particularly keen to see it.

We strongly support the principle of this second part and even feel it is long overdue. We have been asking for these changes for years, decades even.

We understand that, thanks to the government's super closure motion, Bill C-56 is going to be amended. Government Business No. 30 authorizes the Standing Committee on Finance to broaden the scope of the bill to make three amendments.

The first change is an increase in fines. It is taken directly from Bill C-352, which was introduced by the leader of the NDP and amends the Competition Act. Many of its provisions would become obsolete because of Bill C-56. The other two changes have to do with abuse of dominance and investigating powers when the Competition Bureau conducts a market study. Subject to the wording of the amendments to be submitted in committee, these changes have no real effect. They were probably added to the motion to please the party that is supporting the closure motion, but the changes will have no real effect.

Let us come back to the first change, which is to "increase the maximum fixed penalty amounts for abuse of dominance to $25 million in the first instance, and $35 million for subsequent orders, for situations where this amount is higher than three times the value of the benefit derived (or the alternative variable maximum)". As I was saying, that is taken from Bill C-352.

Currently, in addition to imprisonment for a term not exceeding 14 years for executives who commit an offence under the Act, the bureau and the tribunal can impose a maximum fine of $5 million on the offending company. The motion proposes increasing the maximum fine to $25 million, and to $35 million for repeat offenders. In the case of a large company, the maximum penalty could be even higher, up to three times the value of the benefit derived from the practice.

We know that the NDP bill went even further and specified the following: "if that amount cannot be reasonably determined, 10% of the person's annual worldwide gross revenues". Clearly, the government was not prepared to go that far. It is a good change. The maximum fine of $5 million could be seen as the cost of doing business. The revised amounts are designed to have a real deterrent effect. That makes the Canadian legislation comparable to the U.S. and European laws.

The second amendment is "allow the Competition Bureau to conduct market study inquiries if it is either directed by the Minister responsible for the Act or recommended by the Commissioner of Competition, and require consultation between the two officials prior to the study being commenced". The Competition Bureau has significant power. It can compel witnesses to appear, demand documents and request searches if necessary. However, these powers are available to the bureau only when it is investigating a clear infringement following a formal disclosure. The investigation then becomes quasi-criminal.

● (2235)

However, when the bureau is conducting a study to determine whether competition is working properly in a given field or market, it has no such powers. For example, in its report on the state of competition in the grocery sector, published in June 2023, the bureau noted that the grocery chains did not really co-operate with its study. They refused to hand over the documents it had requested and refused to answer some of its questions. Bill C-56 solves that problem and gives the Competition Bureau investigative powers when it is conducting a market study.

The NDP's Bill C-352 did basically the same thing. Government Business No. 30 proposes a technical amendment to the manner in which the bureau can initiate a market study, but it does not really do much to change the current practice. This aspect was likely only added to the motion to please the NDP, but it really does not do anything.

It is the same thing for the third amendment, which proposes to "revise the legal test for abuse of a dominant position prohibition order to be sufficiently met if the Tribunal finds that a dominant player has engaged in either a practice of anti-competitive acts or conduct other than superior competitive performance that had, is having or is likely to have the effect of preventing or lessening competition substantially in a relevant market".

Currently, a company that monopolizes a significant share of the market cannot take advantage of its dominant position to limit competition, for example, by preventing a supplier from working with a competitor. The existing act prohibits several of these kinds of practices, which effectively limit competition, prevent it from working properly or make it virtually impossible for a new player to enter the market. On the other hand, there is nothing stopping a company from taking advantage of a lack of competition to sell products at excessive prices. If, for example, a grocer enjoys a monopoly in a given region, there is nothing to stop that grocer from taking advantage of the monopoly to gouge consumers by charging exorbitant prices.

Bill C-352 addressed this loophole. A whole range of anti-competitive practices were already prohibited, and it added a new one: "directly or indirectly imposing excessive and unfair selling prices". It was a good measure, but clearly the government did not want to move in that direction. To please the NDP and hide the fact that it has given up on defending consumers against the major players, the government's motion adds a procedural amendment to Bill C-56 to give the tribunal the power to prevent an anti-competitive practice that the current law already prohibits anyway. Again, it is nothing but hot air.

The day before yesterday, the Minister of Finance tabled the fall economic statement. As we all know, an economic statement is not quite as big a deal as a budget. It usually includes measures the government intends to take to deal with emergencies that have arisen since the budget was tabled.

There are emergencies aplenty, including the housing crisis, homelessness, the media, the rising cost of living, the small business emergency account deadline, seniors' buying power and scandalous oil industry subsidies, not to mention EI reform, the plight of seasonal forestry workers following the summer's forest fires, support for culture, support for the market garden and horticulture sectors following the summer's floods, and the funding that was promised for school breakfasts but has not yet been delivered, to name but a few.

However, the only emergency mentioned in the economic statement has to do with housing. Ottawa does need to do a lot more for housing, especially social housing. Unfortunately, the government's response is nothing more than what has already been announced in Bill C-56. In fact, the rest will not be delivered until after the next election, and only if the Liberals are re-elected. Responding to the urgency of the housing crisis with election promises that are two years or more away is simply unacceptable, especially when we know that once the money is available, it takes two to three years before it is actually flows. It is like the $900 million that was finally announced for Quebec this fall, but that had been budgeted two years earlier.

We in the Bloc Québécois had proposed an acquisition fund for non-profit organizations, as well as an interest-free or very low-interest loan program, to stimulate the construction of affordable social rental housing, while waiting for a comprehensive policy in the next budget.

Still on the subject of housing, I would like to point out that the minister brought forward a good measure concerning Airbnbs, which will have to comply with municipal rules, or else the people and businesses that manage them will no longer have access to federal tax deductions for their operations. It remains to be seen whether the Canada Revenue Agency will be able to properly apply this new constraint.

One not so good measure is the creation of a new department that specializes in interference: the department of housing, infrastructure and communities. The purpose of that department is to impose its conditions on Quebec, the provinces and the municipalities. If they do not abide by the interference, Ottawa will cut their transfers. The Liberals come here to steal the only bill that the Conservatives introduced, their plan to build more housing, by threatening the provinces and municipalities with cutting their infrastructure funding. I should note that it was the Conservative leader himself who introduced Bill C-356 in the House.

● (2240)

With this bill, Ottawa would impose an obligation to increase housing starts by 15% compared to the previous year on all municipalities where the cost of housing is high, and that list is growing longer and longer. If the housing starts in municipalities do not increase as required by Ottawa, the Conservative leader would cut their gas tax and public transit transfers by by 1% for each percentage point shortfall under the target that he unilaterally set.

For example, housing starts in Quebec dropped by 60% this year rather than increasing by 15%, largely because of rising interest rates. If the Conservatives' bill were already in force, this would mean a roughly 75% reduction in transfer payments to the Quebec government. This is a really dangerous and unfair bill that centralizes power in Ottawa. The fact that the Minister of Finance is making use of the principle of that bill is a major offensive action in terms of centralization of power. We will have detailed numbers shortly.

I would like to say a few more words about the new department of housing, infrastructure and communities. This announcement essentially creates a federal department of municipal affairs. Since municipal affairs fall under provincial jurisdiction, this is nothing less than a department of interference, which is threatening to cut transfers, exactly as the Conservatives are hoping for and proposing in their bill.

Here are a few more details about this new department. It is worth noting that Trudeau senior's government tried to do much the same thing. In 1971, it created the Ministry of State for Urban Affairs. A Library of Parliament research document states that, "[g]iven the inescapable constitutional limitations, the ministry had no program responsibilities". Faced with a lack of co-operation from the provinces, this attempt from Trudeau senior's government to interfere in municipal affairs ended in failure. The research document also states that "[i]n view of the Ministry's lack of credibility and the government's desire to cut expenditures, the [Ministry of State for Urban Affairs] was abolished on 31 March 1979".

In the coming years, we will see whether Quebec and the provinces will once again be capable of defending their jurisdiction against this new department. This is the same story a generation later, so I would like to quote a philosopher: "All great world-historic facts and personages appear, so to speak, twice...the first time as tragedy, the second time as farce". I believe that is what we are witnessing now.

In closing, let me reiterate that the Bloc Québécois will vote in favour of Bill C-56 because it contains a few good measures and nothing that is downright harmful. However, Bill C-56 is but a drop in an ocean of need. On housing, there is no indication that the bill will help lower the cost of rent. If nothing is done to correct this problem, we are headed for a major national tragedy. We need three times more rental housing in new construction to stop the housing crisis from getting worse. If Bill C-56 did even a little to increase the proportion of rental units in new construction developments, that would be something, but we are light years away from meeting those needs.

The changes to the Competition Act are good, and the Bloc Québécois wholeheartedly supports them. Still, the government's claim that these changes will help lower grocery bills seems like misrepresentation. Removing from the act the section that called for mergers and acquisitions to be allowed if the company could demonstrate efficiencies is a good thing. This section of the Competition Act encourages concentration, which often leads to higher prices.

Since 1996, the vast majority of grocery chains have disappeared and been bought up by competitors. I am talking about companies like Steinberg, A&P and Provigo. IGA was bought by Sobey's, and Adonis by Metro. The same is true in Canada. Think of Woodward's, Commisso's, Safeway, Whole Foods, T&T, Longo's, Farm Boy and so on. Of the 13 chains we used to have, now there are only three, or five if we include Costco and Walmart. They control 80% of the market. It is an oligopoly.

While Bill C-56 proposes some good measures, it is inconceivable that this is the government's only response to skyrocketing housing and food prices. When it comes to housing, we need to review and improve the failed Canada housing strategy.

● (2245)

Regarding competition, we need to review the concept of abuse of dominance to prevent the big players from taking advantage of their disproportionate share of the market to increase prices will, for lack of competition, or to abuse farmers and processors, whom they are holding hostage. These two things need to be done, whether or not Bill C-56 is passed.

[*English*]

Ms. Bonita Zarrillo (Port Moody—Coquitlam, NDP): Mr. Speaker, I always enjoy the speeches from the member from the Bloc. I always learn a lot and I really appreciate the research that is done.

Just in the closing remarks, the member talked about the oligopoly of the grocery chains in Canada. Really, only three families take so much profit away from Canadians and leave Canadians hungry.

I wonder if the member would not mind sharing whether they would support the NDP's ask for an excess profits tax on big grocery chains.

[*Translation*]

Mr. Gabriel Ste-Marie: Mr. Speaker, I thank my hon. colleague for her kind words. I feel the same way about her. It is always a pleasure to listen to her speeches, for which she does a lot of research.

I want to specify that, when it comes to the oligopoly in the food sector, passing Bill C-56 will prevent the situation from getting worse, but it will not bring back the competition there used to be.

Taxing the excess profits of giants in these situations may be very useful, and we are in favour in principle, as we have said often. Obviously, this needs to be done scrupulously to respect the rights of these companies. When it is conclusively established that they have excess profits, we have to be able to tax them.

[*English*]

Mrs. Tracy Gray (Kelowna—Lake Country, CPC): Mr. Speaker, when looking at this legislation and looking at the title, we know that here in Canada, inflation is still high and has been high for a long time and that inflation is the cause of high interest rates, which is then causing high mortgage payments.

When we look at the title of this particular legislation, one would think that it would actually, truly be affecting affordability for Canadians, which is the cost of everything that they are buying and then also their mortgage costs.

I am wondering if the member can speak to whether this legislation will actually be affecting inflation, the cause of inflation and also the cause of interest rates.

[*Translation*]

Mr. Gabriel Ste-Marie: Mr. Speaker, I thank the hon. colleague for her very deep, content-rich question.

As I said, Bill C-56 has some good measures for fighting inflation, but they are just a drop in the bucket. They are inconsequential.

Will eliminating the GST on the construction of rental housing lower the price of homes and apartments? The answer is no, far from it. Even the government is unable to tell us how much it expects and by how much the rents could go down. If it has any research or models, it is keeping them well hidden and we cannot get any access to them. It is a principled position. It is limited.

We know that improving the Competition Act will help lower prices, but we cannot turn back time. It will help stop or slow down the situation, nothing more. Many other measures need to be taken. Fighting inflation is complex. If the government's response to inflation is just that, then it is lacking. It is a drop in the bucket.

● (2250)

[*English*]

Ms. Lori Idlout (Nunavut, NDP): *Uqaqtittiji*, I would like to thank the member for taking this debate seriously, unlike the previous MP, who chose to use her time to entertain people and possibly create some kind of platform for future entertainment.

Knowing that Canada's three largest grocers, Loblaws, Sobeys and Metro, made more than $3.6 billion in combined profits in 2022, it is good to see that the Liberals are finally talking to CEOs and asking them to stabilize prices, although just nicely.

I hear from this member that we have to be more serious about how to make better efforts to amend the Competition Act and bring more grocery competition into Canada.

I wonder if the member can share his thoughts on how we could make sure that we can bring grocery prices down.

[*Translation*]

Mr. Gabriel Ste-Marie: Mr. Speaker, that is a very good question. Bill C-56 amends the Competition Act. This should have been done at least 20 years ago. If we look at what was happening in 1986, we see that there were 13 major players. As my colleague said, now there are only three. That number goes up to five if we include the two big American retailers that sell groceries, Walmart and Costco. These five companies form an oligopoly that controls 80% of the market. The Governor of the Bank of Canada told the Standing Committee on Finance that the problem is that there is no competition in that market because they are able to pass on 100% of the increase in input costs to consumers without reducing their profits. The competition is not working.

Bill C-56, when implemented, will prevent further issues in the long run, but it will not automatically restore a competitive market ecosystem in the food sector. Major challenges will remain. There is still a lot to do. Reducing food inflation requires many micro-interventions involving farmers, primary processors, and so on. It is a complex challenge, but there is certainly room for intervention in terms of large retailers that constitute an oligopoly. Bill C-56 is a step in the right direction, but it is not the only solution.

Mr. Denis Trudel (Longueuil—Saint-Hubert, BQ): Mr. Speaker, I thank my colleague, who is always interesting, always brilliant, always thorough and always has relevant things to say.

As we have heard, the GST rebate will not solve the entire housing crisis. Housing is a complex issue. At the current rate of construction, we know that we will never be able to build the amount of housing we need. We are talking about 3.5 million units in Canada and 1.1 million in Quebec. We have never built more than 70,000 units. We will never get there.

We also need to tackle the financialization of housing. That is extremely important. We proposed a measure, and I would like my colleague to talk about it. It is an acquisition fund. We know that we are losing affordable housing. In fact, we are losing more than we are creating right now, which is rather interesting, because these large groups and real estate funds, which are often international, are buying up the affordable housing stock right now. It is a real tragedy.

What we need is an acquisition fund. The government needs to make a fund available to not-for-profit organizations to be able to buy housing that is still affordable—there are still some out there—and remove them from the market to guarantee affordability. I would like my colleague to talk a bit about this measure and tell us how this might greatly improve things in the market.

● (2255)

Mr. Gabriel Ste-Marie: Mr. Speaker, I want to first point out that my hon. colleague did a tour of Quebec to talk about housing. He stopped in Joliette. We had a full house. Everything he is contributing is wonderful and informative.

My colleague spoke about the financialization of housing and how to put an end to that. For example, that is what we are seeing in Montreal, and it is mainly the Bronfman family's company that is doing it. It is hard to get any closer to the Liberal Party than that. These people are taking affordable housing off the market, and not enough housing is being built to counter that.

What we suggested is to offer an acquisition fund interest rate, which is something that the Union des municipalités du Québec has been calling for. This would involve implementing a measure to fund the purchase of these buildings at an interest rate that is lower than the market rate, to get them out of the financialization spiral that is causing people to be evicted and rents to go up.

The current market rate is very high. However, with the borrowing authority of the government or the CMHC, we could simply pass the better rate on or even subsidize it to make this acquisition possible. Let me give an example. The government borrows at 3.6%. Suppose we want to give a non-profit organization an interest rate of 2% for one billion housing units that we want to get out of the financialization trap and that we are going to make truly affordable in the long term. That would cost $16 million. The difference between 3.6% and 2% is almost nothing for the government.

By using its leverage, the non-profit would have an advantage. That would prevent financialization, which is what happens when big conglomerates like the Bronfmans get their hands on housing that is affordable and make it so that it is no longer affordable. This is one possible solution we are proposing to the government.

[*English*]

Ms. Rachel Blaney (North Island—Powell River, NDP): Mr. Speaker, I will be splitting my time with the member for Port Moody—Coquitlam.

I am here today to talk about the affordability act. We know that right now Canadians across the country are facing a huge financial challenge. It has been a hard period of time. We lived through the pandemic and then we moved on to a high inflation reality. Things are just starting to cost more and more.

One of the things this bill does is remove GST for builds of rental housing. In my riding, these are the average rents in just a few of my communities: in Campbell River, it is over $1,500; in Powell River it is close to $1,500; and then in Comox, it is a whopping $1,849. Those are just the average rents. If someone lives on a fixed income or has a low income, it is just a huge challenge to pay for the things they desperately need.

I am the spokesperson for seniors in my party. Just last week, a 77-year-old gentleman walk into my office, almost an octogenarian. He shared with me that he has been living in the same location for 40 years. It recently was purchased and he is going to be renovicted. That is appalling. He needs to have a stable home to age in. I think we all know that we cannot just build houses by yelling out abracadabra and there will be a house. They do not just build themselves. Although I support this movement, we know from what we are seeing done by the government that the Liberals are just continuing to delay the process. That means that housing will be delayed up to seven years or more.

This is a crisis point. The urgency in the communities that I serve is profound. They need to see money on the ground, supports for municipalities and regional districts, to get that money out the door in the most efficient way possible.

I read an article yesterday from Oxfam. It talked about how the richest people in the world are emitting as much as the bottom 66% of income earners on the planet. Now, I love a French rosé, but when I look at what I see happening with the ultrarich, I swear they are bathing in it. They are bathing in it at the expense of everyday Canadians, who desperately need this support. What we have not seen from the government, or from Conservative governments in the past, is a willingness to actually say to the ultrawealthy that they have to pay their fair share. In my riding, people are paying their fair share. They pay their taxes. They work hard every day and they are being punished for doing that when the ultrawealthy are getting away with bigger and bigger profits.

We know the reality is that Canada has the lowest tax rate for corporations, at 15%. Ultrawealthy corporations in this country like oil and gas have seen an increase to their profits in the last year or so that is higher than the 30 years previous. We cannot say that it is just inflation, when we can see how much they are taking home of profit after inflation is accounted for.

We know that grocery stores are making more profit now than they were prior to the pandemic. That again is adjusting for inflation. Even with those extra costs, they are still making a huge amount of money and their profits are popping like popcorn everywhere. They cannot justify that when the very basics are not affordable for most Canadians. I think that it is time that we start to address these issues and take them seriously because, really, we need to build a more fair society.

I talk a lot in this place about having a bar of dignity that no one falls below. What we are seeing in this country is more and more people falling below that. I think of people with fixed incomes, people who are single parents; people who are working; and two people with decent jobs who are living out of an RV because they cannot afford even a simple apartment to live in because of how high the cost of living has become.

● (2300)

The other thing I am hearing from my constituents again and again is that they can hardly afford the cost of food. In my riding, there are a lot of small farms that are doing everything they can to grow food in our area and provide as reasonable a cost as they can, because they really believe in food security. I want to thank them. They do that because of what they believe in. It makes a huge difference. We also know that grocery stores are making a huge amount of profit, and they are getting away with it.

I am really relieved that the Liberals have finally listened to our leader, the member for Burnaby South, about making sure that the Competition Bureau has more teeth to crack down on price gouging. It is as though they were looking through the windshield and, suddenly, the windshield wiper moved all the dirt out of the way, and they can now see clearly that they need to do the right thing. I am grateful that they are finally listening to us, and I cannot wait to see this done.

Many Canadians are trying to buy the basic necessities of food to feed their families. We are seeing so many children whose parents care about them desperately, but they do not have enough to send them to school with a good lunch or make sure they have a good breakfast. That is shameful in this country. If we have a Competition Bureau that can do its job, it is going to make the biggest difference; it is about time.

Without having a strong Competition Bureau, having processes where grocery stores can be held to account, we are censuring consumers. We are telling consumers that we will not put anything in place. We had the Liberal government call grocery CEOs and ask them to stabilize prices because they are upsetting people. That is not putting teeth in and telling them this is serious, because our people in this country matter. They matter more than grocery stores bringing home a huge amount of profit.

I am glad the changes that the NDP has made for Bill C-56 will actually help everyday Canadians. It is not as far as we would go. There are a lot of things we would definitely have in the bill, but we got something in there that is going to make a difference.

I have been watching this place for many years, before I even got here in 2015. Sometimes I feel like I am experiencing déjà vu, because what I see happen again and again is the continued betrayal of small businesses by both Conservative and Liberal governments. I know that, in my riding, small businesses make the difference. They are the ones that stand up every day and look after our community. They care about the people they employ, and they work hard to better our communities.

During the pandemic, it was terrifying. I have to say that my community did an amazing job of supporting local businesses the best it could. Community members talked to one another. We talked to communities. We made sure that people were taken care of the best they could be. When that struggle was still there, we fought like heck to have a good loan that was helping people get through that time. The CEBA loan was created.

Now we are in a situation where the government is refusing to listen to these small business owners and make something work for them so that they do not lose their businesses. It was really sad for me to see nothing to deal with this in the financial update. I would have loved to see this in the bill, because small businesses work hard.

I was talking to a business owner in my riding, who said that rural communities have particular challenges, both with the pandemic and then later on with inflation, as well as waiting for more people to come to our small communities for tourism. They are struggling the most. To see the government not take that important connection seriously and to see it really betray those small businesses has been very concerning to me.

I will wrap up, but I just want to say that, in this House, we all have to work collectively to make sure that life is more affordable for Canadians. They deserve it, and it is really our job to maintain a bar of dignity that no one falls below. In this country right now, too many are falling; we need to do better by them.

● (2305)

Ms. Bonita Zarrillo (Port Moody—Coquitlam, NDP): Mr. Speaker, I appreciate the speech from my colleague from North Island—Powell River. She speaks about the bar of dignity a lot. I hear it a lot. I do a lot of work with the disability community, and they appreciate the human rights lens the member always talks about.

Does she mind sharing a bit about the fact that the disability benefit was not mentioned in the fall economic statement? We know it disproportionately impacts women and indigenous people, and I wanted to hear her thoughts on that.

Ms. Rachel Blaney: Mr. Speaker, the member brought up an important reality.

We know that people across this country who are living with disabilities have particular challenges, are all too often marginalized and fall below the bar of dignity that I talk about, and really have a hard time making ends meet. This is important. When we see people from various communities supported in a good way, the amazing thing that happens is that opportunity grows. However, if we leave people in a situation where they cannot make ends meet and they are struggling every day just to get by, it is really hard for them to maintain the creativity they may have in their spirit.

When we talk about a bar of dignity, we are talking about the disability benefit. If people were lifted out of poverty and had the space to expand what they might be able to do to look at a life that is not fraught with concern and terror every day, what a better community we would have. It makes me think of my friend Karen, who teaches me a lot about living in the disabled community. She always says that when we make something accessible for everyone, we make it accessible for everyone. Let us make it accessible for everyone and see what a beautiful culture we could create in this country.

[*Translation*]

Mr. Denis Trudel (Longueuil—Saint-Hubert, BQ): Mr. Speaker, Bill C-56 touches on housing. It is a priority, actually.

I said it earlier, when my colleague made his speech. It will be difficult to build millions of homes. That has never been done in Canada. We have to find ways to rise to the challenge. We talked about an acquisition fund, which could be an interesting tool.

The elephant in the room when it comes to the housing crisis is the financialization of housing. Big real estate empires are buying up the housing stock. In Montreal alone, it is estimated that less than 1% of owners own a third of the rental stock. That is outrageous. We need to do something about these people who buy up buildings with 60, 80 or 100 units, either to demolish them or renovate them. They double the price and it becomes very problematic.

I am certain it is the same in Toronto and Vancouver. Ottawa needs to tackle this. Could my colleague speak to that? I imagine that the NDP has been thinking about these issues. Do they have any ideas about how to deal with this?

● (2310)

[*English*]

Ms. Rachel Blaney: Mr. Speaker, this is a really important question.

We know that, right now, what we are seeing across the country and, sadly, what we have seen the government participate in is giving money to corporations that are building housing and basing it on market or above-market value. That means we are just continuing to see housing built that is not going to make a difference for everyday Canadians. The financialization of housing is taking away everyday, common people's rights in this country. We need to do better. Part of that is having non-market housing. I want to thank the member for Vancouver East, who has been very clear on this. If we do not have an investment in housing that makes a difference for people, we are letting them down.

This country does not need that. The government is abandoning people who are living on the streets every day. All of the members of this place have a safe place to go home to at the end of the day, and it is shameful that we allow other people to not have a safe place. What it does to their spirits destabilizes our country, and we need to do better by them.

Mr. Mark Gerretsen (Kingston and the Islands, Lib.): Mr. Speaker, I know this issue has come up, if not from this member, then from one of her colleagues. It is the issue of extreme anti-competition that we are seeing, in particular with regard to the grocery retail giants. I know that in Canada, Loblaws, which owns Shoppers, occupies about 40% of the retail grocery market. Compare that to in the United States, where Walmart, the largest, owns only 18%.

I am wondering whether the member could expand on how she thinks the legislation would help with anti-competition practice.

Ms. Rachel Blaney: Mr. Speaker, this is a big, broad and complex question I am being asked.

First of all, I would say that part of it is this place's fault. Under both Liberal and Conservative governments, we have not seen an active stance around competition. In fact, recently, we have seen mergers in this country that mean there will be less competition. The people who pay when there is less competition are always the hard-working Canadians.

What we need to see is more legislation like the leader of the NDP brought forward, to make sure we have teeth in these processes to make a difference for everyday Canadians.

Ms. Bonita Zarrillo (Port Moody—Coquitlam, NDP): Mr. Speaker, I want to follow up on the comments that my colleague from North Island—Powell River just made on how the grocery chains have made it harder for people to eat healthy food. This morning, there was a meeting of parliamentarians, senators and stakeholders on anti-poverty, and when I say “parliamentarians”, I mean all but the Conservatives. They came together to talk about the intersection of health, housing, food security and disability. The urgency that I heard in that room is not being expressed by the Liberal government in the House. This follows up on the idea that the fall economic statement was a real disappointment for many of those groups. It was certainly a disappointment for the disability community.

It was the expectation of the community, the NDP and other members in the House, that the Canada disability benefit would at least get a mention in the fall economic statement, and it did not. I am here to say that that is not acceptable. As my colleague from New Westminster—Burnaby said earlier tonight, New Democrats expect to see some movement on the Canada disability benefit right away. People are suffering, and not just at the grocery store, but also when it comes to housing, which is the next thing I want to talk about.

When we talk about the housing and grocery affordability act, we have to acknowledge that people are losing their housing every single day in this country. We are losing affordable housing at a rate of 15 to one. It was mentioned earlier that seniors are being renovicted today. As we have the debates today, seniors are getting notice of above-guideline rent increases. Their rents are going up 30%, 40% and 50%. They cannot afford it and are out on the street.

I am getting phone calls at my office from residents who have lived in the same units in my community for 20, 30 and sometimes 35 years, and they are being renovicted. They are in their seventies, and they have nowhere to go. Their safety net is their community, and they have nowhere to live because of, as one of my colleagues said earlier today, the financialization of housing. I blame the Liberals and the Conservatives before them for not protecting people's right to housing and allowing large corporations to buy up affordable housing and not replace it.

As has been said earlier today, the NDP is supporting Bill C-56. This is a move toward affordability in the areas of food and housing, but, at the same time, there is so much more to do. I think about the fact that purpose-built rentals in this country have not been invested in for decades.

I can talk specifically about what happened in Coquitlam. I was a city councillor at the time, and an application came forward for a purpose-built rental building. The Liberals at the time, in 2015, had promised a GST exemption on purpose-built rentals. A company came forward in good faith to build purpose-built rentals. It was expecting relief on the GST and was going to pass it down to renters. The company was excited to do that work in my community to make housing affordable for frontline workers, whether they were nurses, firefighters or people who worked in grocery stores. It was excited to do that work, only to be disappointed with the Liberal government not following through on its promise of a GST rebate.

The Liberals, at that point, decided to go with their corporate buddies who were asking them to please give them low-interest loans instead. The commercial loan interest rates were so low, but still the Liberal government decided to follow up with their corporate buddies and give them low-interest loans. That would contribute to the loss of 15 affordable units to every one that was built.

I cannot express my disappointment enough that the Liberal government waited eight years to bring this GST rebate forward. I am happy we have it. The Liberals have at least moved the needle a tiny bit, but they really need to start taking this seriously because, as I said, people have lost their homes today.

● (2315)

I want to note the infrastructure gap, which is so wide. We are talking about the small movement on groceries and the Competition Act, which we are happy about, and we are happy about housing, although there is so much more to do. I want to speak about infrastructure because mayors and councillors were in town all of this week talking about the massive infrastructure gap, and my colleague from Nunavut was talking about the exorbitant infrastructure gap in northern Canada, in Nunavut, and the housing crisis going on there. The federal government has walked away from almost $8 billion in funding for indigenous communities and infrastructure. That is totally unacceptable, and we expect to see that rectified in the spring budget, that is for sure. We cannot continue to not invest in infrastructure and we cannot continue down this path of abusing human rights in this country.

I am going to zip my speech up, but I want to make sure that I talk about transit. When we talk about affordability, we need to talk about public transit. The mayors out in my area of British Columbia have been talking about the fact that they expect the federal government to be involved in funding public transit. If we are going to make these investments in housing, which are desperately needed, if we are going to make these investments in accessibility, which are desperately needed, and if we are going to really get serious about reducing emissions in this country, we need to invest in public transit. The mayors out in British Columbia are asking for that, and I am expecting the infrastructure minister will come forward with the public transit funding that has been promised. We cannot wait until 2026 to get transit funding. We need to change behaviour now. We cannot wait.

I want to close out by talking about the member for Burnaby South, who has a bill on the floor, Bill C-352, that also addresses the Competition Act. NDP members are so proud of this bill and of the fact that we are finally in this country going to force the government to get serious about the Competition Act. We know that Canadians right now have the highest cellphone bills and the highest Internet bills. We are now looking at conglomerations of the largest banks, which already charge too much in consumer charges. We need to stop this conglomeration of the largest corporations in this country and give some power back to consumers.

I am looking forward to the passing of Bill C-56. I am also looking forward to the passing of Bill C-352.

● (2320)

The Speaker: I would like to remind members that they have to be in their seats to ask questions and make comments.

The hon. member for North Island—Powell River.

Ms. Rachel Blaney (North Island—Powell River, NDP): Mr. Speaker, I apologize for taking a moment. I was having a conversation. I am sorry to the member for that.

The member talked a bit about the financialization of housing, and I shared in my speech not too long ago how expensive rents are in my communities, which are significantly smaller than some of the communities the member represents. I wonder if she could share with this place why the need for non-market housing is so important when we are seeing the cost of rents go up higher and higher every day.

Ms. Bonita Zarrillo: Mr. Speaker, that is such an important question. For eight years, I sat at a city council table and saw that perfectly affordable housing was being bought by large corporations and upzoned for them, and then almost a quarter of the condos they were building were sitting empty for years. The efforts of the development industry to pull profits out of communities at the cost of affordable homes for Canadians of all ages were very difficult to watch, because we could see the profit leaving communities. Those developments were not building communities, and we can see now that we have a lot more work to do in the area of bringing back affordable units. It is 15:1. People cannot afford to live in these communities anymore when they are taken over by real estate trusts and development groups that build luxury condo after luxury condo.

Ms. Lori Idlout (Nunavut, NDP): *Uqaqtittiji*, I would like to thank my colleague for reminding the House about some of the issues I have brought up regarding indigenous peoples. It is absolutely an injustice indeed that there are so many cuts being anticipated and that there are great gaps, such as the $350-billion infrastructure gap for first nations.

That figure does not even include infrastructure gaps for Métis and Inuit, but I will get back to the debate on this important bill. It could have great impacts for Nunavummiut, who suffer the most for lack of housing, as well as the cost of living. Could the member share with us why this bill is so important, not just for northerners but for all Canadians?

● (2325)

Ms. Bonita Zarrillo: Mr. Speaker, I raise my hands to the member for Nunavut, who has stood up so many times in this House to explain to the Liberal government why it is so important that it live up to its human rights commitments, especially in regard to housing. There are absolutely unacceptable conditions in Nunavut, and there is a partner there ready to go.

I will follow up on the question from the member, though. We know food prices are extremely high across the country. We know this is about food price gouging. This is about profits. Because there is not competition in the grocery chains, they are taking home extreme profits. They are not being taxed fairly, and they are taking advantage of Canadians. That is why this bill is so important: We need to get serious about addressing that competition.

The other thing I will talk about is the fact that the rental, co-op and not-for-profit housing in this country needs extreme investment, and this is a tiny move forward. We are hoping for more from the Liberals. We need more from the Liberals. Affordability is just so important across the board.

[*Translation*]

Mr. Gabriel Ste-Marie (Joliette, BQ): Mr. Speaker, my colleague talked about the importance of getting affordable housing off the market in order to protect it from financialization. I would like her to talk about the importance of defining affordability based on tenants' ability to pay rather than comparing it to the average market price.

[*English*]

Ms. Bonita Zarrillo: Mr. Speaker, I know the member is very adept at research, and he knows this as well, but I just want to say here that housing prices have increased exponentially over the last two decades, and wages have not. Wages have not kept pace with the cost of living or with housing, and this is one of the reasons, as a New Democrat standing here today, I am so happy to know we have the anti-scab legislation coming forward, that a well-paying job is a union job. We are so looking forward to more Canadians being able to take advantage of those kinds of work conditions.

[*Translation*]

The Speaker: There being no further members rising for debate, pursuant to order made earlier today, it is my duty to interrupt the proceedings and put forthwith every question necessary to dispose of the second reading stage of the bill now before the House.

The question is on the motion.

If a member participating in person wishes that the motion be carried or carried on division, or if a member of a recognized party participating in person wishes to request a recorded division, I would invite them to rise and indicate it to the Chair.

[*English*]

Mr. Tom Kmiec: Mr. Speaker, I ask for a recorded division.

[*Translation*]

The Speaker: Call in the members.

● (2410)

(The House divided on the motion, which was agreed to on the following division:)

(Division No. 456)

YEAS

Members

Aitchison
Aldag
Ali
Anand
Angus
Arseneault
Atwin
Badawey
Baker
Barlow
Barron
Battiste
Beech
Bennett
Berthold
Bezan
Bittle
Blair
Blaney
Blois
Boulerice
Bragdon
Brière
Brunelle-Duceppe
Cannings
Carr
Casey
Chahal
Champagne
Chatel
Chiang
Collins (Hamilton East—Stoney Creek)
Cormier
Dabrusin
Damoff
DeBellefeuille
d'Entremont
Desilets
Dhaliwal
Diab
Dowdall
Drouin
Albas
Alghabra
Allison
Anandasangaree
Arnold
Ashton
Bachrach
Bains
Baldinelli
Barrett
Barsalou-Duval
Beaulieu
Bendayan
Bergeron
Bérubé
Bibeau
Blaikie
Blanchet
Block
Boissonnault
Bradford
Brassard
Brock
Calkins
Caputo
Carrie
Chagger
Chambers
Champoux
Chen
Chong
Cooper
Coteau
Dalton
Davidson
Deltell
Desbiens
Desjarlais
Dhillon
Doherty
Dreeshen
Dubourg
Duclos
Duncan (Stormont—Dundas—South Glengarry)
Ehsassi
Ellis
Erskine-Smith
Falk (Provencher)
Ferreri
Findlay
Fonseca
Fortin
Fraser
Gaheer
Gallant
Garrison
Gazan
Genuis
Gill
Goodridge
Gourde
Green
Hajdu
Hardie
Hoback
Housefather
Hutchings
Idlout
Jaczek
Johns
Jowhari
Kayabaga
Khanna
Kitchen
Koutrakis
Kramp-Neuman
Kusie
Kwan
Lalonde
Lametti
Lantsman
Larouche
Lauzon
LeBlanc
Lehoux
Leslie
Lewis (Haldimand—Norfolk)
Lloyd
Long
Louis (Kitchener—Conestoga)
MacDonald (Malpeque)
MacKinnon (Gatineau)
Majumdar
Martel
Mathyssen
May (Saanich—Gulf Islands)
McCauley (Edmonton West)
McGuinty
McKinnon (Coquitlam—Port Coquitlam)
McLeod
Melillo
Mendicino
Michaud
Moore
Morrice
Motz
Muys
Nater
Noormohamed
O'Connell
O'Regan
Paul-Hus
Perkins
Poilievre
Qualtrough
Duguid
Dzerowicz
El-Khoury
Epp
Falk (Battlefords—Lloydminster)
Fast
Fillmore
Fisher
Fortier
Fragiskatos
Freeland
Gainey
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Généreux
Gerretsen
Gladu
Gould
Gray
Guilbeault
Hanley
Hepfner
Holland
Hughes
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Kelly
Khera
Kmiec
Kram
Kurek
Kusmierczyk
Lake
Lambropoulos
Lamoureux
Lapointe
Lattanzio
Lawrence
Lebouthillier
Lemire
Lewis (Essex)
Lightbound
Lobb
Longfield
MacAulay (Cardigan)
MacGregor
Maguire
Maloney
Martinez Ferrada
May (Cambridge)
Mazier
McDonald (Avalon)
McKay
McLean
McPherson
Mendès
Miao
Miller
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Morrissey
Murray
Naqvi
Ng
Normandin
Oliphant
Patzer
Pauzé
Petitpas Taylor
Powlowski
Rayes

Redekopp
Richards
Robillard
Rogers
Rood
Ruff
Sajjan
Samson
Savard-Tremblay
Scheer
Schmale
Serré
Shanahan
Shipley
Sidhu (Brampton South)
Sinclair-Desgagné
Small
Soroka
Ste-Marie
St-Onge
Stubbs
Tassi
Thériault
Thomas
Tolmie
Turnbull
Valdez
van Koeverden
Vandal
Vecchio
Vien
Vignola
Virani
Wagantall
Waugh
Rempel Garner
Roberts
Rodriguez
Romanado
Rota
Sahota
Saks
Sarai
Scarpaleggia
Schiefke
Seeback
Sgro
Shields
Sidhu (Brampton East)
Simard
Singh
Sorbara
Sousa
Stewart
Strahl
Sudds
Taylor Roy
Therrien
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Trudel
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Members

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Housefather
Lantsman
Morantz
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Sarai
Fry
Khalid
Mendicino
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Rempel Garner
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The Speaker: I declare the motion carried. Accordingly, the bill stands referred to the Standing Committee on Finance.

(Motion agreed to, bill read the second time and referred to a committee)

The Speaker: It being 12:14 a.m, pursuant to order made earlier today, the House stands adjourned until later this day at 10 a.m. pursuant to Standing Order 24(1).

Good night.

(The House adjourned at 12:14 a.m.)

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Thursday, November 23, 2023

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STATEMENTS BY MEMBERS

P20709

This is Exhibit “G” to the affidavit of **Mallory Kelly,** affirmed
remotely and stated as being located
in the city of Gatineau, in the province of Quebec,
before me at the city of Ottawa in the province of Ontario,on
July 4, 2025, in accordance with
O. Reg 431/20, Administering Oath or Declaration Remotely.

HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

44th PARLIAMENT, 1st SESSION

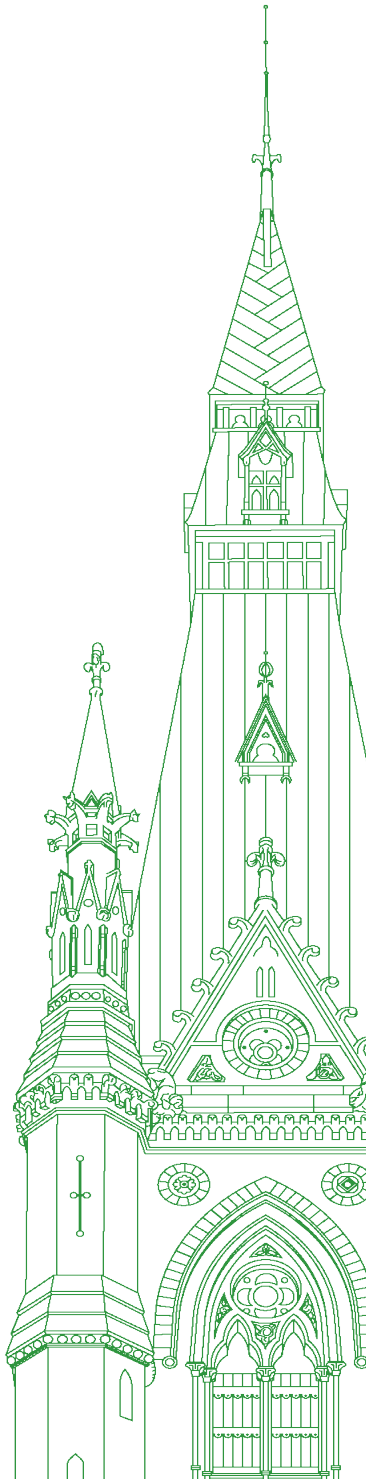
House of Commons Debates

Official Report

(Hansard)

Volume 151 No. 262

Tuesday, December 5, 2023



Speaker: The Honourable Greg Fergus

HOUSE OF COMMONS

Tuesday, December 5, 2023

The House met at 10 a.m.

Prayer

ROUTINE PROCEEDINGS

● (1005)

[*English*]

GOVERNMENT RESPONSE TO PETITIONS

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Mr. Speaker, pursuant to Standing Order 36(8)(a), I have the honour to table, in both official languages, the government's response to three petitions. These returns will be tabled in an electronic format.

* * *

[*Translation*]

COMMITTEES OF THE HOUSE

OFFICIAL LANGUAGES

Mr. René Arseneault (Madawaska—Restigouche, Lib.): Mr. Speaker, I have the honour to present, in both official languages, the third report of the Standing Committee on Official Languages entitled "Adaptation of CBC/Radio-Canada's Audiovisual Content for the International Market".

This report is an opportunity for the Standing Committee on Official Languages to unanimously speak out against or condemn the CBC's use of a Paris-based recording studio rather than a Quebec-based studio to ensure that our friends in France do not have to listen to the Quebec accent. We think that is simply outrageous.

I have here the copies of the report, ready to be tabled.

* * *

[*English*]

FOOD AND DRUGS ACT

Mr. Blaine Calkins (Red Deer—Lacombe, CPC) moved for leave to introduce Bill C-368, An Act to amend the Food and Drugs Act (natural health products).

He said: Madam Speaker, I rise today to introduce my private member's bill, which would amend the Food and Drugs Act. This bill would reverse the changes made by the NDP-Liberal government in its omnibus budget bill, Bill C-47, earlier this year. It would return natural health products to the status quo, ensuring these products are not classified as therapeutic products, like synthetic drugs, and are therefore not subject to the same regulatory regime as other drugs.

Previously, natural health products were classified separately from pharmaceuticals due to the minimal risk they pose to their users. However, after the NDP-Liberal coalition passed Bill C-47, bureaucrats in Health Canada can now implement their self-care scheme, which, according to the Natural Health Products Protection Association, will reduce choice, increase costs for consumers and drive businesses, investment and product development out of Canada.

The existing regulations already keep Canadians safe. As such, I urge all members in this House to listen to their constituents and the overwhelming amount of correspondence they receive and vote for this bill.

After eight years, enough is enough. It is time to undo the damage done by Bill C-47, kick out the gatekeepers and save our supplements and vitamins.

(Motions deemed adopted, bill read the first time and printed)

* * *

[*Translation*]

CHRISTIAN HERITAGE MONTH ACT

Ms. Marilyn Gladu (Sarnia—Lambton, CPC) moved for leave to introduce Bill C-369, An Act respecting Christian Heritage Month.

She said: Madam Speaker, it is an honour for me to rise to introduce this bill, which seeks to make December Christian heritage month.

[*English*]

Canada is a country that celebrates all faiths. We have Sikh Heritage Month, Hindu Heritage Month, Muslim history month, Jewish Heritage Month and so many more. It is only fair and right that we have a Christian heritage month, since there are 19.6 million Christians in Canada according to the last census.

Question No. 1808—**Mr. Gabriel Ste-Marie**:

With regard to the initiative in Bill C-56, An Act to amend the Excise Tax Act and the Competition Act, that would implement a temporary enhancement to the GST New Residential Rental Property Rebate in respect of new purpose-built rental housing: (a) what are the details of the opinions and studies, including the (i) date, (ii) summary of the studies, (iii) source of the documents (internal or external to the department), (iv) name of the department or organization that provided the opinion, that led the Minister of Finance and deputy ministers and assistant deputy ministers at the Department of Finance to say that removing the GST would lower the cost of housing; (b) what are the details of the studies and opinions, including the (i) date, (ii) summary of the studies, (iii) source of the documents (internal or external to the department), (iv) name of the department or organization that provided the opinion, that were received by deputy ministers and assistant deputy ministers that support implementing the removal of GST for building rental housing; and (c) what are the details of the opinions and studies in (a) and (b), including the (i) date, (ii) summary of the studies, (iii) source of the documents (internal or external to the department), (iv) name of the department or organization that provided the opinion, that were sent to the Minister of Housing, Infrastructure and Communities and his office?

Hon. Chrystia Freeland (Deputy Prime Minister and Minister of Finance, Lib.): Mr. Speaker, Bill C 56, the Affordable Housing and Groceries Act, would enhance the goods and services tax, or GST, rental rebate on new rental housing, to incentivize the construction of more apartment buildings, student housing, and senior residences. This enhancement increases the GST rental rebate from 36% to 100% and removes the existing GST rental rebate phase out thresholds for new purpose built rental housing projects.

The measure also removes a restriction in the existing GST rules to ensure that public service bodies such as hospitals, charities, and qualifying nonprofit organizations that build or purchase purpose built rental housing are permitted to claim the 100% GST rental rebate.

The enhanced GST rental rebate would apply to projects that begin construction on or after September 14, 2023, and on or before December 31, 2030, and complete construction by December 31, 2035.

In processing parliamentary returns, the Department of Finance applies the Privacy Act and the principles set out in the Access to Information Act, and certain information has been withheld on the grounds that the information constitutes cabinet confidence.

Question No. 1814—**Mr. Andrew Scheer**:

With regard to the Canadian Radio-television and Telecommunications Commission's (CRTC) new registration requirements for online streaming services and content creators: (a) what is the purpose of the registry; (b) for each type of service or creator required to register, what is the CRTC's rationale for including it in the registry; (c) how did the CRTC come up with the $10 million threshold amount; (d) why did the CRTC create the registry; (e) on what date did the CRTC first notify the Minister of Canadian Heritage that it was going to create the registry; (f) what are the penalties for content creators who meet the threshold for mandatory registration, but do not register; (g) how many entities does the CRTC project will register as part of the registry, broken down by type of entity; (h) what guarantees, if any, will the CRTC provide to ensure that this registry will not expand or become more intrusive at any point in the future; and (i) what privacy protections are in place to ensure that any information provided to the CRTC through the registry is not misused?

Mr. Taleeb Noormohamed (Parliamentary Secretary to the Minister of Canadian Heritage, Lib.): Mr. Speaker, with regard to (a), the Broadcasting Act requires the Canadian Radio-television and Telecommunications Commission, or CRTC, to regulate online broadcasting entities. As a first step, the CRTC created the registry to obtain some basic contact information about certain larger services operating in Canada, which will further the CRTC's understanding of the Canadian online broadcasting landscape and will allow it to communicate with companies if necessary. For additional details, refer to paragraphs 24 and 25 of Broadcasting Regulatory Policy 2023-329.

With regard to (b), the registration requirement does not apply to creators. It applies only to large online services, like Netflix, Crave and Spotify, that earn more than $10 million per year in Canada. This excludes creators, including users who upload content on social media services.

The rationale for including services in the registry is to provide the CRTC with basic information about these services and their broadcasting activities in Canada. For additional details, refer to Broadcasting Regulatory Policy 2023-329.

With regard to (c), the CRTC rendered its decision following a public consultation where stakeholders and Canadians at large participated. The CRTC considered the evidence and determined that a monetary threshold was the clearest way to establish which online undertakings should register. Online services earning less than $10 million per year in Canada will not have to register. For additional details, refer to paragraphs 46 to 115 of Broadcasting Regulatory Policy 2023-329.

With regard to (d), the Broadcasting Act requires the CRTC to regulate online broadcasting entities. As a first step, the CRTC created the registry to obtain some basic contact information about certain larger services operating in Canada, which will further the CRTC's understanding of the Canadian online broadcasting landscape and will allow it to communicate with companies if necessary. For additional details, refer to paragraphs 24 and 25 of Broadcasting Regulatory Policy 2023-329.

With regard to (e), the CRTC is a quasi-judicial tribunal that operates at arm's length. The CRTC's processes are entirely public. The CRTC did not notify the Minister of Canadian Heritage that it was going to create the registry before the issuance of Broadcasting Regulatory Policy CRTC 2023-329.

With regard to (f), content creators are not required to register. The CRTC is focused on developing a regulatory relationship with those entities that have to register.

With regard to (g), large domestic and non-Canadian broadcasting entities will register their services. The CRTC estimates that approximately 50 to 100 services will need to register. These entities will provide some basic information on the types of services offered upon registration.

Question No. 1822—**Mr. Jamie Schmale**:

With regard to all memorandums, briefing notes, and other documents sent from or received by Global Affairs Canada related to, or which mention in any way, United States President Joe Biden's visit to Parliament on March 24, 2023: what are the details of each, including the (i) date, (ii) sender, (iii) recipient, (iv) type of document, (v) title, (vi) summary of the contents, (vii) file number?

(Return tabled)

Question No. 1824—**Mr. Stephen Ellis**:

With regard to expenditures incurred by the government related to icebreaking services on the St. Lawrence Seaway: what were the total expenditures, broken down by year and month, for each of the last five years?

(Return tabled)

Question No. 1825—**Mr. Chris Warkentin**:

With regard to the carbon tax or price on carbon, during the 2022-23 fiscal year: (a) what were the annual costs to administer the (i) collection of the carbon tax, (ii) rebate program; and (b) how many employees or full-time equivalents were assigned to work on the (i) collection of the carbon tax, (ii) rebate program?

(Return tabled)

Question No. 1826—**Mr. John Nater**:

With regard to Service Canada's national in-person service delivery network, broken down by each Service Canada Centre: (a) how many full-time employees (FTEs) were there on January 1, 2020; (b) how many FTEs were there on October 17, 2023; (c) which offices have changed their hours of service since January 1, 2020; and (d) for each office that has changed its hours of service, what (i) were the previous hours, (ii) are the new hours?

(Return tabled)

Question No. 1827—**Mr. Alistair MacGregor**:

With regard to the food affordability crisis: (a) on what date will the government implement its proposed National School Food Policy; (b) what programs will be put in place by the government to implement its proposed commitment of $1 billion over five years; (c) what are the government's plans to integrate Canada's Food Guide as a guiding principle for the Healthy Eating Strategy; and (d) what communications, via in-person meeting, virtual meetings, e-mails, or letters, have been received from provincial governments confirming their interest in partnering with the federal government on the establishment of a National School Food Program, broken down by (i) province, (ii) year?

(Return tabled)

Question No. 1830—**Ms. Michelle Ferreri**:

With regard to expenditures by any department, agency, Crown corporation, or other government entity involving ONWARD or Maryam Monsef, since January 1, 2022: what are the details of all expenditures, including, for each, (i) the date, (ii) the amount, (iii) a description of the goods or services provided, (iv) whether the contract was sole-sourced or competitively bid?

(Return tabled)

Question No. 1831—**Mr. Luc Berthold**:

With regard to events held at Rideau Hall since January 1, 2018: what are the details of each event, including the (i) date, (ii) purpose and description of the event, (iii) number of attendees, (iv) total costs or expenditures, (v) breakdown of the costs or expenditures?

(Return tabled)

Question No. 1836—**Mr. Peter Julian**:

With regard to services provided on bases of the Canadian Armed Forces since December 1, 2015: (a) how many positions for civilian employees of the Department of National Defence have been eliminated, broken down by (i) province or territory, (ii) year; (b) how many positions for civilian employees of the Department of National Defence remain unfilled, broken down by (i) province or territory, (ii) year; and (c) how many contracts using federal funds, including renewed contracts, were issued to private companies without using an open tender process, broken down by (i) province or territory, (ii) year?

(Return tabled)

Question No. 1837—**Ms. Marilyn Gladu**:

With regard to the government's 2023 Housing Accelerator Fund that closed on August 18, 2023: what are the details of the $4 billion dollar fund, including (i) which ridings received funding, (ii) what amount of funding each riding received?

(Return tabled)

Question No. 1839—**Ms. Marilyn Gladu**:

With regard to Canada's international land border crossings: what was the average wait time at Canada's land border crossing bridges for 2019 and 2023, broken down by (i) bridge, (ii) week?

(Return tabled)

Question No. 1841—**Mr. John Nater**:

With regard to the Canada Dental Benefit, broken down by year, for each of the next five years: (a) what are the funding allocations and projections for the program, broken down by department or agency receiving funding to administer the program; (b) how much funding is expected to be required to administer the program, whereas how much funding is provided in benefits; and (c) what are the projected rates of coverage under the program?

(Return tabled)

Question No. 1846—**Mr. John Brassard**:

With regard to international conferences attended by the government, broken down by department, agency, Crown corporation, or other government entity, since January 1, 2019: what are the details of all conferences attended by the government, including, for each, the (i) date, (ii) location, (iii) name of the conference, (iv) number of government attendees, (v) amount spent on conference fees or tickets, (vi) amount spent on travel related to the conference?

(Return tabled)

Question No. 1847—**Mr. John Brassard**:

With regard to international conferences sponsored by the government, broken down by department, agency, Crown corporation, or other government entity, since January 1, 2019: what are the details of all conferences sponsored by the government, including, for each, the (i) date, (ii) location, (iii) name of the conference, (iv) financial amount of the sponsorship?

(Return tabled)

[*English*]

Mr. Kevin Lamoureux: Madam Speaker, finally, I would ask that all remaining questions be allowed to stand at this time.

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): Is that agreed?

Some hon. members: Agreed.

GOVERNMENT ORDERS

AFFORDABLE HOUSING AND GROCERIES ACT

The House proceeded to the consideration of Bill C-56, An Act to amend the Excise Tax Act and the Competition Act, as reported (with amendments) from the committee.

[*English*]

SPEAKER'S RULING

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): There are three motions in amendment standing on the Notice Paper for report stage of Bill C-56. Motions Nos. 1 to 3 will be grouped for debate and voted upon according to the voting pattern available at the table.

[*Translation*]

I will now put Motions Nos. 1 to 3 to the House.

[*English*]

MOTIONS IN AMENDMENT

Mr. Jasraj Singh Hallan (Calgary Forest Lawn, CPC) moved:

That Bill C-56 be amended by deleting Clause 1.

[*Translation*]

Mr. Jasraj Singh Hallan (Calgary Forest Lawn, CPC) moved:

That Bill C-56, in Clause 3, be amended

(a) by replacing lines 26 and 27 on page 3 with the following:

"10.1 (1) The Commissioner may conduct an inquiry into the state of competition"

(b) by replacing line 30 on page 3 to line 6 on page 4 with the following:

"(3) The Com-"

[*English*]

Hon. Karina Gould (for the Minister of Innovation, Science and Industry) moved:

That Bill C-56 be amended by adding after line 16 on page 8 the following:

Coordinating Amendment

12.1 If Bill C-59, introduced in the 1st session of the 44th Parliament and entitled the Fall Economic Statement Implementation Act, 2023, receives royal assent, then on the first day on which both subsection 247(2) of that Act and section 7.2 of this Act are in force, subsection 79(4.1) of the Competition Act is replaced by the following:

(4.1) If, as the result of an application by a person granted leave under section 103.1, the Tribunal finds that a person has engaged in or is engaging in a practice of anti-competitive acts that amounts to conduct that has had or is having the effect of preventing or lessening competition substantially in a market in which the person has a plausible competitive interest and it makes an order under subsection (1) or (2) against the person, it may also order the person against whom the order is made to pay an amount, not exceeding the value of the benefit derived from the conduct that is the subject of the order, to be distributed among the applicant and any other person affected by the conduct, in any manner that the Tribunal considers appropriate.

Mr. Jasraj Singh Hallan (Calgary Forest Lawn, CPC): Madam Speaker, "We who live in free market societies believe that growth, prosperity and, ultimately, human fulfilment, are created from the bottom up, not the government down." That is a quote by the great Ronald Reagan.

After eight years of the Liberal-NDP government, it is abundantly clear that it is not worth the cost. Its economic mismanagement, malpractice and neglect on the economy has led to some of the most miserable outcomes for Canadians today. We have a Prime Minister who says that budgets will balance themselves and who does not think about monetary policy and the misery of Canadians. However, that same monetary policy has a cause and effect relationship to the misery of Canadians. It truly shows that the government has absolutely no idea what it is doing today. As a result of the cause and effect, Canadians today are more reliant on the government. Whether or not that is the intention of the NDP-Liberal government, at the end of the day, it is the pain and misery that Canadians are facing that is making what we used to think of as the Canadian dream fade away.

Whether someone's family has been here for generations or someone is working hard to become a Canadian citizen, more and more, it is clear that the same Canadian dream is gone. We see that the government has spent more than every government before it, combined, did, which has led to 40-year highs in inflation and the most rapid interest rate hikes ever seen in Canadian history, while putting Canadians most at risk in the G7 of a mortgage default crisis. The Canadian dream is gone. Everything is up in this country: rents, mortgages, food prices, the debt and taxes. It is sad that the only thing that is truly down right now is the economy. That goes back to the cause and effect of the Liberal-NDP government, which does not think about monetary policy but is the cause of that monetary policy.

Everything feels like it is broken. Canadians who open their fridges and look at their bank accounts are seeing that the government is not only taking more but also leaving them with less and with worse outcomes than ever before. The misery is real. We travel across this country and hear that pain from everybody. When the government is taking more, it means it is taking more from somebody, from Canadians. Their paycheques are shrinking. Throw a job-killing carbon tax scam on top of that. It is not only making food prices go up; it is also taking more away from Canadians, with higher utility bills and higher costs when they fill up their gas tanks and just take care of everyday basic necessities. After eight years of the Liberal-NDP government, the most basic things have become a luxury: heating one's home, filling up with gas and even buying groceries these days. People are cutting back after eight years of the government.

There is a phenomenon that has begun in the middle class. A middle-class family with two income earners is now going to the food bank because they cannot afford to eat, to heat their home and to house themselves. That is the cause and effect of a Prime Minister who does not think about monetary policy.

Housing has doubled; there is double trouble everywhere. The government has doubled the cost of rent and mortgages because of all of its deficit spending and the debt of more than half a trillion dollars, which led to the interest rate hikes to tackle the inflation that was caused by the government. The other side of the equation is housing supply, which has also been affected by mismanagement and all of the government spending. Not only are people not able to get into homes because of low supply, but because of the high interest rates caused by the spending, homebuyers also cannot get into new homes they would like to buy. As well, builders are affected by not being able to build because of the high interest rates. That is why it is double trouble by the double-trouble Liberal-NDP government.

● (1220)

The cost of everything is up; it has exploded. The issue of housing is not being tackled. We are seeing a lot of photo ops. There is a huge fund that the government has put aside for photo ops, but there is nothing concrete to get things built. In fact, the CMHC warns that Canada will see a decline in the number of new homes being built this year. At a time when the government says we have a housing accelerator, it is too bad that everything it is doing is decelerating homes being built in this country. It is decelerating the economy as well. America's productivity, its GDP per capita and its economy itself, is booming. It grew 5.2%. Canada's contracted, and it will stay that way for a very long time. That means investment will not come in to help get homes built. Investment will not come in to create good jobs and more powerful paycheques for our Canadian people. It means that less and less productivity will be happening, which ultimately means that Canadians are getting poorer as the government is getting richer by taxing them more and more.

Anyone renewing their mortgage today knows the pain. It was just a few years ago that the Prime Minister and the finance minister said that Canadians should go out and borrow as much they want because rates would stay low for a very long time. That could have been true, but what people did not expect was for the Liberal-NDP government to dump billions and billions of dollars of fuel on the inflationary fire that the government started, which made interest rates go up because it increased inflation. All that inflationary spending is the misery that mortgage borrowers are seeing today. Rates are up, and now when they go to renew their mortgages, they are renewing at a minimum of double, and sometimes triple, the rate. There is a huge crisis looming if the government does not get its act together and balance the budget.

The dream of home ownership is dead. Nine out of 10 young people are saying the dream is gone and they will never be able to afford a home. Unless someone's parents are rich, or they owned a home, it is impossible for anyone else to own a home today, all because of the government's economic mismanagement. Rents are up, and more people are relying on renting, not being able to afford homes. The rental market is booming but also suffering. Anyone who is renting today has seen their rent doubled. That is after just eight years of the Prime Minister. It took just eight years for all of this misery to come to fruition.

What are the Liberals doing on housing? They have created billions of dollars of photo op funds that they keep re-announcing and recycling, and that is all they have. What they are not doing is taking any meaningful action on it. They have put billions of dollars toward programs, some that have 13 projects. It seems that there are members on the Liberal benches who have probably flipped more homes than they what they have gotten built under some of these programs.

It is time for a common-sense Conservative government. I encourage everyone watching today, and members on the other side, to watch our common-sense leader's common-sense documentary on the housing hell that Canadians are seeing today, and actual solutions for how to get it fixed. There is a common-sense Conservative bill tabled in the House, under our leader, called the "Building homes not bureaucracy" bill. On top of that, I would encourage everyone to take a look at our common-sense Conservative plan that would bring home more powerful paycheques by lowering costs by axing the tax on gas, groceries and home heating. We are going to bring home more powerful paycheques by balancing the budget so we can bring down inflation. That would bring down interest rates and let people stay in their homes. We are going to bring more homes people can afford. Again, I would encourage everyone to watch the documentary. It deserves awards, and it might even get some. Maybe the Liberals could actually learn something and take something away from it.

We are going to bring home safer streets by making sure we focus on jail and not bail for repeat offenders. Instead of taking guns away from lawful gun owners such as hunters, sport shooters and our indigenous communities, we are going to use that money at the border to stop the flow of drugs, illegal guns and crime that are coming in. Most importantly, we are going to bring home freedom once again. Many people who came to this country, like myself, might have left countries where there was not much in the way of freedom of speech and freedom of expression. When they come here, they are asking why they left the country they came from. Under our common-sense Conservative leader, we are going to bring home freedom and make sure we bring home powerful paycheques.

● (1225)

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, bringing home freedom is something I have heard a lot about from Donald Trump. If we look at the Conservative Party today, and what is taking place in its leadership office, I think of MAGA politics. Here we have the Conservative right, which has consumed the leader's office, and one of their key words is "freedom".

Can the member explain what it means when the members of the Conservative Party talk about freedom? Can he contrast that to the war that is taking place in Ukraine today?

Mr. Jasraj Singh Hallan: Madam Speaker, the question shows how completely out of touch that Liberal member and all of his party are when they are telling me, an immigrant to this country, that I am a far right just because I am a Conservative.

We will bring freedom back from the grip that the Liberal government has put people under, where they are not able to afford the cost of groceries, or the cost of rent or mortgages, and where every single malpractice they have had on the economy has caused the misery and pain that we see in Canada today.

Of course, we are going to release those Canadian people who are working hard just to stay afloat and give them the freedom to make their own decisions and keep more in their pockets.

Mr. Daniel Blaikie (Elmwood—Transcona, NDP): Madam Speaker, one of the principle things Bill C-56 would do is that it would remove the GST off purpose-built rentals. That is a policy that is very much designed to incent the building of more market-based rental units.

One of the ways the government could incent the building of more units with affordability conditions would be to release land and tie affordability conditions to released land to ensure that, if there is going to be new units built, that a specific percentage, whether it is 15%, 20%, 30%, 40% or whatever it happens to be, of the new units built on that government land are either affordable or social housing. In the Leader of the Opposition's bill on housing, he has not attached any affordability conditions to the release of public land. I wonder why that is.

We have a measure here that is meant to incent the building of market rentals by removing the GST. We need accompanying measures for affordable and social housing, and it seems to me attaching conditions to land release is one of the best ways to do it.

● (1230)

Mr. Jasraj Singh Hallan: Madam Speaker, I would argue that every plan that our common-sense Conservative leader has come out for was about affordability. Our plan to build more homes and not bureaucracy not only tackles and gives a goal of 15% of increased permits, but also includes the other side of the equation. Liberal and NDP members have yet to meet their promise. Until they balance the budget, even if land is sold, builders cannot build because one of the biggest drawbacks they have is the high interest rates, which were caused by the Liberal-NDP member's non-stop deficits. They have made inflation and interest rates go up.

Until the budget gets balanced and we start having lower inflation and interest rates, builders will not build and people will not get into new homes. The Liberals need to get out of the way to do that for Canadians.

Ms. Michelle Ferreri (Peterborough—Kawartha, CPC): Madam Speaker, the critic for finance has painted a really great picture. He has this lived experience, and he shares it wholesomely, as an immigrant who came to Canada for a better life.

There still seems to be some misunderstanding, especially from the Liberal-NDP side. They do not understand that, if one spends more than they make, one creates more debt. We actually have the lowest GDP growth per capita since the Great Depression, which means Canadians are getting poorer.

What is the basic thing happening on the Liberals' side showing how they are mismanaging Canadian taxpayers' money, which is causing this misery?

Mr. Jasraj Singh Hallan: Madam Speaker, my colleague from Peterborough—Kawartha is a great advocate.

Everything the government touches breaks. We have seen that in Canada. I would like to highlight the great people of Calgary Forest Lawn. I have one of the most diverse ridings. There are 108 languages spoken in my riding. In fact, there is a strip of land called International Avenue. It should literally be the Canadian dream where anyone who wanted to would be able to open a business on that strip of land.

However, today, after eight years of the Liberal-NDP government, it has become an absolute nightmare for newcomers in my riding because of high interest rates caused by those deficits, this job-killing carbon tax, and all the other spending the government has done to make life more expensive and unlivable for them. We need to get this country back on track.

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, it is always interesting listening to Conservative members talk about Canada's economy. It is as though there is a dark cloud covering the chamber when a Conservative wants to talk about the Canadian economy. Ultimately, they love using the word “broken” and saying that everything is broken.

I am here to say that there is a great deal of light, opportunities and hope for Canada, especially if we do a comparison with other countries in the world, those in the G7 or G20, on the major indicators. Whether it is interest rates, inflation rates or employment rates, we will find that Canada is always around the top three or four in those categories most of the time, including today. However, this does not mean that we sit back and not do anything because Canada, in comparison to many of those G20 countries, is doing well.

We have seen a Prime Minister and a government that has made a commitment to continue to work at building Canada's middle class and those aspiring to be a part of it. We want an economy that works for all Canadians from coast to coast to coast, which is why we brought forward Bill C-56, the affordable housing and groceries legislation. We know that it is important, as a government, to be there in tangible ways for Canadians, and we have demonstrated that from day one.

I have often made reference to one of the very first actions we took to support Canada's middle class, which was a tax break a number of years ago. That was the first real, substantial piece of legislation that we had brought forward. We took it from there, going through the pandemic and the many supports that we put into place to have the backs of Canadians, to get out of the pandemic and tom build our economy. Because of the supports that we put in place during the pandemic, we have rebounded, in good part, out of the recovery. I would suggest that we are second to no other country in the world when we take a look at the million-plus jobs that have been created based on a population base of 40 million people.

When the Conservatives criss-cross the country, and their leader criss-crosses the country saying that Canada is broken, they are misleading Canadians. Yes, there are areas of concern, which is why we bring forward legislation like this. It is legislation that ultimately the Conservative Party does not even want to see passed and that they will filibuster, yet it is there to support Canadians in real and tangible ways.

Bill C-56 deals with the Competition Bureau by giving it more power. I would think that members would want to see that. For example, when we talk about grocery prices, what Canada needs more than anything else is competition. One of the biggest arguments against buyouts of large corporations is the efficiency rule where a corporation will say that, for efficiency purposes, it wants to consume another business, which shrinks the competition. A tangible example of this is when Loblaw bought up Shoppers, which was back when Stephen Harper was the then prime minister. The leader of the Conservative Party today sat in cabinet when Shoppers was acquired by Loblaws. What did they do back then? They did absolutely nothing. That has had more of an impact on the price of groceries than anything the Conservative leader has actually said in the last year-plus to try to bring down prices.

● (1235)

I suggest that his actions back in the day when he was a cabinet minister speak louder on the policies that concern grocery prices than his actions now as leader of the official opposition. Maybe that is one of the reasons the Conservatives are filibustering. This legislation helps deal with that. We realize that when Loblaw acquired Shoppers, it was not necessarily to the advantage of consumers.

It is one of the reasons I take a great sense of pride when grocery stores open in my riding, in particular smaller stores. There is a diversity of grocery stores, whether they are of Punjabi heritage, which provide wonderful foods and a wide variety of products, or the Water Plant stores in the Filipino community in Winnipeg North, and they provide competition. We can see how the bigger chains start selling some of those products. Why is that? It is because of competition. That is why the minister called upon the big five grocery chains to come to Ottawa to justify their prices. That is why the standing committee pushes the issue.

We recognize that housing is an important issue. This legislation would help deal with housing. Prior to the Prime Minister and government, the federal government's role in the last 30 years has been negligible on housing. The housing strategy that was adopted by the government is historic. We would have to go back 50 or 60-plus years to see the kind of investment this government has put in housing.

We finally have a government, under the Prime Minister's leadership, that is taking a proactive approach to deal with housing in Canada. Never before have we seen a government as proactive, but it takes more than just the Government of Canada. We need provinces, municipalities and other stakeholders to also get on board and work together. The Conservative leader says we need to beat them over the head with a stick. We say we need to work with municipalities and the different levels of government to increase housing supply in the non-profit sector.

Whether it is legislation or budgetary measures, over the years we have consistently seen a government that is committed to developing, promoting and encouraging supports for housing. We saw in the fall economic statement, for example, that the Deputy Prime Minister brought forward a proposal to expand non-profit housing co-ops, a true alternative to condominiums, single detached homes, duplexes or townhouses. It is an alternative to being a tenant, and it is highly successful.

The government understands the importance of jobs. Show me a government that has done more to create new jobs, on a per capita basis, than the Government of Canada has provided, in working with Canadians, since the pandemic. If we want to talk prepandemic, over a million jobs were created between 2016 and the pandemic getting under way. This government understands that we have to build infrastructure, support Canadians and create jobs. By doing that, we are supporting Canada's middle class and those aspiring to be part of it and providing the programs that are so critically important to support those in need. We also increase affordability, where we can, by bringing in programs such as child care for $10 a day and programs for people with disabilities, significantly increasing OAS for seniors over 75 years of age, investing in things such as CPP years ago so that, when people retire, they will have more money in their retirement.

This is a government and a Prime Minister that care about the lives of Canadians from coast to coast to coast, and our budgetary and legislative actions clearly demonstrate that.

● (1240)

Mr. Scot Davidson (York—Simcoe, CPC): Madam Speaker, let us talk about affordability. It is unbelievable. My riding of York—Simcoe is now classified as Toronto. There has been a second carve-out on the carbon tax. They have actually rolled the census data back to 2016 to help other ridings. My riding of York—Simcoe, which is home to first nations and farmers, is clearly rural, and it is not going to get the doubling of the rural top-up for the carbon tax.

It takes an hour and 45 minutes for someone from the Chippewas of Georgina Island to get to the hospital in my rural riding, and this government now looks at us as Toronto of all things.

I wonder if the member for Winnipeg North could comment on that.

Mr. Kevin Lamoureux: Madam Speaker, within the legislation, what we have been talking a great deal about is the purpose-built rental housing, which takes away the GST in order to get more homes built. It is such a good idea that the Province of Ontario, the member's own province, and Premier Doug Ford, who, by the way, is not a Liberal, are on board with it. He is doing the same thing now.

It is only the Conservatives who have this preoccupation. There was a time, before they were taken over by the far-right, when they understood the benefits of a price on pollution. Now they are fixated on wanting to get rid of the price on pollution at all costs. There will be a substantial cost for that reckless policy that is coming out from the leader of the Conservative Party, in dealing with getting rid of the price on pollution. Shame on them for being so—

● (1245)

[*Translation*]

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): The hon. member for Abitibi—Témiscamingue.

Mr. Sébastien Lemire (Abitibi—Témiscamingue, BQ): Madam Speaker, I thank my colleague from Winnipeg North for his contribution to the debate on Bill C-56. However, I would like to put myself in his shoes.

The member works tirelessly, and the work that he does is vitally important, but is seems to me that he occasionally has to defend the indefensible. Would he not like to have a little help from his colleagues, especially on something like Bill C-56 on housing? Small steps have been taken, but the real big step was supposed to be in the economic statement. However, real measures will not be implemented until 2025. We will likely have a new government by then. His government will not implement any actual solutions for housing until the end of its mandate.

Does that tick my colleague off a little, given that he steps up to the plate day in and day out to defend this government's integrity?

[*English*]

Mr. Kevin Lamoureux: Madam Speaker, whether the member likes it or not, the facts speak volumes in terms of reality. This government has invested more in housing than any other government in the history of Canada, period, end of story.

At the end of the day, we need to work and have continued to work with provinces and municipalities. We understand and appreciate that in order to maximize the efforts of good, sound public policy, it always works better if there are stakeholders also at the table making sure that we are maximizing the investments of tax dollars and trying to make a positive outcome for Canadians from coast to coast to coast.

Other provinces do get involved, along with municipalities, because they recognize that there is a great deal of resources coming from Ottawa today—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): The hon. member for Elmwood—Transcona.

Mr. Daniel Blaikie (Elmwood—Transcona, NDP): Madam Speaker, of course, the best help that Canadians can get with affordability challenges is a well-paying job.

We know there are 605 media workers who are going to be out of a job because Metroland Media decided that it would shut down 70 print community papers.

One of the things that the government did, and I am quite happy to say worked with opposition parties to get it done, was Bill C-228, to provide pension protection in the case of bankruptcy.

However, the NDP had also negotiated amendments to protect the severance pay of workers. The member for Winnipeg North struck those provisions out on a point of order and then later denied unanimous consent in order to get them put back in.

I am wondering if the member wants to take this opportunity to talk to those 605 families and explain why he wanted to put the predators at Metroland Media ahead of those families getting their severance.

Mr. Kevin Lamoureux: Madam Speaker, it is unfortunate that the member for Elmwood—Transcona would try to misrepresent the actions that I take inside the House, especially on this matter.

I have been a passionate, strong advocate for workers in many different ways. When members bring forward unanimous consent motions before the House, there is an expectation that they would have had consensus. I take my role very seriously on the floor of the House. Unless I have been assured of consensus, I will always say no. Negotiations need to take place. To try to exaggerate something, I find, is very irresponsible.

I, too, was frustrated, for example, when I tried to get unanimous consent to recognize the 1919 general strike in Winnipeg and its 100th anniversary.

[*Translation*]

Mr. Sébastien Lemire (Abitibi—Témiscamingue, BQ): Madam Speaker, I rise today to speak to Bill C-56, which has just passed an important milestone. However, it is with a touch of disappointment that we note that a super closure motion has prevented the Standing Committee on Finance, and perhaps even the Standing Committee on Industry and Technology, from doing the work that needed to be done in terms of competition. I will come back to that later. In less than 24 hours, the committee determined the fate of changes that could have been made to Bill C-56 even though there were plenty of good recommendations from committee members and witnesses.

I would remind the House that Bill C-56 was the first bill to be announced, even before Parliament resumed in September. There was not enough time to consider the government's proposed solution and the expert testimony. Only one solution was put forward in part 1 of Bill C-56, namely an amendment to the Excise Tax Act to include a 5% GST rebate, based on the sale price, to builders of rental apartment buildings.

I want to talk about housing because there has been a housing crisis in my riding for about 15 years now. The same goes for a number of my colleagues. Federal programs just do not work for the regions, especially not for my region, Abitibi—Témiscamingue.

Let us do the math. Building a four-unit development in a city like Ville-Marie in Témiscamingue, population 2,600, is like building 2,000 units in Calgary. Building eight units in La Sarre is like building 1,800 in Montreal. Building 16 in Amos is like building 1,200 in Winnipeg. Building 32 in Rouyn-Noranda is like building 2,250 in Toronto.

Unfortunately, our programs are not designed for regional realities. Fixing the labour shortage means fixing it in the regions and dealing with the public land use issue. More often than not, federal programs focus on impressive stats, but when they fall short of their targets because there is no new housing in the regions, what is the point of the targets? This is simple math, and it may seem simplistic, but it reflects the importance of adapting programs to suit projects in remote regions, including Canada Mortgage and Housing Corporation programs.

Our region has been experiencing a housing shortage for the past 15 years. Since 2005, Abitibi—Témiscamingue has reached a healthy balance, a 3% vacancy rate, only once. The vacancy rate has been below 1% seven times. In the last three years, the average price of a two-bedroom apartment has risen from $681 in October 2019 to $845 in October 2022. That is a 25% increase. On top of that, the average price of a two-bedroom built since the early 2000s is $1,250. Without a doubt, this reflects the higher construction costs in the regions.

It is even worse with the construction that is going on right now. When I look at the government's current measures, I do not see anything that will reverse this trend, other than an empty promise for something that could happen down the road under the next government. It definitely will not happen before 2025. I do like the parenthetical interest in co-operative housing. However, those measures are also being put off until later.

It is also important to remember that, in the regions, particularly in Abitibi—Témiscamingue, the majority of our buildings were constructed between between 1960 and 1980. This means that affordable housing, including the units owned by co-operatives, needs to be renovated. Adapting programs would also help provide our regions, including mine, with the tools they need to become economic drivers. It also means addressing concerns about housing, particularly in terms of upgrading. In that regard, I am still waiting for help and for tools from the government.

Part 2 of Bill C-56 deals with amendments to the Competition Act.

The government could have gone even further and used this as an opportunity to consider modernizing the Competition Act, a crucial subject that was addressed in exceptional circumstances. The committee's recent study took place in an unfortunate context marked by the adoption of a super closure motion in the House the week before, as stipulated in Government Business No. 30. The government deprived itself of the opportunity to consider recommendations from the Standing Committee on Industry and Technology, comments gathered in the competition commissioner's consultations and from his excellent brief. This is really unfortunate. The Bloc Québécois has been calling for a comprehensive reform of the Competition Act for years, if not a decade.

● (1250)

It is essential to note the challenges that the Standing Committee on Finance has faced. A single meeting with witnesses was held on the evening of November 27 and lasted until 10 p.m. Members were required to present their amendments, translated and certified by legal clerks, by noon the next day. That tight schedule hampered us from conducting a serious study and properly taking into account the witnesses' observations. Unfortunately, the substitution of Parliament for backroom discussions in the negotiations on closure between the government and the NDP contributed to this situation. Democracy did not benefit from all this.

Despite these challenges, the committee managed to adopt a few important amendments, including some that are worth mentioning. First, we chose to considerably increase the monetary value of fines for serious offences under the Competition Act. The cap is $25 million for a first offence, with harsher penalties for repeat offenders. The purpose is to deter reprehensible behaviour. The existing fines were often perceived as the cost of doing business and did not really have a deterrent effect.

Second, we adjusted the legal threshold required to find a major player guilty of abusing a dominant position to reduce competition. At present, there is a dual burden of proof: It has to be shown that an illegal act was committed and also that this act effectively reduced competition. However, proving that something reduced competition is often difficult, rendering the Competition Act rather ineffective. Our amendment to the bill makes it possible to go after questionable conglomerates and simplifies the law and the prosecution process by making this component more effective.

Third, we gave the commissioner of competition the power to independently undertake a market study. Although the existing act gave the commissioner extensive powers during such studies, he could only carry them out at the request of the Minister of Industry. As we know, the minister is a very busy man, so it is just as well to enable the commissioner to do this himself. Going forward, he will be able to carry out studies more independently, strengthening his ability to proactively monitor and regulate the market.

Lastly, the Bloc Québécois introduced an important amendment that targets the adverse effect that a lack of competition can have on consumers. It is crucial that major players be prohibited from taking advantage of their dominant position or quasi-monopoly over a market, so we can prevent consumers from being exploited through predatory pricing. At present, the Competition Act targets the source of the lack of competition without directly tackling its harmful effects on consumers. Abuses committed over the years, enabled by a lack of regulation and a law that was clearly biased toward industry concentration, left the government indifferent. In committee, this crucial Bloc Québécois amendment aimed to fix this flaw and was adopted unanimously.

This also applies to housing. Unfortunately, for too long, there has been little to no oversight. We have seen very shady conglomerates take over affordable housing that may have been in need of renovation and turn it into unaffordable housing. There have been examples of this in my region and in big cities. That is what helped kill affordable housing, especially in the rental market. It is just as well that the bill tackles this.

There has been a laissez-faire attitude about housing, the oil industry, banks and telecoms for a very long time. This is partly why prices have increased so much.

In conclusion, even though the process was marred by unusual time constraints, the amendments we made to the Competition Act are a step toward more effective regulation that is adapted to current market realities. We hope that these changes will help promote healthier competition, deter illegal practices, and protect consumers' interests.

Nevertheless, I urge the government to give us the opportunity to do what we so desperately want, which is to thoroughly update the Competition Act over the coming year, rather slip it into a mammoth bill. While we are at it, can we overhaul the Copyright Act, too, as well as the many others that fall within the Minister of Industry's purview?

● (1255)

[*English*]

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, on purpose-built housing, I indicated that within government policy, we have seen general acceptance by the provinces. I know the province of Ontario is one and that other provinces are looking at it. This initiative in itself will see thousands of new homes built by us working with the private sector in providing this type of support.

I wonder if the member could provide his thoughts on that. I am not too sure whether Quebec has taken up the challenge that other provinces have in getting rid of sales tax to ensure there will be more purpose-built rentals.

● (1300)

[*Translation*]

Mr. Sébastien Lemire: Madam Speaker, under the circumstances, every step taken to improve access to housing and lower costs is positive. The problem is that my colleague says that no government has ever invested as much as the one in power now. Of course costs are increasing in real terms, but the federal government has not invested in social housing in years. That is one of the major problems.

The Liberals say they are investing historic amounts, specifically mentioning an agreement from 2016, but it took four years for Quebec to receive its due. Unfortunately, COVD-19 came along, sending costs soaring. Quebec was not able to build nearly as much housing as Ontario, partly because of how much time the federal government wasted trying to reach an agreement with it. The recent negotiations also stalled. The Bloc Québécois had to intervene to speed up agreements between the parties.

I would like to mention something. This morning I had a meeting with the Association of Consulting Engineering Companies of Quebec. It had a particularly interesting recommendation. The association recommends creating a national infrastructure assessment that would develop a long-term strategy to determine communities' infrastructure needs. Why does the government not have this long-term vision?

We need to review the funding and renew it quickly to see what happens by the spring of 2024. Predictability is what the industry is asking for, and I support that request.

Mr. Daniel Blaikie (Elmwood—Transcona, NDP): Madam Speaker, the fall economic statement made announcements about social housing but did not really provide any money.

I would like my colleague to tell us a little about the problems we can expect to see as we wait for the new funding to become available not this year, but down the road, in 2025.

Mr. Sébastien Lemire: Madam Speaker, I wish I had the same speaking chops as my colleague from Longueuil—Saint-Hubert to properly express how angry I feel over the lack of action. In my riding of Abitibi—Témiscamingue, visible homelessness is increasing steadily as a direct result of the government's inaction.

There is one thing that can justify an economic statement. It has to solve a problem that did not exist six months ago, or the whole exercise is potentially a waste of time. The housing crisis is happening at a time when homelessness is becoming increasingly visible in places where it never existed before. That is one consequence.

No solutions are being offered before 2025. By 2025, the Liberal government could be gone, in its current form at least. I find it repugnant that it delays and offloads its responsibilities onto others when it has the means to act. This fake austerity will take a toll on the most vulnerable among us, and I refuse to accept that.

[*English*]

Ms. Bonita Zarrillo (Port Moody—Coquitlam, NDP): Madam Speaker, I very much appreciate listening to speeches from the member. The member always makes good comments about how the Liberal government has the opportunity to spend money and decides not to.

I wonder if the member would like to expand a bit on how the government not investing in housing and not spending the money it has for housing have manifested on the streets and in our communities.

[*Translation*]

Mr. Sébastien Lemire: Madam Speaker, I do not get the feeling that the Liberal government is inclined to be a responsible government. It is more inclined to be a political government that is scared as it watches the Conservatives rise in the polls and it figures it will create a sort of false austerity. In any case, it will be able to control Parliament for another two years before the next general election, probably, with the complicity of the NDP. Then it will hand out some pre-election gifts when the time comes.

To me, it is not a matter of means, it is a matter of cynicism.

[*English*]

Mr. Daniel Blaikie (Elmwood—Transcona, NDP): Madam Speaker, I am pleased to rise at report stage to speak to Bill C-56.

Some important amendments were made at the committee stage that were based on the good work of the NDP leader in his own private member's bill in respect of the Competition Bureau. Those amendments give the commissioner the ability to launch their own investigations without having to get permission from the minister first. They also raise the penalties and make it easier to show an abuse of market dominance.

Right now we have to show there is a dominant market player, that harm has been done by their activity and that they had the intention to do harm. Getting all of those three things together is often very difficult, particularly in respect of intent, because traditionally the commissioner has not had the authority to subpoena documents. Lowering the threshold so that we have to prove market dominance and either harm or intent means that it will be a lot easier to address anti-competitive behaviour. Of course, there are a number of amendments, again based on the work of the NDP leader in his private member's bill, that will be coming to the budget implementation act, Bill C-59, which was tabled not long ago.

The New Democrats are very proud to be working at improving the powers of the Competition Bureau to try to protect Canadian consumers by ensuring that in markets where competition is possible, companies are not abusing their market position to reduce competition.

We are likewise pleased to move forward with getting rid of the GST on purpose-built rentals. We know there is a housing crisis. I have talked a lot about it in this place. Many others are talking about it today, and rightly so. One component of that crisis and addressing it is to get more purpose-built rentals of any kind, including market rentals. However, what we have said all along, and ever since Bill C-56 was tabled, is that it has to be accompanied by direct action to build more non-market housing, because that is housing that can be built and sustained at rents that people can truly afford.

There are Canadians who have the means to pay for market housing but are struggling to find it. There can be a salutary effect on the price of rent, driving it down if there is more supply than there currently is. We know it is a pretty tight market. However, we cannot kid ourselves into thinking that this alone will be sufficient to address the housing crisis.

That is why direct investment in non-market housing is so important. It is why in the budget implementation act that was tabled recently, Bill C-59, which I just made reference to, there is also an amendment that would see the GST rebate extended to co-operatives, which were left out of the government's initial drafting of Bill C-56, something that New Democrats think is very important.

I also want to take a moment to express our disappointment. I had a conversation with the Minister of Finance when she appeared at the finance committee on Bill C-56. The government still refuses to extend the GST rebate to projects with secured funding under the national housing strategy that are led by non-profits, whether through the co-investment fund, the housing accelerator fund or any number of funds available. We would encourage the government to do this as soon as possible by whatever legislative vehicle is required. We are certainly willing to help pass it.

We know there are non-profit organizations that started things out when they looked promising and interest rates were low. They secured government funding and were going to build either affordable or social housing in their community. Then interest rates started going up, and the projects were put on hold because those organizations no longer had the money they needed to make those projects a success. Our point is that, even though those projects may have started prior to September 14, if the GST rebate is extended to those projects, it could be the difference they need to accommodate higher interest rates and nevertheless be able to proceed with projects and get those units built.

We know the government is out there talking about those units as part of the total number that its national housing strategy has funded, even as it knows those units have stalled out and even as there is a mechanism, the extension of the GST rebate to those projects, to get them to move ahead. I think it is inappropriate for the government to be out there talking about those units as if they are going to get built, when it knows full well that the changes in the interest rate have meant those projects are not going to go ahead, even as it refused NDP calls to extend the GST rebate to those projects so they could move forward in any event.

● (1305)

Unfortunately quite unlike the Liberals, New Democrats are not satisfied with the announcement. What we are looking for, and this is the metric of success for New Democrats, is when a family moves into a new unit. The fact that the announcement was made just means the work has begun; it does not mean the work has ended. If we are going to follow through on units that have already been announced, it means extending the GST rebate to non-profit organizations' projects that started in advance of September 14 so that real families can move into units they can afford. That is really important, and I exhort the government again to take another look at it. It is a drop in the bucket cost-wise, and it is going to mean a lot of units getting built for families.

It is an example of the kind of intentional policy we need to adopt and that is absent not only in the Liberals' national housing strategy but also in the Conservative leader's so-called plan for housing. He attached affordability conditions in his plan to the GST rebate. It is not that New Democrats do not endorse affordability, but one of the challenges of that is the GST rebate is meant to make market projects pencil out. If we give a GST rebate but attach an affordability criterion that also stresses the budget, then we end up with the net effect that developers who want to build market rental housing do not necessarily see the financial incentive to move ahead, because the GST rebate is offset by the fact that they have to offer more affordable rent.

That is why we think it is acceptable to have a blanket GST rebate for purpose-built rentals, because it is going to incent market housing, but we need a real policy that addresses the need for properly affordable non-market housing and social housing. That is simply not in the leader of the Conservative Party's plan. It is just not there. He talks about releasing federal land in order to build more housing, but he does not talk about requiring any of that housing to be affordable or social housing.

We talk about the major levers the federal government has at its disposal beyond its ability to tax and spend. One of the big levers the federal government has in order to incent more affordable and social housing is land. Attaching conditions to the release of land is one of the best things a federal government can do from the point of view of developing more affordable and social housing.

This is remarkable, particularly in light of the controversy around another Conservative government, Doug Ford's government in Ontario, taking rules off the development of the Greenbelt, which his government subsequently had to put back on because it was scandalous and because developers were set to get rich, including a lot of developers who showed up at the wedding of the premier's daughter. None of that looked right from the outside, and apparently now not from the inside either.

That is why it is really important, when we talk about freeing up land for development, that the process is transparent and that there is a lot of accountability in that process. If part of the idea of releasing federal land, as it should be, is to create more affordable and social housing, it is all the more important that this be talked about up front, which is not done in the Conservative leader's bill.

What is talked about in the Conservative leader's bill is withdrawing resources from municipalities that do not meet an Ottawa-set target. That is problematic because we know Canada has many different kinds of communities with many different kinds of needs. I, for one, do not believe as a rule that people who are elected to public office at the municipal level are plotting how to kill development in their community. It is quite the opposite. They are looking at how to develop, whether it is businesses, the housing needed for businesses or the underlying infrastructure, such as waste water, sewage and electricity. These are all things people need access to in order to build housing on any particular lot. The idea that municipalities already struggling to get enough housing built in their own community need their resources cut, which will make it harder for them to build the underlying infrastructure that nobody else is going to pay for, makes absolutely no sense. It is a recipe for failure.

What can we do? We can pass Bill C-56. We can extend the GST rebate not only to co-ops but to non-profits with units that were already in the pipeline before this announcement, and a lot more. Hopefully I will get a chance to speak to some of those things during questions and answers.

● (1310)

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, I appreciate a number of the member's comments, but I would re-emphasize that the federal government has agreements with jurisdictions that see substantial numbers. In Manitoba alone, we are probably talking, and this is my best guesstimate, somewhere in the neighbourhood of 20,000-plus non-profit housing units that the Government of Canada subsidizes.

Over the years, we have seen ongoing support to expand non-profits. I think of Habitat for Humanity, which has done a lot of fine work. The best program that has been administered in the last 20 years is not a provincial, federal or municipal government when it comes to infill housing; it is Habitat for Humanity as a stakeholder. It builds new homes that are affordable. I do not think we give some of those outside stakeholders enough credit for the fine work they do.

I wonder if my colleague could provide his thoughts on the fine work Habitat, which I believe is headquartered on Archibald Street in the member's riding, does and the critical role stakeholders play, not just a specific level of government. We need to look at the larger picture.

● (1315)

Mr. Daniel Blaikie: Madam Speaker, there are certainly a lot of actors in the space, and Habitat for Humanity is an excellent one. I am very proud of the work that it has done in the communities I represent.

However, the number that really captures the national housing strategy is Steve Pomeroy's. He says that for every one unit of affordable housing that the government is getting built, we are losing 15. Part of that is because of the end of operating grants. In fact, in 2015, the Liberals ran on the renewal of those operating grants and then did nothing. That is why so many buildings with affordable units are coming on the market. They cannot keep their business model going without the federal operating grant.

The government has not been there to renew those grants. Therefore, those volunteers are saying that the numbers do not work anymore and they do not know what to do. Some are developing new business models and others are putting the building on the market. That is when we see REITs and big corporate landlords come in, buy up those buildings with the cash they have on hand, renovate the building, evict the existing tenants and then invite those who can pay more in rent into those buildings. This is why the national housing strategy has been just an abject failure. In respect to creating more affordable and social housing units, we are losing more than we are building.

[*Translation*]

Mr. Denis Trudel (Longueuil—Saint-Hubert, BQ): Madam Speaker, I thank my colleague for talking about social and affordable housing, but also about the Liberals' national strategy that is not working.

There is a very good article by Radio-Canada journalist Laurence Martin about the strategy on surplus federal lands. Land acquisition is a major problem. The federal government should make these lands available to builders, but especially to housing non-profits, to have social and affordable housing built.

We found out that there is land here in Ottawa that was declared surplus in 2015, but housing will not be built there until 2038. On that land, there will finally be housing 23 years after it was declared surplus. That is totally outrageous.

Does my colleague have any thoughts on this?

Mr. Daniel Blaikie: Madam Speaker, I would say that we need a federal government that has a lot more ambition when it comes to housing.

Earlier, the member for Winnipeg North mentioned that the absolute dollar amount spent by the federal government was higher than ever. However, if we subtract the billions of dollars that the government said that the provinces would also contribute and adjust those amounts to inflation, it is simply not true that the current government is spending more than ever.

If members want to know whether what I am saying is true, they can simply look at what the federal government did in the 1950s when it truly focused on the construction of housing in a way that we are not seeing today.

[*English*]

Mr. Frank Caputo (Kamloops—Thompson—Cariboo, CPC): Madam Speaker, it is a pleasure to rise on behalf of the people of Kamloops—Thompson—Cariboo. I listened to my colleague's speech. One of the things he has highlighted is the fact that, as parliamentarians, we should not be satisfied based on announcements and photo ops.

The government has really functioned based on messaging, messaging is everything. I know that whenever we see a natural disaster in my home province of British Columbia, the government is right there to take the photo, but when it comes to providing results, it is nowhere to be found. The same thing can be said about building houses.

I wonder if the member can expand on the fact that photo ops just are not getting it done right now.

Mr. Daniel Blaikie: Madam Speaker, photo ops never get the job done when it comes to the construction of housing. We have had a lot of ministerial photo ops from Liberal and Conservative governments over the last 30 years, none of which make up for the cancellation of the national housing strategy and the end of the operating grants that sustained so much affordable and social housing in Canada up to today. It is why we need a new version of that to ensure we are not just building at the high end of the housing spectrum, but that people are getting non-market housing as well.

● (1320)

Ms. Bonita Zarrillo (Port Moody—Coquitlam, NDP): Madam Speaker, I want to thank my colleague, the member for Elmwood—Transcona, for really shining a light on the fact that this government and the governments before it, both Liberals and Conservatives, walked away from those operating agreements. We knew for 10 years that those operating agreements would expire for social housing, community by community, and the governments did nothing. Therefore, I thank the member for sharing that.

Today, we are debating what is called the housing and groceries act, but I would like to call it the “finally addressing corporate greed act”, because this is about the fact that corporate greed has been unchecked through a series of Conservative and Liberal governments. It is now at the point where it is harming people and communities to epic proportions.

No longer is every Canadian able to have the essentials of life, starting with having a roof over their heads and food to eat. It is unbelievable that in Canada not every Canadian has a roof over his or her head or food to eat. In Ottawa today, I walked along Sparks Street. We know people are living on Sparks Street and Bank Street. We know them by name. It is unacceptable that they are having to live out in the cold, in the rain, their sleeping bag covered with a tarp, yet the Liberals, who have the power to change this, walk by them every day.

I want to share a story from my community, the juxtaposition of the massive numbers of luxury condos that are going up and at the same time an increase in the number of community organizations that are trying to feed the community through food rescue and recovery.

Food rescue and recovery is a brand new area since COVID. It came out of the need during COVID-19. When shutdowns first came, a lot of food inventory was in restaurants, airline food that needed to be redistributed and all kinds of redistribution. The community groups came to help. They jumped into action. They came to redistribute that food. It is has remained because the grocery chain CEOs saw an opportunity window.

There was a conversation happening in the media that input costs, transportation costs and all kinds of other costs were increasing, so consumers were ready to accept some increases in the cost of goods. However, the grocery chain CEOs saw an opportunity to skyrocket food prices and to take advantage of consumers. In that window since COVID, food prices have become out of control and food rescue and redistribution has become a necessary staple in our community.

Just last week, I was visiting some of those food rescue and food recovery organizations in my community. One of them is operated out of the legion. People were lined up looking for a healthy meal and food for their kids. Kids, seniors and families were all looking for an opportunity to have a healthy meal. The Liberal government has put this burden on communities and community groups with no resources.

At this point in time, I want to talk about an organization in my community that feeds over 3,000 people a month,. It has over 130 volunteers. The logistics of this are very difficult, but the volunteers do it because they love the community and they know people need it.

They applied for the local food infrastructure fund. Someone from the ministry came out, saw the organization and said, yes, that these were the amounts of the grants. The local food infrastructure fund recently responded to the community group, saying that while the program received a high volume of excellent project applications, only $10 million were available for the whole country. As a result, only a portion of project applications submitted would be given consideration for funding and that the group's project application would not be considered.

● (1325)

These are on-the-ground community groups, feeding 3,000 people a month, and the government has a $10-million program for all these kinds of organizations across the country. This is totally unacceptable and it is totally not enough resources.

Just this week, HUMA is doing a study on volunteerism. Those volunteer community groups, including food banks, are saying they are desperately in need of infrastructure money to keep these programs growing. I say this against the backdrop of the fall economic statement and the fact that the Competition Tribunal payment alone in regard to the Rogers-Shaw merger is $13 million, more than what the small groups in our communities that are keeping people fed get.

I will go back to the corporate greed that is harming people in our community and talk about persons with disabilities.

CEOs of corporations not paying their fair share of taxes is hurting persons with disabilities. Right now, the Liberal government is holding back on the Canada disability benefit. It is law. The whole House has said that it wants the Canada disability benefit out in our communities. The government is holding back by not taxing superwealthy corporations efficiently so we can fund people living on disability pensions who are making less than $10,000 a year. Women with disabilities are disproportionately affected by this, with 58% living on less than $10,000 a year. This month is 16 days of activism against gender-based violence. We know that women are already at a higher risk of gender-based violence, and women with disabilities even more so. This is is totally unacceptable.

I recently sponsored a petition from a disability community. The government filed its response yesterday, and it is not going to do anything about an emergency response benefit for persons with disabilities. There was an article in the newspaper last week about a gentleman who lives on the island. His family was renovicted, demovicted, from its accessible, affordable home. The family members are living in a hotel, using 84% of their income, because it is the only place they can get right now to have a roof over their heads. Those are the choices that the Liberal government has made.

This all relates to Bill C-56. The NDP is going to support bill because it makes some small movements toward addressing corporate greed in the grocery industry and in housing, but it is definitely not enough.

I also want to take this opportunity to talk about why it is not enough and why corporate greed has really taken over the essentials and the necessities of life.

I think about the fact that the Liberal government and the Conservative governments before walked away from social housing. What did they do? They commoditized housing. They made it okay for large corporations and real estate investment trusts to buy up apartment buildings and then chop them up into shares, or units, and trade them on the stock exchange. They actually made housing a commodity, literally allowing it to be traded on the stock exchange. Those are the reasons our rents are going up in our communities. It costs $2,600 a month for a one bedroom in my community.

Again, the NDP is supporting the bill. We are happy to see movement, although it is very small. I just want to point out that Liberal and Conservative governments have, for 30 years, let corporate greed go unchecked. It is literally starving out our communities.

The member for Burnaby South has an additional bill, Bill C-352, to address this corporate greed. I hope everyone in the House takes this very seriously. People are living on the street without food.

● (1330)

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, I think it is important to mention what we often hear from the Conservative Party and even at times from New Democrats. They seem to want to blame 100% of the problems of society on the federal government. When we talk about people living on the streets, there are politicians of all political stripes who have a great deal of sympathy and want to see action. That is the reason the federal government has invested historic amounts of money in housing.

I was a provincial politician for almost 20 years. Provincial governments, not to mention municipal governments, also have to step up to the plate. There are other stakeholders.

The federal government has a role to play. We are investing in playing a leadership role.

At the very least, would the member not acknowledge that other levels of government also have to step up?

Ms. Bonita Zarrillo: Madam Speaker, I would just reiterate that the local food infrastructure fund is severely underfunded. It is oversubscribed, just like the rapid housing initiative.

Will the government go back and increase the local food infrastructure fund so that projects can be funded so that people do not have to go hungry in Canada?

Ms. Michelle Ferreri (Peterborough—Kawartha, CPC): Madam Speaker, I hear my colleague advocate heavily. As we know, there is a massive homelessness crisis. In the housing minister's own province, the main city has 30 tent encampments.

If the member is such an advocate, why does her party continue to be in a coalition agreement that will not allow the Liberal government to get out of the way so that we can help people?

I think that people at home do not understand that the NDP is supposed to stand up for these people, and yet it continues to prop up the Liberal government and the Prime Minister by staying in a coalition. Why?

Ms. Bonita Zarrillo: Madam Speaker, first of all, it is not "these people". It is people who live in Canada that we are standing up for.

I would say that the Conservatives are refining their social media game more than they are bringing forward policies.

I think about how successful the NDP has been for Canadians in these past two years. It is because of the NDP that we are debating this today. If it were not for the NDP, we would not be looking at the corporate greed act. We would still be dealing with exorbitant grocery prices and no GST exemption on purpose-built rental housing.

[*Translation*]

Ms. Sylvie Bérubé (Abitibi—Baie-James—Nunavik—Eeyou, BQ): Madam Speaker, as my colleague said, if nothing is done to reverse this trend, then we are headed for a real national tragedy. We need to triple the proportion of rental housing in new builds. It is important to note that the bill does not provide any details about what types of buildings or housing units are eligible for the rebate or about whether those housing units need to have affordability requirements.

What is the government waiting for? When will it take action and help Quebeckers and Canadians?

[*English*]

Ms. Bonita Zarrillo: Madam Speaker, I really wish I knew what the Liberal government was waiting for, especially as it relates to the Canada disability benefit, because we know that persons with disabilities are highly at risk.

I want to talk a little bit about indigenous communities as well and the lack of indigenous housing and infrastructure. My colleague from Nunavut has stood up many times to talk about the hundreds of millions of dollars of infrastructure gap around housing up in Nunavut and indigenous housing.

I want to talk about the 16 days of activism for gender-based violence. My colleague, the member for Nunavut, has talked about how this is so negatively impacting women who are in abusive homes and have nowhere to go.

This government has no excuse not to be investing in Canadians.

● (1335)

Mr. Frank Caputo (Kamloops—Thompson—Cariboo, CPC): Madam Speaker, it is always a pleasure to rise on behalf of the people from Kamloops—Thompson—Cariboo, although today, I do rise with a very heavy heart.

First, I want to begin by recognizing a tragic motor vehicle accident in Kamloops—Thompson—Cariboo that took the life of Owyn McInnis. He perished a few days ago. He was a very young man, in his early twenties, engaged to be married. He was from Guelph, Ontario. He was a member of the TRU, Thompson Rivers University WolfPack volleyball team, who was travelling with others from the team. It is just a tragic situation.

May perpetual light shine upon him. I offer his family, loved ones, friends and the TRU community my deepest condolences.

I also want to recognize his teammate, Riley Brinnen, a former resident of Kelowna, who was also on the WolfPack volleyball team. I have read that he has a severe spinal injury. I am not sure about the prognosis. I wish to send him and his loved ones my best wishes for him onward to a speedy recovery.

Owen Waterhouse is another TRU volleyball player, who is also from Kelowna, British Columbia. I just read that Mr. Waterhouse remains in a coma in critical condition.

Again, I extend my deepest condolences to all impacted and those from the Thompson Rivers University community.

There is so much we could discuss here as we dive into the contents of Bill C-56. I often think about the price of housing. I remember when I first got out of law school, my wife and I were saddled with what, back then, seemed like insurmountable loans, probably about $100,000. We thought about how we were going to make it. There is this perception among some people that the moment one becomes a lawyer, one makes a ton of money. That just was not the case. It is still not the case.

I remember being stretched very thin to buy our first home. We had to balance that with a car payment, because our cars were on their last legs. We bought a house for about $350,000. We would think to ourselves how we were going to make it through. It was not going to be easy. That same house today would sell for $700,000, with the lion's share of the increase of the price of that house falling during the past eight years of the Liberal government and more recently the Liberal-NDP government.

Housing has been an unmitigated failure when it comes to this government. What I see in my area of Kamloops—Thompson—Cariboo is a lack of investment in infrastructure. We have learned that the Liberal government talks a wonderful game. We have wonderful places in my riding, beautiful areas of Kamloops—Thompson—Cariboo that simply do not have the infrastructure to build.

One of the things I am trying to do in north Thompson in my riding is to bring in natural gas and high-speed Internet. There are companies that would love to expand, especially in the industrial area, and they do not have the places to build or the places to manufacture. If only they had natural gas, they could actually come and build factories or manufacturing operations. We do not see the government doing any of that. It is doing none of it.

The Liberals wants to focus where they think they are going to get votes. That is not what a government is supposed to do. It is either a government to all or a government to nobody. This is precisely why the Liberals had a carve-out, which we just learned about a couple of weeks ago, because the Atlantic provinces voted enough Liberals to be at the table. If only we had voted enough Liberals. Perhaps if I were a Liberal, there would be natural gas funded to those areas, and there would be more natural gas and more high-speed Internet.

● (1340)

People should not be punished because they do not vote Liberal. The Liberal government, unfortunately, has been a government to a few. Now, to top it off, it is refusing to give the same carve-out to people, like people in my riding, who heat their houses with propane. Propane is incredibly expensive. They do not have the option for natural gas, and yet they are still paying a punishing carbon tax, and the government does not seem to care. This is a key issue, because the infrastructure is just not there and housing is at a critical threshold.

There is something that the housing minister and the Prime Minister repeatedly say. If we listen to them when they speak about housing, they frequently say, “We are going to”, “We have just announced” or “We are partnering with.” What we do not hear at all is, “We have done” or “We have completed.” We never hear that, unless it is something about the future, where they will say that they have completed an agreement to do something or that they are going to do it.

Why is it that we do not see results? We saw a cabinet shuffle, and it was obvious the government came out of the summer break and looked at the polls and said, “Boy, housing is a big issue. We better start getting those photo ops.” This is a government that does not govern based on what is good for the people. It governs based on what message it thinks the people want to hear.

I referenced in a question earlier that the government is so quick to get there for photo ops. With any natural disaster, it is there, but what about after a natural disaster when there needs to be rebuilding? What about when we are dealing with displaced people? Where is the government then? Nobody is around for photo ops. That is emblematic of how the government deals with things. We do not need photo ops. We need actual results.

Complicating matters when it comes to housing is the fact that we have mortgage rates that are substantially higher. When the Prime Minister was speaking to a reporter years ago, I believe he said, “Glen, mortgage rates are at an all-time low. Borrow as you see fit.” He said to borrow, borrow, borrow, and people did. Why? People listen to their leaders, so they borrowed and borrowed.

Like me, perhaps their mortgage is coming due. My mortgage is due in 2024. I was recently doing the calculations, and I am going to pay just under a thousand dollars more for my mortgage. I am going to have to write that into a budget. There are a lot of people who do not have the fortune I do to be able to absorb that. That is incredibly problematic, and yet day after day interest rates have skyrocketed, perhaps not as high as we have had them historically, but we did not have housing prices that were this high historically. However, when it comes to a confidence motion, the NDP members vote time and time again to support the government.

If one listens in question period, one would think members of the NDP were diametrically opposed to the government when it comes to housing, yet when the time comes to either close debate or to vote against the government, the NDP will always stand with the government. This is utterly perplexing. I do not understand how a party that is so focused can do this.

I heard my colleague from Coquitlam—Port Coquitlam speak with great passion about helping the poor, about seeing tent cities and how bad the Liberals have failed, and yet when it comes down to a confidence measure the next time, members of the NDP will stand and support the government. If they want to get things done, they should stop supporting the government. Then we may see things actually change. At the end of the day, people are tired of seeing tent cities. I have seen tent cities proliferate in my riding and throughout Canada. That is not good for anybody.

In closing, I want to recognize one final person, and that is Thomas McInulty, Sr. I read he recently passed away. I went to school with his granddaughter. The family has played a significant role in the community of Kamloops, within Kamloops—Thompson—Cariboo. My deepest condolences go to his family. May perpetual light shine upon him.

● (1345)

Mr. Larry Maguire (Brandon—Souris, CPC): Madam Speaker, I would just like to ask my colleague a question in regard to the issues of housing that he was talking about and the fact that there are so many areas of the country that still need a tremendous amount of affordable housing.

Can he elaborate more on the kind of issues that the leader of the Conservative Party, the member for Carleton, was talking about?

Mr. Frank Caputo: Madam Speaker, it is always so great to hear my colleague from Brandon—Souris. It feels as though we should be listening to some sort of radio program with him on it, because he has such a great voice.

One of the things I admire about the leader of the Conservative Party is that he is not afraid to tell us what he believes in. One of the things I think is quite appropriate is that he says and has said to municipalities that if they get the job done, they will get more money. It is kind of like saying there will be a reward. One thing we see with the NDP-Liberal government is that the NDP will say that even if people do not get things done, it will still support them. The leader of the Conservatives is saying that if people are not going to get things done, they are not going to get their fat bonuses and they are not going to get the money. If they get things done, they will get even more money. I believe that is the right way to go.

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, earlier today, I asked the finance critic a question in regard to the general pattern and direction of the Conservative Party today. We talk about the MAGA Conservatives. They have adopted a pattern of Donald Trump. It has infiltrated the leader of the Conservative Party's office, with the degree to which they want to filibuster legislation and, in some ways, even vote against important legislation like the Canada-Ukraine trade agreement.

Is the member not concerned that the Conservative Party seems to be more interested in catering to the right than in coming up with good, sound policy?

Mr. Frank Caputo: Madam Speaker, that is a terrible question.

At the end of the day, we are looking at this and wondering why the Liberal government is attempting to divide in order to distract.

We are here to talk about housing. Here we are with the Liberals' NDP colleagues, and they want to talk about anything other than the unmitigated disaster of their housing program that has resulted in house prices doubling. It used to be that someone could get a mortgage for 25 years. Now, it takes 25 years to even save up for a down payment, and the Liberals want to talk about American politics.

We are not the United States; we are the Conservative Party of Canada and we will bring home lower prices.

[*Translation*]

Mrs. Julie Vignola (Beauport—Limoilou, BQ): Madam Speaker, housing is extremely important, especially during winter, when being homeless or kicked out of one's home for any reason becomes a health hazard.

Builders are now faced with mortgage rates so high that they cannot build housing and still turn a reasonable profit. Some even have to close down construction sites. Across Quebec, companies have to stop and wait before they can continue to build housing.

I want to ask my colleague if he is seeing the same thing in his riding. What are the solutions to help these construction companies out?

Mr. Frank Caputo: Madam Speaker, I thank my colleague for her question.

[*English*]

The question as I understand it is about interest rates and how volatility and high interest rates are preventing development. I actually had a discussion with a developer about this very issue and about the difficulties that come with CMHC and not approving financing on time. We have talked about one thing that the leader of the official opposition would do: stop giving out fat bonuses to people who are not getting their approvals done on time, or within 60 days, which is the benchmark. Yes, it is certainly an issue.

One thing I have noticed is that the government wants developers to take on all of the risk. They are unafraid to tell developers to take on all of the risk, yet the volatility with interest rates is so significant that it is essentially making it an untenable situation where developers may not make any money, which makes people afraid to build.

● (1350)

Mr. Mark Gerretsen (Kingston and the Islands, Lib.): Madam Speaker, I rise today to speak to Bill C-56. I think the manner in which the bill has had to be dealt with regarding the programming motion is unfortunate. It is a bill with targeted measures in it for Canadians. It is a bill that I believe the entire House supports. I know that Conservatives voted for it at a previous stage, and the member for Mission—Matsqui—Fraser Canyon stood up and said he supports the bill.

Conservatives have used multiple tactics to slow the bill down in moving along each step of the way, yet they say they support it. I find it really troubling that Conservatives know better than to vote against the bill, because they know it would have a meaningful impact for Canadians, yet that at the same time, they choose to drag it out, delay the vote and delay the actual measures' getting to Canadians. They support the measures but just do not want to see them get to Canadians, because that might make the government look like it is doing a good thing, and Conservatives could never allow something like that to occur, even though they clearly are in favour of the bill.

I find it very interesting that, for months, this has been the unfortunate reality of the bill. It was an extremely important measure by the Minister of Finance, if not the first measure, then one of the first introduced in the House when it resumed in September. It was tabled, and Conservatives continued to put forward speakers on the issue and then finally did vote in favour of it to go to committee, where there was a lot of discussion. We finally had to say that it was time to program it to get it back before the House so we could vote on it so people could get the measures, because it has been three months since it was introduced.

I find that extremely disingenuous. I think it feeds into the narrative of the question from the parliamentary secretary to the House leader a few moments ago when he asked why Conservatives are taking this approach, especially when it comes to something they believe in, support and recognize is so important for Canadians. It comes back to the core fundamental of the Conservative Party of Canada right now that the only thing that matters to it is to delay and to prevent the government from actually doing anything. It will use every procedural tactic to do that, as we have seen with a number of different issues, including the Canada-Ukraine free trade agreement that—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): The hon. member for Battle River—Crowfoot is rising on a point of order.

Mr. Damien Kurek: Madam Speaker, simply using as a reference some of the interventions that this very parliamentary secretary has made, I think it would incumbent upon the Chair to ensure that he maintains relevance in his remarks and stays within the realm—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): The hon. member has kept relevance. He is talking about the process, and we are not going to start a debate on this.

The hon. deputy House leader.

Mr. Mark Gerretsen: Madam Speaker, for the Canadians who may not pay a lot of attention to what goes on in the House, I will just explain what happened there.

I spoke about nothing but the bill and its relevance. Somebody in the back rooms of the Conservative caucus decided to send somebody in here because I was about to talk about the Canada-Ukraine free trade agreement. The member literally sat on the edge of his seat waiting for the word “Ukraine” to come out of my mouth. As soon as it did, he jumped up on a point of order as though to try to indicate there was no relevance. That is what is going on right now. That is where the Conservative Party of Canada is right now. That is how Conservatives feel about the issue. They are so afraid of Canadians' finding out where they stand on the Canada-Ukraine free trade agreement that they literally send people in here, when they see I have gotten up to speak, to sit on the edge of their seat waiting in anticipation for—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): The hon. member for Battle River—Crowfoot is rising on a point of order.

Mr. Damien Kurek: Madam Speaker, I find it somewhat disingenuous, using the member's word, that he would suggest that somehow Conservatives do not care about Ukraine, when, actually, the opposite is true. My point of order—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): We are not going to start a debate on this. I am going to let the hon. member finish his speech.

Mr. Damien Kurek: Madam Speaker, I rise on a point of order. The government House leader was warned about some of the absurd comparisons the Liberals are making regarding the issue. I would encourage you to remind the member not to allow his comments to devolve into the absurdity that she allowed herself to the other day during debate.

● (1355)

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): We are going to try to finish this before the beginning of Oral Questions.

The hon. deputy House leader.

Mr. Mark Gerretsen: Madam Speaker, talk about walking on eggshells. I have not even gotten to that point yet. The member is trying to predict where I am going in my speech and is rising on a point of order pre-emptively because he is afraid I am going to make a comparison between the approach of Russia and the approach of the Conservative Party of Canada. I have not even gotten to that yet. All I said was that the member was afraid I would do that. I did not even actually make the comparison.

Mr. Arpan Khanna: Madam Speaker, on a point of order, the comments coming from the member are absolutely ridiculous—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): I warned the member.

Mr. Arpan Khanna: Those comparisons are beneath this office. I understand he is going to lose his seat. There is a Tory gain happening in Kingston, but—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): Can we stop with the accusations and try to remain focused on the bill we are discussing at the moment?

Mr. Mark Gerretsen: Madam Speaker, I can tell we are in a position that makes the Conservatives feel very uncomfortable. Are we not? That is quite obvious based on what is going on from that side of the House.

However, I can focus my entire comments on the particular action that the Conservatives are doing right now. The measures in the bill are ones that the finance minister introduced in September. They are measures that the Conservatives voted in favour of at the time to send the bill to committee, but they still are in a position now where they are not even willing to let it move on. We had to get to the point where we had to program the bill because they are not interested in actually getting supports for Canadians, and they never have been as long as the current government has been around. All the Conservatives have been interested in are delay tactics and trying to prevent, in every possible way that they can, pieces of legislation from going forward, just to prevent the government from doing anything. The Conservatives are not even doing what they should be doing in the House, which is to try to hold the government accountable.

Mr. Damien Kurek: Madam Speaker, I rise on a point of order. It would bear mentioning that they cannot do indirectly what they are not allowed to do directly. Certainly, the many accusations that are being made in the somewhat indirect way that the member is impugning the integrity of—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): The hon. member is debating the bill in question, and I am going to let him finish.

The hon. deputy House leader.

Mr. Mark Gerretsen: Madam Speaker, maybe the member can familiarize himself with the rules so the next time he stands up he can actually reference what it is that I did that was against the rules, because he is not even doing that. He is just calling a point of order so he can ramble incoherently.

The reality is that the bill—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): The hon. member for Peterborough—Kawartha has a point of order.

Ms. Michelle Ferreri: Madam Speaker, I would ask for unanimous consent. These are the points of order that the member for Kingston and the Islands has called, just in this session of Parliament alone—

Some hon. members: No.

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): The hon. member for Kingston and the Islands.

Mr. Mark Gerretsen: Madam Speaker, actually, could the member bring those to me? I feel so incredibly proud to represent a community and be able to tell constituents that I have stood up on their behalf so many times in the House of Commons. If the member would like to perhaps do a joint householder with me for our communities, to compare how many times I have stood up versus how many times she has stood up, it would be a great opportunity for us to celebrate how we are able to represent our constituents. I get a kick out of it every time when Conservatives stand up and say that so-and-so has spoken so many times—

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): The hon. member for Peterborough—Kawartha is rising on a point of order.

Ms. Michelle Ferreri: Madam Speaker, it sounds like the member opposite would love it if I tabled this, so again I will ask for unanimous consent—

Some hon. members: No.

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): I imagine the hon. member would like to receive the document hand to hand.

The hon. member for Kingston and the Islands.

Mr. Mark Gerretsen: Madam Speaker, I am pretty sure I heard some of the member's own colleagues yell "no" there.

It really comes down to a bill that has substantive measures in it for Canadians. It is a bill that Conservatives voted to send to committee. It is a bill that the whole House seems to be supportive of in terms of the measures contained within it. Even the Conservatives know better than to try to vote against this one, so what do they do? They put absolutely every delay tactic possible in place to prevent the bill from actually moving forward and getting supports to Canadians. This way, the Conservatives can say they were supportive of it the whole time, even though they allowed absolutely no efforts to actually get it through the process. Once again, we are now in a position where we have had to program this—

● (1400)

The Assistant Deputy Speaker (Mrs. Alexandra Mendès): The hon. member will be able to finish his speech after Oral Questions.

STATEMENTS BY MEMBERS

[*English*]

CARBON PRICING

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): Madam Speaker, President Zelenskyy gets it, the Prime Minister gets it, the countries of the European Union get it and Milton Friedman got it. A price on carbon is not just good environmental policy that will be responsible for up to one-third of Canada's emission reductions by 2030, but it is also good trade policy, especially for a trading nation such as Canada.

All member states of the European Union are part of the EU emissions trading system. Ukraine prices carbon too, because it wants to integrate into the EU market. The EU is implementing its carbon border adjustment tariff, which will penalize goods from countries that do not price carbon.

Why does the Leader of the Opposition want to shut Canadian companies out of the European market? Where is the common sense in that? Why does the Leader of the Opposition not get it? Canadians get it. They get that he is just not worth the risk.

* * *

CHRISTMAS GREETINGS

Mr. Blake Richards (Banff—Airdrie, CPC): Madam Speaker, Christmas is a time to give and share, and in my home communities, many volunteer organizations work tirelessly to make the season brighter for those in need.

From the Cochrane and Area Events Society to the Airdrie Food Bank, volunteers have been doing amazing work throughout the year, especially during this Christmas season. The Cochrane Activettes support families by ensuring they have food and other essential items. The Helping Hands Society of Cochrane and Area assists those who are struggling with housing and basic needs. The Airdrie 1st Club and Volunteer Airdrie work hard to ensure that families have access to necessities. Meanwhile, Meals on Wheels has been delivering meals to seniors who are unable to leave their homes, and the Banff and Bow Valley food banks have been providing support to all who need it. Volunteer Canmore and Volunteer Banff help support their communities as well.

GOVERNMENT ORDERS

[*English*]

AFFORDABLE HOUSING AND GROCERIES ACT

The House resumed consideration of Bill C-56, An Act to amend the Excise Tax Act and the Competition Act, as reported (with amendments) from the committee, and of the motions in Group No. 1.

Ms. Michelle Ferreri (Peterborough—Kawartha, CPC): Madam Speaker, it is always a true honour to stand in the House of Commons to speak on behalf of the best community in Canada, Peterborough—Kawartha.

After eight years of a Prime Minister who has recklessly spent taxpayer money, we have a cost of living crisis. If the economy does not work, then nothing works. Charities and social programs suffer, and everything we need to take care of our most vulnerable is no longer available.

Why are there tent cities across this country? Why are full-time employed nurses living in their cars? Why are seniors forced back to work? Why do we have the highest rate of food bank usage in history? Why are Canadians getting poorer? Why do we have the lowest GDP per capita growth rate since the Great Depression? It is because we have a Prime Minister who does not care about monetary policy. Those are his words, not mine.

This is basic Budgeting 101. Most kids can tell us that if we spend more money than we make, we are going to have a major problem. That is exactly what the Prime Minister has done. He did not understand what would happen if he borrowed gobs of money. He was warned many times, but, as we have seen over and over again, the Prime Minister refuses to listen to the people. He doubles down on policy that creates chaos and suffering. The Prime Minister promised everyone that interest rates would stay low for a long time.

Who remembers the exchange on CTV in 2020 with the Prime Minister? CTV's Glen McGregor said, “Future governments are going to have to carry that debt. The servicing costs on that are going to be very high.” The Prime Minister replied, “Sorry?” Glen McGregor responded, “The servicing cost on that debt that you are going to have to carry, that you're adding to right now. Right?” The Prime Minister said, “Interest rates are at historic lows, Glen.” Three years later, we are in a very serious situation.

The current housing minister is also on record telling Canadians that interest rates will stay low for a long time and not to worry. Surprise, just as Conservatives predicted, they did not; now we have chaos and suffering.

In order to understand how we got here, we need to understand why. What is the motivation of the Liberal-NDP government? It believes that government knows best and that it will take care of the people, that the people are not capable. Let us take the Liberals' favourite talking point, for example: child care. This is a classic example of a program that has created more losers than winners. The Liberals drove up inflation by overspending and borrowing gobs of money, which drove up the cost of living. What happened? That promised money to make child care more affordable became less valuable, because this is the cycle of overspending. Child care centres now need more and more money, because money is worth less. It is a vicious cycle, and we will never get out of debt. We will go further and further into debt.

Do members know that, right now, we are spending more on servicing our debt than we are on health care transfers in this country? It is wild that a government in charge of fiscal responsibility has not seen what it has been doing. It does not understand that when one spends more than one makes, one accrues debt. The government does not have money. It has Canadian taxpayers' money, and it can only make money by taxing people. That is what we have seen in this country. People's paycheques have decreased over and over again.

Because I am the critic for families, children and social development, I want to read an open letter by ADCO, which is the Association of Day Care Operators of Ontario. It really explains the ideology behind the government and why it is so important to understand this. The letter says, “The framers of the program,” referring to the $10-a-day child care, “seem to have a strong preference for building a government-run child care system, even if it means parents with young children have to work more hours so that they can pay higher taxes to cover the costs. The assumption seems to be that all children are better off in government-managed institutionalized care and that all parents can and should be employed full-time.”

● (1720)

This out-of-control spending has caused chaos in every sector of our country. As I have said, when the economy does not work, nothing works. However, we have a finance minister and Prime Minister who continually gaslight Canadians and tell them that they have never had it so good. Canadians are not stupid, but they are miserable.

I want to read some messages that have come through to me:

> Hi, Michelle...I'm a single mom of a 19 YO in college and a 15 YO in high school with no child support. I'm paying almost $1600 rent plus approx $1000 for utilities, car payment and insurances for a 3 bedroom townhouse in the “ghetto of Burlington”. As tenants move out, they are gutting the units, adding central air, stainless appliances and raising rents to over $2500. I work in healthcare and live basically cheque to cheque. I only buy groceries that are on sale or in the reduced bin. Thankfully I was gifted a large freezer and buy fresh items on sale and am able to freeze. I make a decent wage. I do not know how others do it making less than I do. Something needs to be done.

There is also this one:

> We bought our house six years ago and we have a variable mortgage, so we are already feeling the effects of the higher interest rates. Over the last year and a half, our mortgage has gone from $3400 a month to $5000. My husband and I both work full-time and we have two young kids. We have had to rent our basement in order to afford our mortgage increase. If even one single month goes by that we don't get the rent income, we will not make our mortgage. If our mortgage continues to rise, even with the rent income, we won't make our mortgage. It is extremely scary. Every time the interest rate rises, I wait for the letter in the mail to tell me how much higher my mortgage is going to be. It's terrifying and quite literally taking away from the quality of life that I can offer to my children.

That is the message I cannot say loud enough in this House: Our children are feeling the consequences of this.

I recently gave a talk about basic politics to grade 5 students. They are 10 years old. We did a mock House of Commons. It was very fun to get these kids engaged in politics. I said, "Okay, we get to decide what issue you guys want to debate. We will take a vote and do the majority."

Six kids raised their hand. Do members know what the number one issue was for every one of them? It was that everything is too pricey. They said their parents cannot afford gas, cannot afford food and cannot afford the mortgage.

This is the burden we put on our children when we do not put fiscal responsibility first and when we do not care about monetary policy. That is exactly what the Liberal Prime Minister has done, and it is hurting our most vulnerable. We can read any headline. Charities cannot make it happen anymore. Today is International Volunteer Day, but people cannot find volunteers because they cannot afford the gas to drive to volunteer. That is the reality of what we are living in this country.

We have put forth lots of solutions. I will be brief in what the solutions are, but the real solution has to come down to the fact that the government cannot tax the farmer who makes the food. Farmer Brown from Ontario phoned me this week. He said that he wanted me to tell the Prime Minister that the carbon tax will make everything cost more, that everything must go up in price. Whatever they spend to make the product, they have to get back when they sell it. Whatever amount the carbon tax is increased by, the price will have to go up that amount. They have to get that money back, and the only way to do that is to raise prices.

Farmer Brown gets it. Why does the Prime Minister not get it? We are long overdue for common sense, and Conservatives will bring it.

* * *

● (1725)

PRIVILEGE

AWARDING OF CONTRACT TO BOEING

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Mr. Speaker, I am rising to respond to a question of privilege raised by my hon. colleague from the Bloc Québécois respecting the procurement decision relating to the replacement of the Aurora aircraft.

First, I want to be clear that the government has not misled the House with respect to this matter. I will run through the chronology of events as articulated by the member for Saint-Hyacinthe—Bagot

to substantiate my assertion that the statements made in the House on this matter were accurate and truthful.

The decision of the government to award the contract for the replacement of the Aurora aircraft to Boeing was taken in the evening of November 28, well after the time allotted for Oral Questions. The member referred to statements made by the Parliamentary Secretary to the Minister of National Defence on November 24 and the response to the question on this matter by the Minister of Public Services and Procurement on November 28. Both of these responses were accurate at the time they were given because the government had not yet made its decision on this matter. As I stated earlier, the government's decision to award the contract to Boeing occurred well after question period on November 28.

The facts speak for themselves. Questions were asked about the matter before the government's decision had been made, and the answers reflect that. There are no grounds to find a prima facie question of privilege relating to this matter.

* * *

AFFORDABLE HOUSING AND GROCERIES ACT

The House resumed consideration of Bill C-56, An Act to amend the Excise Tax Act and the Competition Act, as reported (with amendment) from the committee, and of the motions in Group No. 1.

The Deputy Speaker: It being 5:30, pursuant to order made Thursday, November 23, it is my duty to interrupt the proceedings and put forthwith every question necessary to dispose of the report stage of the bill now before the House.

The question is on Motion No. 1.

If a member participating in person wishes that the motion be carried or carried on division, or if a member of a recognized party participating in person wishes to request a recorded division, I would invite them to rise and indicate it to the Chair.

● (1730)

[*Translation*]

Mr. Luc Berthold: Mr. Speaker, I request a recorded division.

[*English*]

The Deputy Speaker: The recorded division on the motion stands deferred.

[*Translation*]

The question is on Motion No. 2.

[*English*]

If a member participating in person wishes that the motion be carried or carried on division, or if a member of a recognized party participating in person wishes to request a recorded division, I would invite them to rise and indicate it to the Chair.

[*Translation*]

Mrs. Dominique Vien: Mr. Speaker, I request a recorded division.

[*English*]

The Deputy Speaker: The recorded division on the motion stands deferred.

[*Translation*]

The question is on Motion No. 3.

[*English*]

If a member participating in person wishes that the motion be carried or carried on division, or if a member of a recognized party participating in person wishes to request a recorded division, I would invite them to rise and indicate it to the Chair.

[*Translation*]

Mr. Jacques Gourde: Mr. Speaker, I request a recorded division.

[*English*]

The Deputy Speaker: The recorded division stands deferred.

Pursuant to order made Thursday, November 23, the House will now proceed to the taking of the deferred recorded divisions at report stage of the bill.

Call in the members.

● (1820)

(The House divided on Motion No. 1, which was negatived on the following division:)

(Division No. 471)

YEAS

Members

Aboultaif
Albas
Arnold
Barrett
Beaulieu
Berthold
Bezan
Blanchette-Joncas
Bragdon
Brock
Calkins
Carrie
Chambers
Cooper
Davidson
Desbiens
Doherty
Dreeshen
Epp
Falk (Provencher)
Ferreri
Fortin
Garon
Genuis
Gladu
Goodridge
Gray
Jeneroux
Khanna
Kmiec
Kramp-Neuman
Kusie
Lantsman
Lawrence
Lemire
Lewis (Essex)
Liepert
Lobb
Majumdar
Mazier
McLean
Moore
Morrison
Muys
Patzer
Pauzé
Perron
Poilievre
Redekopp
Richards
Rood
Scheer
Seeback
Shipley
Sinclair-Desgagné
Soroka
Ste-Marie
Strahl
Thériault
Thomas
Tolmie
Uppal
Vecchio
Vien
Vignola
Vis
Wagantall
Waugh
Williams
Zimmer– — 139

Aitchison
Allison
Baldinelli
Barsalou-Duval
Bergeron
Bérubé
Blanchet
Block
Brassard
Brunelle-Duceppe
Caputo
Chabot
Champoux
Dalton
DeBellefeuille
Desilets
Dowdall
Ellis
Falk (Battlefords—Lloydminster)
Fast
Findlay
Gallant
Généreux
Gill
Godin
Gourde
Hallan
Kelly
Kitchen
Kram
Kurek
Lake
Larouche
Lehoux
Leslie
Lewis (Haldimand—Norfolk)
Lloyd
Maguire
Martel
McCauley (Edmonton West)
Melillo
Morantz
Motz
Nater
Paul-Hus
Perkins
Plamondon
Rayes
Rempel Garner
Roberts
Ruff
Schmale
Shields
Simard
Small
Steinley
Stewart
Stubbs
Therrien
Tochor
Trudel
Van Popta
Vidal
Viersen
Villemure
Vuong
Warkentin
Webber
Williamson

NAYS

Members

Aldag
Ali
Anandasangaree
Arseneault
Atwin
Badawey
Baker
Battiste
Bendayan
Bibeau
Blaikie
Blaney
Boissonnault
Bradford
Cannings
Casey
Chahal
Chen
Collins (Hamilton East—Stoney Creek)
Cormier

Alghabra
Anand
Angus
Arya
Bachrach
Bains
Barron
Beech
Bennett
Bittle
Blair
Blois
Boulerice
Brière
Carr
Chagger
Chatel
Chiang
Collins (Victoria)
Coteau

Dabrusin	Davies
Desjarlais	Dhaliwal
Dhillon	Diab
Drouin	Dubourg
Duclos	Duguid
Ehsassi	El-Khoury
Erskine-Smith	Fillmore
Fisher	Fonseca
Fortier	Fragiskatos
Freeland	Fry
Gaheer	Gainey
Garrison	Gazan
Gerretsen	Gould
Green	Hajdu
Hanley	Hardie
Hepfner	Holland
Housefather	Hughes
Hussen	Hutchings
Iacono	Idlout
Ien	Jaczek
Johns	Joly
Jones	Jowhari
Julian	Kayabaga
Kelloway	Khera
Koutrakis	Kusmierczyk
Kwan	Lalonde
Lambropoulos	Lametti
Lamoureux	Lapointe
Lattanzio	Lauzon
Lebouthillier	Lightbound
Long	Longfield
Louis (Kitchener—Conestoga)	MacAulay (Cardigan)
MacDonald (Malpeque)	MacGregor
MacKinnon (Gatineau)	Maloney
Martinez Ferrada	Masse
Mathyssen	May (Cambridge)
McDonald (Avalon)	McKay
McKinnon (Coquitlam—Port Coquitlam)	McLeod
McPherson	Mendès
Mendicino	Miao
Miller	Morrice
Morrissey	Murray
Naqvi	Ng
Noormohamed	O'Connell
Oliphant	O'Regan
Petitpas Taylor	Powlowski
Robillard	Rodriguez
Rogers	Romanado
Rota	Sahota
Sajjan	Saks
Samson	Sarai
Scarpaleggia	Schiefke
Serré	Sgro
Shanahan	Sheehan
Sidhu (Brampton East)	Sidhu (Brampton South)
Singh	Sorbara
Sousa	St-Onge
Sudds	Tassi
Taylor Roy	Thompson
Trudeau	Turnbull
Valdez	Van Bynen
van Koeverden	Vandal
Vandenbeld	Virani
Weiler	Wilkinson
Yip	Zahid
Zarrillo	Zuberi– — 172

PAIRED

Members

Champagne	Chong
Damoff	Deltell
Duncan (Stormont—Dundas—South Glengarry)	Duncan (Etobicoke North)
Dzerowicz	Gaudreau
Guilbeault	McGuinty
Michaud	Normandin
Qualtrough	Savard-Tremblay– — 14

The Deputy Speaker: I declare Motion No. 1 defeated.

The next question is on Motion No. 2.

The hon. government whip.

[*Translation*]

Hon. Steven MacKinnon: Mr. Speaker, I believe if you seek it, you will find agreement to apply the results of the previous vote to this vote, with Liberal members voting against the motion.

[*English*]

Mr. Chris Warkentin: Mr. Speaker, the Conservatives agree to apply the vote, with the Conservatives voting yes.

[*Translation*]

Mrs. Claude DeBellefeuille: Mr. Speaker, the Bloc Québécois agrees to apply the vote and will be voting in favour of the motion.

[*English*]

Ms. Heather McPherson: Mr. Speaker, the New Democratic Party has agreed to apply the vote, and we will be voting no.

(The House divided on Motion No. 2, which was negatived on the following division:)

(Division No. 472)

YEAS

Members

Aboultaif	Aitchison
Albas	Allison
Arnold	Baldinelli
Barrett	Barsalou-Duval
Beaulieu	Bergeron
Berthold	Bérubé
Bezan	Blanchet
Blanchette-Joncas	Block
Bragdon	Brassard
Brock	Brunelle-Duceppe
Calkins	Caputo
Carrie	Chabot
Chambers	Champoux
Cooper	Dalton
Davidson	DeBellefeuille
Desbiens	Desilets
Doherty	Dowdall
Dreeshen	Ellis
Epp	Falk (Battlefords—Lloydminster)
Falk (Provencher)	Fast
Ferreri	Findlay
Fortin	Gallant
Garon	Généreux
Genuis	Gill
Gladu	Godin
Goodridge	Gourde
Gray	Hallan
Jeneroux	Kelly
Khanna	Kitchen
Kmiec	Kram
Kramp-Neuman	Kurek
Kusie	Lake
Lantsman	Larouche
Lawrence	Lehoux
Lemire	Leslie

Lewis (Essex)
Liepert
Lobb
Majumdar
Mazier
McLean
Moore
Morrison
Muys
Patzer
Pauzé
Perron
Poilievre
Rempel Garner
Roberts
Ruff
Schmale
Shields
Simard
Small
Steinley
Stewart
Stubbs
Therrien
Tochor
Trudel
Van Popta
Vidal
Viersen
Villemure
Wagantall
Waugh
Williams
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Lewis (Haldimand—Norfolk)
Lloyd
Maguire
Martel
McCauley (Edmonton West)
Melillo
Morantz
Motz
Nater
Paul-Hus
Perkins
Plamondon
Redekopp
Richards
Rood
Scheer
Seeback
Shipley
Sinclair-Desgagné
Soroka
Ste-Marie
Strahl
Thériault
Thomas
Tolmie
Uppal
Vecchio
Vien
Vignola
Vis
Warkentin
Webber
Williamson

NAYS

Members

Aldag
Ali
Anandasangaree
Arseneault
Atwin
Badawey
Baker
Battiste
Bendayan
Bibeau
Blaikie
Blaney
Boissonnault
Bradford
Cannings
Casey
Chahal
Chen
Collins (Hamilton East—Stoney Creek)
Cormier
Dabrusin
Desjarlais
Dhillon
Drouin
Duclos
Ehsassi
Erskine-Smith
Fisher
Fortier
Freeland
Gaheer
Garrison
Gerretsen
Green
Hanley

Alghabra
Anand
Angus
Arya
Bachrach
Bains
Barron
Beech
Bennett
Bittle
Blair
Blois
Boulerice
Brière
Carr
Chagger
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Coteau
Davies
Dhaliwal
Diab
Dubourg
Duguid
El-Khoury
Fillmore
Fonseca
Fragiskatos
Fry
Gainey
Gazan
Gould
Hajdu
Hardie

Hepfner
Housefather
Hussen
Iacono
Ien
Johns
Jones
Julian
Kelloway
Koutrakis
Kwan
Lambropoulos
Lamoureux
Lattanzio
Lebouthillier
Long
Louis (Kitchener—Conestoga)
MacDonald (Malpeque)
MacKinnon (Gatineau)
Martinez Ferrada
Mathyssen
McDonald (Avalon)
McKinnon (Coquitlam—Port Coquitlam)
McPherson
Mendicino
Miller
Murray
Ng
O'Connell
O'Regan
Powlowski
Rodriguez
Romanado
Sahota
Saks
Sarai
Schiefke
Sgro
Sheehan
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Sorbara
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Holland
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Hutchings
Idlout
Jaczek
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Kayabaga
Khera
Kusmierczyk
Lalonde
Lametti
Lapointe
Lauzon
Lightbound
Longfield
MacAulay (Cardigan)
MacGregor
Maloney
Masse
May (Cambridge)
McKay
McLeod
Mendès
Miao
Morrissey
Naqvi
Noormohamed
Oliphant
Petitpas Taylor
Robillard
Rogers
Rota
Sajjan
Samson
Scarpaleggia
Serré
Shanahan
Sidhu (Brampton East)
Singh
Sousa
Sudds
Taylor Roy
Trudeau
Valdez
van Koeverden
Vandenbeld
Weiler
Yip
Zarrillo

PAIRED

Members

Champagne
Damoff
Duncan (Stormont—Dundas—South Glengarry)
Dzerowicz
Guilbeault
Michaud
Qualtrough

Chong
Deltell
Duncan (Etobicoke North)
Gaudreau
McGuinty
Normandin
Savard-Tremblay– — 14

The Deputy Speaker: I declare Motion No. 2 defeated.

The next question is on Motion No. 3.

The hon. government whip.

[*Translation*]

Hon. Steven MacKinnon: Mr. Speaker, I believe if you seek it, you will find agreement to apply the results of the previous vote to this vote, with Liberal members voting in favour of the motion.

[*English*]

Mr. Chris Warkentin: Mr. Speaker, the Conservatives agree to apply the vote, with the Conservatives voting yes.

[*Translation*]

Mrs. Claude DeBellefeuille: Mr. Speaker, the Bloc Québécois agrees to apply the vote. We will be voting yes.

Ms. Heather McPherson: Mr. Speaker, the NDP agrees to apply the vote, and we will be voting yes.

[*English*]

Mr. Kevin Vuong: Mr. Speaker, I agree to apply the results of the previous vote, voting in favour.

(The House divided on Motion No. 3, which was agreed to on the following division:)

(Division No. 473)

YEAS

Members

Aboultaif
Albas
Alghabra
Allison
Anandasangaree
Arnold
Arya
Bachrach
Bains
Baldinelli
Barron
Battiste
Beech
Bennett
Berthold
Bezan
Bittle
Blair
Blanchette-Joncas
Block
Boissonnault
Bradford
Brassard
Brock
Calkins
Caputo
Carrie
Chabot
Chahal
Champoux
Chen
Collins (Hamilton East—Stoney Creek)
Cooper
Coteau
Dalton
Davies
Desbiens
Desjarlais
Dhillon
Doherty
Dreeshen
Dubourg
Duguid
El-Khoury
Epp
Falk (Battlefords—Lloydminster)
Fast
Fillmore
Fisher
Aitchison
Aldag
Ali
Anand
Angus
Arseneault
Atwin
Badawey
Baker
Barrett
Barsalou-Duval
Beaulieu
Bendayan
Bergeron
Bérubé
Bibeau
Blaikie
Blanchet
Blaney
Blois
Boulerice
Bragdon
Brière
Brunelle-Duceppe
Cannings
Carr
Casey
Chagger
Chambers
Chatel
Chiang
Collins (Victoria)
Cormier
Dabrusin
Davidson
DeBellefeuille
Desilets
Dhaliwal
Diab
Dowdall
Drouin
Duclos
Ehsassi
Ellis
Erskine-Smith
Falk (Provencher)
Ferreri
Findlay
Fonseca
Fortier
Fragiskatos
Fry
Gainey
Garon
Gazan
Genuis
Gill
Godin
Gould
Gray
Hajdu
Hanley
Hepfner
Housefather
Hussen
Iacono
Ien
Jeneroux
Joly
Jowhari
Kayabaga
Kelly
Khera
Kmiec
Kram
Kurek
Kusmierczyk
Lake
Lambropoulos
Lamoureux
Lapointe
Lattanzio
Lawrence
Lehoux
Leslie
Lewis (Haldimand—Norfolk)
Lightbound
Lobb
Longfield
MacAulay (Cardigan)
MacGregor
Maguire
Maloney
Martinez Ferrada
Mathyssen
Mazier
McDonald (Avalon)
McKinnon (Coquitlam—Port Coquitlam)
McLeod
Melillo
Mendicino
Miller
Morantz
Morrissey
Murray
Naqvi
Ng
O'Connell
O'Regan
Paul-Hus
Perkins
Petitpas Taylor
Poilievre
Redekopp
Richards
Robillard
Rogers
Rood
Ruff
Sajjan
Samson
Scarpaleggia
Fortin
Freeland
Gaheer
Gallant
Garrison
Généreux
Gerretsen
Gladu
Goodridge
Gourde
Green
Hallan
Hardie
Holland
Hughes
Hutchings
Idlout
Jaczek
Johns
Jones
Julian
Kelloway
Khanna
Kitchen
Koutrakis
Kramp-Neuman
Kusie
Kwan
Lalonde
Lametti
Lantsman
Larouche
Lauzon
Lebouthillier
Lemire
Lewis (Essex)
Liepert
Lloyd
Long
Louis (Kitchener—Conestoga)
MacDonald (Malpeque)
MacKinnon (Gatineau)
Majumdar
Martel
Masse
May (Cambridge)
McCauley (Edmonton West)
McKay
McLean
McPherson
Mendès
Miao
Moore
Morrison
Motz
Muys
Nater
Noormohamed
Oliphant
Patzer
Pauzé
Perron
Plamondon
Powlowski
Rempel Garner
Roberts
Rodriguez
Romanado
Rota
Sahota
Saks
Sarai
Scheer

Schiefke
Seeback
Sgro
Sheehan
Shipley
Sidhu (Brampton South)
Sinclair-Desgagné
Small
Soroka
Steinley
Stewart
Strahl
Sudds
Taylor Roy
Therrien
Thompson
Tolmie
Trudel
Uppal
Van Bynen
Van Popta
Vandenbeld
Vidal
Viersen
Villemure
Vis
Wagantall
Waugh
Weiler
Williams
Yip
Zarrillo
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Schmale
Serré
Shanahan
Shields
Sidhu (Brampton East)
Simard
Singh
Sorbara
Sousa
Ste-Marie
St-Onge
Stubbs
Tassi
Thériault
Thomas
Tochor
Trudeau
Turnbull
Valdez
van Koeverden
Vandal
Vecchio
Vien
Vignola
Virani
Vuong
Warkentin
Webber
Wilkinson
Williamson
Zahid
Zimmer

NAYS

Nil

PAIRED

Members

Champagne
Damoff
Duncan (Stormont—Dundas—South Glengarry)
Dzerowicz
Guilbeault
Michaud
Qualtrough

Chong
Deltell
Duncan (Etobicoke North)
Gaudreau
McGuinty
Normandin
Savard-Tremblay– — 14

The Deputy Speaker: I declare Motion No. 3 carried.

Hon. Soraya Martinez Ferrada (for the Minister of Finance) moved that Bill C-56, An Act to amend the Excise Tax Act and the Competition Act, as amended be concurred in at report stage with a further amendment.

The Deputy Speaker: The question is on the motion.

[*Translation*]

Hon. Steven MacKinnon: Mr. Speaker, I believe if you seek it, you will find agreement to apply the results of the previous vote to this vote, with Liberal members voting in favour of the motion.

[*English*]

Mr. Chris Warkentin: Mr. Speaker, the Conservatives agrees to apply the vote, with Conservatives voting yes.

● (1825)

[*Translation*]

Mrs. Claude DeBellefeuille: Mr. Speaker, the Bloc Québécois agrees to apply the vote. We will be voting yes.

[*English*]

Ms. Heather McPherson: Mr. Speaker, the NDP agrees to apply the vote, and we will be voting yes.

Mr. Kevin Vuong: Mr. Speaker, I agree to apply the results of the previous vote, voting in favour.

(The House divided on the motion, which was agreed to on the following division:)

(Division No. 474)

YEAS

Members

Aboultaif
Albas
Alghabra
Allison
Anandasangaree
Arnold
Arya
Bachrach
Bains
Baldinelli
Barron
Battiste
Beech
Bennett
Berthold
Bezan
Bittle
Blair
Blanchette-Joncas
Block
Boissonnault
Bradford
Brassard
Brock
Calkins
Caputo
Carrie
Chabot
Chahal
Champoux
Chen
Collins (Hamilton East—Stoney Creek)
Cooper
Coteau
Dalton
Davies
Desbiens
Desjarlais
Dhillon
Doherty
Dreeshen
Dubourg
Duguid
El-Khoury
Epp
Falk (Battlefords—Lloydminster)
Fast
Fillmore
Fisher
Fortier
Fragiskatos
Fry
Gainey
Garon
Gazan
Genuis
Gill
Godin

Aitchison
Aldag
Ali
Anand
Angus
Arseneault
Atwin
Badawey
Baker
Barrett
Barsalou-Duval
Beaulieu
Bendayan
Bergeron
Bérubé
Bibeau
Blaikie
Blanchet
Blaney
Blois
Boulerice
Bragdon
Brière
Brunelle-Duceppe
Cannings
Carr
Casey
Chagger
Chambers
Chatel
Chiang
Collins (Victoria)
Cormier
Dabrusin
Davidson
DeBellefeuille
Desilets
Dhaliwal
Diab
Dowdall
Drouin
Duclos
Ehsassi
Ellis
Erskine-Smith
Falk (Provencher)
Ferreri
Findlay
Fonseca
Fortin
Freeland
Gaheer
Gallant
Garrison
Généreux
Gerretsen
Gladu
Goodridge

Gould	Gourde
Gray	Green
Hajdu	Hallan
Hanley	Hardie
Hepfner	Holland
Housefather	Hughes
Hussen	Hutchings
Iacono	Idlout
Ien	Jaczek
Jeneroux	Johns
Joly	Jones
Jowhari	Julian
Kayabaga	Kelloway
Kelly	Khanna
Khera	Kitchen
Kmiec	Koutrakis
Kram	Kramp-Neuman
Kurek	Kusie
Kusmierczyk	Kwan
Lake	Lalonde
Lambropoulos	Lametti
Lamoureux	Lantsman
Lapointe	Larouche
Lattanzio	Lauzon
Lawrence	Lebouthillier
Lehoux	Lemire
Leslie	Lewis (Essex)
Lewis (Haldimand—Norfolk)	Liepert
Lightbound	Lloyd
Lobb	Long
Longfield	Louis (Kitchener—Conestoga)
MacAulay (Cardigan)	MacDonald (Malpeque)
MacGregor	MacKinnon (Gatineau)
Maguire	Majumdar
Maloney	Martel
Martinez Ferrada	Masse
Mathyssen	May (Cambridge)
Mazier	McCauley (Edmonton West)
McDonald (Avalon)	McKay
McKinnon (Coquitlam—Port Coquitlam)	McLean
McLeod	McPherson
Melillo	Mendès
Mendicino	Miao
Miller	Moore
Morantz	Morrison
Morrissey	Motz
Murray	Muys
Naqvi	Nater
Ng	Noormohamed
O'Connell	Oliphant
O'Regan	Patzer
Paul-Hus	Pauzé
Perkins	Perron
Petitpas Taylor	Plamondon
Poilievre	Powlowski
Redekopp	Rempel Garner
Richards	Roberts
Robillard	Rodriguez
Rogers	Romanado
Rood	Rota
Ruff	Sahota
Sajjan	Saks
Samson	Sarai
Scarpaleggia	Scheer
Schiefke	Schmale
Seeback	Serré
Sgro	Shanahan
Sheehan	Shields
Shipley	Sidhu (Brampton East)
Sidhu (Brampton South)	Simard
Sinclair-Desgagné	Singh
Small	Sorbara
Soroka	Sousa
Steinley	Ste-Marie
Stewart	St-Onge
Strahl	Stubbs
Sudds	Tassi
Taylor Roy	Thériault
Therrien	Thomas
Thompson	Tochor
Tolmie	Trudeau
Trudel	Turnbull
Uppal	Valdez
Van Bynen	van Koeverden
Van Popta	Vandal
Vandenbeld	Vecchio
Vidal	Vien
Viersen	Vignola
Villemure	Virani
Vis	Vuong
Wagantall	Warkentin
Waugh	Webber
Weiler	Wilkinson
Williams	Williamson
Yip	Zahid
Zarrillo	Zimmer

Zuberi– — 309

NAYS

Nil

PAIRED

Members

Champagne	Chong
Damoff	Deltell
Duncan (Stormont—Dundas—South Glengarry)	Duncan (Etobicoke North)
Dzerowicz	Gaudreau
Guilbeault	McGuinty
Michaud	Normandin
Qualtrough	Savard-Tremblay– — 14

The Deputy Speaker: I declare the motion carried.

ROYAL ASSENT

[*English*]

The Deputy Speaker: I have the honour to inform the House that a communication has been received as follows:

Rideau Hall

Ottawa

December 5, 2023

Mr. Speaker,

I have the honour to inform you that the Right Honourable Mary May Simon, Governor General of Canada, signified royal assent by written declaration to the bill listed in the Schedule to this letter on the 5th day of December, 2023, at 5:11 p.m.

Yours sincerely,

Ken MacKillop

Secretary to the Governor General

The schedule indicates the bill assented to was Bill C-48, an act to amend the Criminal Code (bail reform).

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This is Exhibit “H” to the affidavit of **Mallory Kelly,** affirmed
remotely and stated as being located
in the city of Gatineau, in the province of Quebec,
before me at the city of Ottawa in the province of Ontario,on
July 4, 2025, in accordance with
O. Reg 431/20, Administering Oath or Declaration Remotely.

HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

44th PARLIAMENT, 1st SESSION

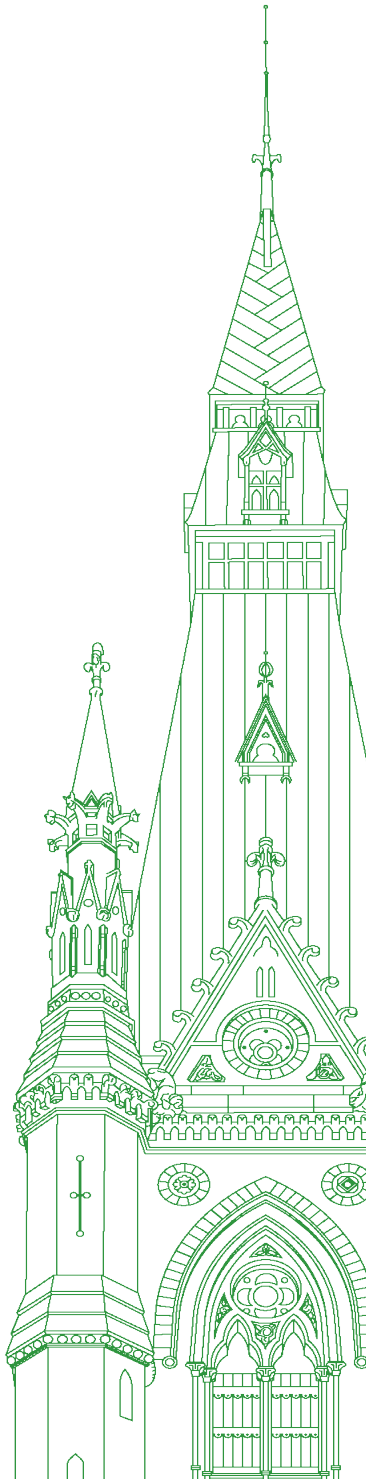
House of Commons Debates

Official Report

(Hansard)

Volume 151 No. 265

Monday, December 11, 2023



Speaker: The Honourable Greg Fergus

HOUSE OF COMMONS

Monday, December 11, 2023

The House met at 11 a.m.

Prayer

PRIVATE MEMBERS' BUSINESS

● (1100)

[*English*]

PROTECTING YOUNG PERSONS FROM EXPOSURE TO PORNOGRAPHY ACT

The House resumed from November 23 consideration of the motion that Bill S-210, An Act to restrict young persons' online access to sexually explicit material, be read the second time and referred to a committee.

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Mr. Speaker, it is always a pleasure to address the many different types of issues on the floor of the House, and today we do that through Bill S-210.

The title of the legislation, protecting young persons from exposure to pornography act, sends a fairly powerful message. There is absolutely no doubt about that. When I think about the community I represent and the experiences I have had as a parliamentarian over the years with regard to this very sensitive issue, I suggest that it goes beyond pornography. What we are really talking about is the safety of our children.

We all have serious concerns with how the Internet has evolved, with access to the Internet and with what our young people are seeing on the Internet. I believe there is an onus and responsibility on all of us in that respect, not only at the national level but also at the provincial level. Even in our school system, we all have a sense of responsibility, not to mention the parents and guardians of children. We all have a very important role in recognizing that which quite often causes harm to the minds of our children, either directly or indirectly, and the impact it has, putting a child on a specific course in life.

I do not say that lightly. When I look at the legislation and think of the intimate images on the Internet, all I need to do is look at some of the streaming services, whether it is Netflix, Crave or the many others out there. I suspect that if we were to apply what is being suggested in this legislation, it could prove to be somewhat problematic. I do not know to what degree the sponsor of the bill has thought through the legislation itself. The title is great. The concern is serious. We are all concerned about it. However, when I think of the impact that this has on our children, I believe it is not just through pornography. Cyber-bullying is very real. We often hear of very tragic stories where a young person is bullied through the Internet.

We need a holistic approach to what we can do as legislators to protect the best interests of children. In looking at the legislation, there seems to be a mix of criminal and administrative law. On the one hand we are saying it is illegal, giving the impression that criminal law needs to deal with it, yet there is an administrative penalty being applied if someone has fallen offside. I see that as a bit of an issue that needs to be resolved.

However, the biggest issue we need to look at is why the bill is fairly narrow in its application with respect to harms to children. I used the example of cyber-bullying. It seems to me that the department has been very proactive and busy on a number of fronts, whether it is with the online news legislation or other legislation. I know departments are currently in the process of looking at legislation to bring forward in the new year that would have a more holistic approach to dealing with things that impact or harm young people. I suspect that through the departments, with the amount of consultation that has been done and continues to be done on the issue, we will see more solid legislation being provided.

● (1105)

In the legislation being proposed, issues arise, such as concerns dealing with the Privacy Commissioner. It is easy for us to say we want to ensure that young people watching these programs are at the age of majority. It is a difficult thing to ultimately administer. I am not aware of a country that has been successful at doing so. I am not convinced that the legislation being proposed would be successful at doing that.

We can talk about all the horrific things that are going on in this world. I can tell members, when we talk about abusive language, that as politicians and women, we receive it every day. I do not think there is one member of Parliament in this place who has not received something that is absolutely horrifying and probably as a daily piece. If we want to hear from the Privacy Commissioner or from people who may be against this bill, then we should invite them to committee so it can hear that, not because Liberal members suggest their government is going to come up with legislation. I have watched the government come up with legislation that has sat there, stalled and done nothing. At the end of the day, 79% of women are facing violence. We know that one in two women are now experiencing domestic violence issues; it used to be one in three, under eight years ago. If we want to make a change, we need to do that, not suggest that the government will do something in the future. The Liberals have to get off that.

One woman is killed every two days. In Ontario alone, 62 women have been killed this year. If we allow those stats to continue, then members should just say that they are too partisan to vote for my bill, because that is exactly what I am seeing in this place. It is shameful.

This is about women. This is about ensuring that our children know how to play safely in the sandbox and understand what consent is. The things we know that children see when they are watching pornography blanks them and paralyzes their common sense. This bill is about common sense. It is about ensuring that our women are safe and that our children are not shown pornography at an early age. I do not care what they do when they are 18, but we should be protecting our children who are under the age of 18, women and vulnerable people. I do not see any support from the government, and I am devastated that it cannot see through that.

● (1140)

[*Translation*]

The Assistant Deputy Speaker (Mrs. Carol Hughes): The question is on the motion.

[*English*]

If a member participating in person wishes that the motion be carried or carried on division, or if a member of a recognized party participating in person wishes to request a recorded division, I would invite them to rise and indicate it to the Chair.

Mrs. Karen Vecchio: Madam Speaker, may I please have a recorded division?

[*Translation*]

The Assistant Deputy Speaker (Mrs. Carol Hughes): Pursuant to Standing Order 93, the recorded division stands deferred until Wednesday, December 13, 2023, at the expiry of the time provided for Oral Questions.

[*English*]

SITTING SUSPENDED

The Assistant Deputy Speaker (Mrs. Carol Hughes): It being 11:42 a.m., the House will suspend until noon.

(The sitting of the House was suspended at 11:42 a.m.)

SITTING RESUMED

(The House resumed at 12 p.m.)

GOVERNMENT ORDERS

● (1200)

[*English*]

AFFORDABLE HOUSING AND GROCERIES ACT

Hon. Lawrence MacAulay (for the Minister of Finance) moved that Bill C-56, An Act to amend the Excise Tax Act and the Competition Act, be read the third time and passed.

Mr. Ken Hardie (Fleetwood—Port Kells, Lib.): Madam Speaker, I appreciate the opportunity to present updates to Bill C-56, as they are timely and are required to better tackle the increasing cost of living by strengthening Canada's competition law. Two months ago, the government introduced Bill C-56, the affordable housing and groceries act. As members may recall, it was presented as a down payment of sorts on broader reform efforts with respect to Canada's competition law, with more comprehensive amendments to follow pursuant to the fall economic statement.

There has already been considerable debate in the chamber on this important piece of legislation, so let us talk about market studies, which are a key part of the legislation. Bill C-56 would provide the Competition Bureau with much-needed market study powers. It is important to ensure that the bureau would retain its independence while it does this. This is why we have supported an update that expressly confirms that the commissioner would be able to initiate a market study. This would remove any possible ambiguity over the market study process and would ensure that the bureau retains its discretion as an independent law enforcement agency. The update would ensure that the bureau would be able to look into specific market issues that it identifies as warranting scrutiny. The modification reflects the existing inquiry structure under the act, where it is already the case that either the commissioner or the minister may initiate an inquiry into potential anti-competitive activity, at which point the commissioner assumes full control of the investigation.

The government's proposal has taken these concerns into account by creating a framework that would balance the need for independence, the benefit of collecting information and the safeguards required to protect businesses and public funds. This is why both the commissioner and the minister would be required to consult before any study is undertaken. Requiring consultation would ensure that Canadians would benefit from a market study that has been thoroughly considered and appropriately tailored. The proposal made by the government to update Bill C-56's market study provisions would also keep the framework aligned with international precedents, with countries such as the United States, the United Kingdom and Australia all offering various forms of oversight to ensure appropriate use of market study power. Central to this is a test of the abuse of dominance.

In order to effectively address increasing prices, we need to enhance more than just the bureau's ability to conduct market studies. It is also important that the law be able to hold today's well-resourced and sophisticated businesses to account. In particular, we need to better address large players who, many believe, abuse their market power to shut out competition, especially given the clear concerns raised throughout our consultation about protecting competition in and contestability of these markets.

There are all different kinds of competition. We could talk about the fact that the big grocery chains have been recording record profits. One would think that if companies are posting record profits, they would be in a position to lower prices in order to attract more market share, but we did not see that, which suggests that something in the free market system is not working as we would normally expect it to work. There are other forms of potential anti-competitive behaviour. The ability to get shelf space in a major grocery store is a real competition, and the grocery stores have the hammer, to use a curling term, to find out who gets the market space. More and more, in my own personal observations when I go into grocery stores, I see the in-store brands taking more and more shelf space, with the other brands effectively being crowded out.

We believe there has been an unnecessarily high burden to prove behaviours clearly damaging to the public interest. This is out of line with our international partners, by the way, including the United States, the European Union and Australia. These jurisdictions better allocate the burden of proof and allow the agencies to act more easily where harm is apparent. This can include by requiring proof of intent or effects, but not necessarily both. The government's update to Bill C-56 would allow abuse of dominance to be established on the basis of either intent or effects, following the actions of a dominant firm. This would allow for more effective enforcement of the act where there is harmful conduct by large players. It would accomplish what the act is meant to do: stop big businesses from abusing their position to the detriment of competition. The detriment of competition is a detriment to the citizens of Canada.

● (1205)

As I noted before, the purpose of remedial orders is to protect competition in the market, not to punish its actors. Recognizing the lower burden involved in securing a remedial order that this change would bring about, the law would limit the remedy in these cases to a prohibition order. More serious remedies, such as monetary penalties and divestiture orders, would continue to require that both anti-competitive intent and effect be proven. This two-tiered approach would help guard against chilling, aggressive competition on the merits.

The government already took an important first step to address this concern by positioning penalties to serve as more effective compliance measures against abuse of dominance. We did this through the 2022 amendments to the Competition Act that removed an ineffective and outdated cap on monetary penalties. We introduced a more principled approach that could better accommodate larger volumes of commerce. Firms engaged in anti-competitive conduct can now face a penalty set at up to three times the benefit obtained for their anti-competitive conduct, to ensure that it is not profitable to them. While this was an important update to move away from the outdated and ineffective fixed penalty system, the old fixed amounts of $10 million, or $15 million for a second order, still remain in the law. This is in the event that they are still higher than the new proportionate maximum. However, it is possible that these fallback numbers could still be too low to act as a deterrent in certain cases where abuse by a big business is significant but caught early, and thus benefit derived from it is still modest.

As everyone here knows, competition is a driving force behind innovation and efficiency in our economy. It ensures a healthy, fair and vibrant marketplace. This is what the free market system is supposed to nurture and protect. Of course, competition is instrumental in bringing down prices. The fact that we have not seen prices fall in spite of the dominant profits being recorded by big grocery and some of the producers but that we see things like shrinkflation and skimpflation creeping in, where we are paying more for a smaller or inferior product, means that something is not working. When something is not working between what the market price is and what Canadians value, then we think it is the job of government to come in and close that gap.

For Canadians, the updates to Bill C-56 would mean more choice and better affordability. When someone needs to pay their bills, the exact motivations or mechanisms behind anti-competitive conduct do not matter. The effect of paying higher prices remains the same. What does matter is that businesses can be held to account. It matters that the law can impose meaningful penalties to ensure compliance. It matters that the Competition Bureau has the information it needs to study problems in the market.

The updates to Bill C-56 have been prioritized because they are the most directly related to addressing the issues identified in the grocery retail sectors. In fact, if we look at the whole landscape, particularly the concerns about inflation, the two big players to this point, at least in the retail market, have been gas, oil and diesel, and grocery. We have seen the market handle gas and oil, because the prices have been dropping at the pumps, which is a welcome sign for most Canadians, and probably one of the main reasons inflation in Canada has dropped to well less than half of what it was about a year ago. However, the thing to remember is that the provisions in Bill C-56 now, and what is coming, would apply to all sectors of the economy. As such, they would have a broad and, we hope, positive impact.

These changes would also be just the first steps in responding to the issues that have been identified by the stakeholders and the public in our comprehensive consultation on Canada's competition law. As the government announced in its fall economic statement, it intends to introduce significant additional amendments for the consideration of Parliamentarians in the coming weeks. Perhaps in the question period to come, some of the hon. members here in the chamber can suggest some additional amendments that we should consider in the coming weeks.

● (1210)

Mr. Ryan Williams (Bay of Quinte, CPC): Madam Speaker, competition is at the front and centre of everyone's minds right now, especially when Canadians are paying the highest grocery bills ever in the history of this nation. Even the report that came out last week said that grocery bills in 2024 are going to go up still another $700 per family, and they are struggling now just to buy the basic necessities.

Could the member please tell the House what exactly this bill would do to lower that $700 bill per family next year?

Mr. Ken Hardie: Madam Speaker, to be honest, the hon. member's question is key. The first thing we have to do is really get a firm grasp about what is causing prices to be so high. Hon. members would point to the carbon tax, but there was a report out of the University of Calgary that said, no, that was not really it.

We would point to the war between Ukraine and Russia, with Ukraine's exports of grains being greatly reduced because of the conflict, which has had a chilling effect on the availability of food around the world that then had an effect on prices. However, it is anti-competitive behaviour at a time when all of the major grocery chains are recording record profits that suggests there is something not working properly in the free market system. That, I think, is the purpose of the Competition Act amendments.

[*Translation*]

Mr. Luc Desilets (Rivière-des-Mille-Îles, BQ): Madam Speaker, I hope my colleagues in the House are having a good start to their week.

The Bloc Québécois supports Bill C-56, which would refund the GST to builders. What bothers me, however, is that Bill C-56 extends over seven years, so that means the rebate will be spread over seven years. In 2023, it is hard to foresee what is going to happen in a month or six months.

How can we be sure that a bill like this will be effective when it is going to extend over seven years and plenty of questions remain about the criteria for housing affordability and the desired potential reduction in rent?

I would like my colleague to comment on that.

[*English*]

Mr. Ken Hardie: Madam Speaker, the fact is that two years ago we would not have foreseen the situation we face today. The fact is that this is going to be long term. It will intentionally be a forever measure to deal with anti-competitive behaviour in whatever sector it arrives. It is necessary right now to deal with groceries. It will certainly be fundamental in dealing with some of the issues on housing, which the hon. member presented, but it is also going to have to be nimble.

Over the course of the years to come, the House will have to sit down and consider what is going on in the day, look at the Competition Act and make the changes necessary to ensure that basically everybody in the market is getting a fair shake. That means not only the producers, the grocery stores and the farmers, but also the consumers.

Mr. Alistair MacGregor (Cowichan—Malahat—Langford, NDP): Madam Speaker, very much related to Bill C-56 is the degree to which corporations are making record profits these days while everyone else seems to be suffering.

We recently had Galen Weston, chairman of Loblaw, appear before the Standing Committee on Agriculture and Agri-Food. His profits continue to rise while everyone else, all Canadian families, especially in my riding, are having to struggle and make do without. We see the same thing in the oil and gas sector. Over the last three years, its profits have gone up by over 1,000%. Mr. Weston thought that his executive compensation, which is 431 times the average salary of one of his workers, is a reasonable amount, and he could not tell the committee how many of his full-time workers have had to access a food bank to get by.

Conservatives do not want to talk about gross corporate profits these days, but I would like to hear from my hon. colleague what the Liberals are going to do to tackle this corporate culture in which corporations are continuing to make profits while everyone else suffers. We have had 40 years of too much corporate deference in this country. What are they going to do to start turning that around to make sure that the pendulum swings back in favour of Canadian families?

● (1215)

Mr. Ken Hardie: Madam Speaker, it is like an onion. There are layers upon layers of things that need to be considered. I would direct him and anybody witnessing this to the Roosevelt Institute in the United States, which is looking at a fundamental rebalancing of the wealth that comes out of the market. That rebalancing will be away from the CEOs, the boards and the executives and more towards the workers. We have seen this in the resurgence of union activity in the country, where unions are again having the opportunity and the ability to assert the rights of working people and skim maybe a little more off of the top of the executive compensation, which has really gone off the rails, I would say, in the last 20 to 30 years.

This Competition Act amendment is an iterative thing. It will be subject to amendments as we see opportunities to make things better for Canadians.

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, my question to the member concerns both legislative and budgetary measures. On the issue of the affordability of groceries, the government, in the last budget, came forward with a grocery rebate, which literally put cash in the pockets of somewhere in the neighbourhood of 11 million Canadians. I wonder if my colleague can provide his thoughts as to why that was an important thing to do for Canadians.

Mr. Ken Hardie: Madam Speaker, that question highlights two things. First of all, the strategy generally used by the government has been to ensure that the people who need the help get it. That is the reason, for instance, that we took the Canada child benefit away from millionaires and made it income tested so the people who actually needed the help got it.

In the case of the grocery rebate, that could not have come at a better time because things such as the Competition Act and this act are all meant to relieve the pressure on people and fix things that are wrong in the market system, and the grocery rebate was something that helped to bridge people earing very low incomes over the hump while all of these elements came together for Bill C-56. I would not discount, perhaps, the need to do that again at some point in the future. I would advocate for it as an individual MP. Of course, it is up to the government to assess the situation and move forward.

Bill C-56 is meant to solve the problem for which the grocery rebate was a band-aid on a wound that needs healing.

Mr. Kevin Lamoureux: Madam Speaker, part of the legislation deals with the purpose-built rentals in an attempt to see more rentals being constructed emphasize a good strong public policy. Now we are witnessing other provinces adopting the same approach where PST is also being exempted.

I wonder if my colleague could provide his thoughts on the federal government working along with the provincial government, with the federal government playing a leadership role, and on how it really makes a difference because we are going to see thousands of new units come on stream in the coming years. Could the member provide his thoughts on that aspect of the legislation and the impact it would have?

Mr. Ken Hardie: Madam Speaker, my experience with metro Vancouver's transportation authority revealed a number of issues connected to the hon. member's question.

Municipalities are stressed because, if, for instance, we build new high rises, as we will through our riding of Fleetwood—Port Kells along the new SkyTrain line, which the government is supporting with funding, the municipalities have to keep up with the water, sewer, all of the other infrastructure, schools, parks, recreation centres etc.

The pattern until now in metro Vancouver has been for new growth to pay for new growth. The could easily erase the benefits of the removal of the GST and the PST on purpose-built rental units. Therefore, with respect to the support that we are offering and want to offer, and in addition to the partnerships that we have with the provinces, we need to factor in our municipalities as partners as well because they are left holding a pretty large bill that also needs to be satisfied if this is going to be a success.

● (1220)

Mr. Ryan Williams (Bay of Quinte, CPC): Madam Speaker, before I begin, I would like to ask for unanimous consent to share my time with the hon. member for Lévis—Lotbinière.

[*Translation*]

The Assistant Deputy Speaker (Mrs. Carol Hughes): Does the hon. member have the unanimous consent of the House to split his time?

Hon. members Agreed.

[*English*]

Mr. Ryan Williams: Madam Speaker, I can speak for 20, 30 or 40 minutes about this important topic. I am happy to stand in the House today on the report stage of Bill C-56.

We have been talking about competition quite a bit in the House, including the need for competition and the lack of competition. We know that Canada has a competition problem. We see it in every sector that Canadians are a part of, including cell phones, banking, groceries, wireless and Internet. There is not really any sector in the Canadian economy that is not dominated by oligopolies and monopolies.

When this bill came along, we looked at it favourably because certain aspects were going to be improved. Mostly we looked at it favourably because there were Conservative aspects that were part of it, including my private member's bill, which was read into the act. Of course, I have a new private member's bill. We are all happy for that, and we are moving on.

The crux of the bill, the affordable housing and groceries act, is really anticlimactic in that, when this bill receives royal assent and becomes law, it will not really change the fact that Canadians are still paying the highest grocery fees and are in the worst housing crisis in this country's history. That is because the bill does promise to make some changes to the Competition Act. This bill would do some minor tinkering around the edges for what we need to have changed in the Competition Act. However, it does not do the real hard work. It does not have the courage to change the real things that need to happen to change competition in Canada.

The bill would enact Competition Act changes. It would certainly make some provisions and changes to the abuse of dominance. It looks at illuminating the efficiencies defence, which was in my private member's bill that came forward. It looks at how market studies should be handled by the Competition Bureau itself.

However, when it comes to the real aspects that are hurting consumers at the grocery store right now, where they are paying 20% more for groceries after eight years of the Liberal-NDP government, it does not tackle the biggest aspect, which is the carbon tax. The carbon tax is added to the farmer, to the trucker, to the manufacturer, to the cold storage facility, so it is added one, two, three, four times to the consumer bill and passed on to the consumer.

It certainly does not tackle the fact that, when it comes to housing in Canada, we are building fewer homes now than we did in 1972, when we have over 40 million Canadians in this country right now. It certainly does not tackle the fact that, because of high inflation after eight years, the costs of everything have gone up, including building materials and labour for homes. The fact is that over the years, we have built up a big barrier of what we call Nimbyism, protecting our backyards from others so that we cannot build homes.

Consumers are stretched. Mortgage renewals are coming due. Over 70% of Canadians with a fixed mortgage will have to renew their mortgage over the next two years, this during the fastest run-up of interest rates in the whole history of this country.

The carbon tax had unintended consequences, and consumers are screaming. They were promised that they would get more back in rebates than they put in. However, the unintended consequences have been that those carbon taxes have added costs to grocery bills. Those added costs are on the price of almost everything that Canadians are paying. They see the rebate in their hands, compared to the bills they are paying each and every day, and Canadians are smart. They now know that they are paying way more in those carbon taxes than they are getting in rebates. After eight years of the Liberal-NDP government, Canadians cannot afford any more.

We have looked at competition, and we have looked at the two parts of the act that we need to solidify. One is to put a stranglehold on how big the big, bossy, dominant conglomerates, oligopolies and monopolies can get in Canada. Canadians have had enough, whether it is cell phone bills, where we have three companies that control 90% of all cell phones in Canada, which are the most expensive three carriers out of 128 carries in 64 countries, or whether it is groceries, where we used to have competition in Canada. Eight grocery stores used to run and compete with one another, driving prices lower. It is now down to only three Canadian companies competing with two American conglomerates. They used to all be Canadian competitors. We used to be able to go to different stores. Now Canadians find that they oftentimes going to the same competitors.

● (1225)

Obviously, prices have not gone down, and this is only after the last eight years with a Competition Act that was outdated. It has certainly outlived its prime, since the Competition Act was created based on the 1960s industrial policy, which said, “We want Canadian companies to get as big as possible to compete internationally.” It is actually in the purpose clause of the Competition Act right now to make Canadian companies as big as possible so that they can compete internationally. This is what we deem as competition. When it comes to competition, we want more companies to compete, not internationally but to compete for Canadians' dollars. Canadian companies should not be able to make all of their money on the backs of hard-working Canadians; Canadian companies need to compete with one another for Canadians' hard-earn tax dollar.

The breadth of this Competition Act, which needs to be changed, is the premise and the purpose of the Competition Act. Number one, we need to ensure that big-box conglomerates and corporations cannot get bigger on the backs of hard-working Canadians. However, the second and most important aspect of the Competition Act is to ensure that we have competition or that we have start-ups in Canada.

Canada now, according to the BDC, has 100,000 fewer entrepreneurs compared to 20 years ago, despite our population increasing by over 10 million people. Canada has failed to create competition. We can look at one aspect to say that we would really love to make sure that we stifle the top monopolies and oligopolies and make sure that they cannot merge with one another, but the other big problem we have missed along the way is to have start-ups created to compete with one another. It used to be that Canada was the bastion for that, and we were able to find start-ups and have great Canadian companies start up and grow in scale, but for the first time in our history, we have fewer start-ups per capita than ever before, after eight years of this government.

When we talk about new jobs and creating wealth in this country, which is something I am afraid we are going to have to speak about a lot over the next year, we look to small business and start-ups to fulfill that role. Ninety-seven per cent of all new jobs in Canada are created by small business. When we look at the complexity and the value of these small businesses, the men and women who can take a risk and start something new in Canada, right now what we are missing most of all is to ensure that we create those jobs and businesses in this nation.

At the end of the day, we have to really look at what this bill would do and what it would not do. We are certainly going to vote for this legislation. At the end of the day, the Competition Bureau itself has been ignored for the last eight years. Coincidentally, the first time that this government starts talking about it is when the opposition leader names a competition shadow minister for the first time in government, which looks at the importance of what competition can do for the nation and what it means for Canadians. Of course, the first thing it means is prices, and the second thing is our jobs and paycheques. We can create new start-ups and new businesses.

For instance, when we look at the banking sector, the biggest thing we are trying to put forward is consumer-led or open banking. There is an opportunity, where this government has been dragging its feet, to create hundreds upon hundreds of financial tech institutions that can not only create jobs and paycheques for Canadians, but provide options for Canadians of where to put their hard-earned money when it comes to financial services in Canada. I would hope that through this, and we will be talking about it when we get back in January, the government introduces the legislation that it promised in 2018.

More importantly, as Bill C-56, the affordable housing and groceries act, comes forth, Canadians are going to be angry about how anti-climactic it will be. Grocery prices are not going to go down after the bill passes, nor will our housing crisis be solved. It would do something important for the Competition Act, but not nearly enough to undo what has already been done. Most importantly, it would not create the start-ups that have stopped, the start-ups that can drive housing starts and create more options and more food in the value chain.

We need boldness, and we need courage. We need a new government to present policy that would actually create homes and grow food without punishing our farmers in this country. It is time to bring it home for farmers, for our country and for Canadians looking for a home of their own.

● (1230)

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, there is a certain amount of hypocrisy here. The member talked about, at the beginning of his speech, the idea of competition and said that the Conservatives want competition. Then he talked about the big five. The last time there was actually an amalgamation of grocery stores, when a grocery store was bought up, was with Shoppers under Stephen Harper. Stephen Harper and the member's current leader allowed Shoppers, through billions of dollars, to be consumed by Loblaws.

Then the member stands up and says that they want more competition. Where was the member when Stephen Harper was the prime minister, let alone today's leader of the Conservative Party? They were nowhere when it came to competition. Why should Canadians believe that anything has changed with the Conservative Party, when its members consistently vote against good, solid policy initiatives?

Mr. Ryan Williams: Madam Speaker, let us talk about hypocrisy, then, for a minute. Here are the mergers that have been approved by the Competition Bureau since the Trudeau government has been in power: Air Canada was approved to buy—

The Assistant Deputy Speaker (Mrs. Carol Hughes): I remind the hon. member that he is not to use the name of parliamentarians who sit in the House.

The hon. member for Bay of Quinte can continue.

Mr. Ryan Williams: I am sorry, Madam Speaker. I did not even realize I did that.

Here are the mergers that have gone through: Air Canada and Air Transat in 2019, approved by the Competition Bureau; Rogers and Shaw in 2022; RBC approved to buy HSBC in 2023; WestJet buying Sunwing in 2022; Superior Propane buying Canexus in 2018; and Sobeys approved to buy Farm Boy in 2018. The hypocrisy knows no bounds.

[*Translation*]

Ms. Andréanne Larouche (Shefford, BQ): Madam Speaker, my colleague spoke at length about one of the two aspects of the current debate on Bill C-56, which amends the Competition Act, among other things. We agree; it is not going to solve every problem.

The other aspect this bill addresses is housing, in particular the GST on rental housing. It touches on this other problem that we have heard a lot about and that is a real scourge this year: housing.

What my colleague did not mention is that the only solution his party has proposed so far on the housing issue is a bill introduced by his leader, a bill that is essentially designed to show cities some tough love and tell them that funding will be cut if they do not meet their targets.

That is not what cities, particularly those in my riding, need to successfully address the housing issue. I would like to know what my colleague thinks about this.

[*English*]

Mr. Ryan Williams: Madam Speaker, housing is very important. Speaking as a former municipal councillor, I know the buck really falls with the municipalities. There is a provincial act that oversees the municipal act itself, but it does come down to the municipalities to be able to push things forward, and that is the Nimbyism I have point out.

I am going to talk about some stats that came out today, and this is after eight years of the government. The Rentals.ca December rent report confirmed that while American rents are beginning to stabilize, Canadian rents remain at record highs. The average rent increased 8.4% this year. “One-bedroom apartment annual rent growth remained strongest”, with an average of $1,943. There are people in Toronto who are renting the other side of the bed; that is how bad it has become.

We believe we need to incentivize but also reward municipalities for pushing through rental and construction as a whole. We believe that as party, and I believe that as a former municipal politician.

There are so many times when it is easy for a municipal politician to vote down a rental agreement or a plan that comes forward. We need to find ways to incentivize municipalities that are getting things done, especially around high-density transit, especially where we need housing and especially where we need rental.

● (1235)

Mr. Kevin Lamoureux: Madam Speaker, another point the member did not talk about when he talked about how much they would love to get rid of the price on pollution is the rebate. The rebate ensures that over 80% of people get more money back than they pay in with regard to the price on pollution. Could the member be very clear on whether he supports Canadians getting the environmental rebate?

Mr. Ryan Williams: Madam Speaker, yes, members I have talked to are all looking forward to the rebate when we axe the tax and get rid of all the tax they are paying. Canadians know when they go to the grocery store now that they are seeing the increase because the farmers and the manufacturers and the truckers have all incurred increases and are passing them on. Why are food prices the highest they have ever been in the history of Canada? It is because of the carbon tax. Canadians want that tax off. Let us axe the tax.

[*Translation*]

Mr. Jacques Gourde (Lévis—Lotbinière, CPC): Madam Speaker, I would like to thank my colleague for sharing his time with me.

After eight years of this Liberal Prime Minister, inflation has reached its highest level in 40 years. I can say that I would not want to be in the shoes of the Liberal government right now.

Salaries of middle-class Canadians no longer cover even housing, which has doubled, and groceries, which are predicted to rise even more this year. Increasing numbers of people rely on food banks, and children have almost nothing in their school lunch boxes, which is a crying shame.

The effects of drug legislation are being felt. The increase in addiction rates is harming families and our sense of security. This is where we have landed, thanks to the wildly reckless spending of this Prime Minister and his spendthrift government, which attempts to buy votes with wishful thinking. He wants people to forget the disaster he has caused to those who can no longer make ends meet.

Let us not mince words. We will all pay for this Liberal government's disastrous policies over the next 25 or 30 years. Let us be frank in the House. We now find ourselves with a failed Prime Minister, a failed government, public spending in the red, and a society that is being unwittingly bankrupted, and no longer knows how it is going to pay its grocery bills.

I would like to be reassuring, but how can we continue to have faith given the scale of the challenges before us each day and the financial threat that looms over so many households? As the Prime Minister says, we will continue doing this, that or the other. Well, empty words no longer work.

This is truly scandalous, without a doubt. In eight years of governing, only the Liberals could think of this and pull off such a thing. Since 2006, I have proudly represented the people of Lévis—Lotbinière. The previous Conservative government was responsible and had a vision for our young people, our future and our economy.

The sad reality is that this bill resolves absolutely nothing while increasing public spending and taxes. Years ago the Liberal government should have put in place new housing measures and certain measures to reduce the cost of groceries. Homelessness is now a reality for hard-working people who, not so long ago, could afford housing. Faced with $20 billion in new costly spending, we were quickly walked through this mini-budget in the fall. Prices are going up, rents are going up, the debt is going up, and taxes are going up. What about the price of groceries? That is going up too. More than $20 billion in new inflationary spending will keep inflation and interest rates at a higher level than Canadians can afford to pay.

The end of the year is approaching, and the honeymoon with this Liberal government is definitely over. I wonder what the Prime Minister will be thinking on his next trip while he is lying on the beach in the sun. We hope that this time the trip will be at his own expense. What will he think of the sad reality of people who have trouble affording a turkey for Christmas, putting presents under the tree, if there is one, heating their homes, or putting gas in their vehicles? Many Canadians and Quebeckers will find that 2024 is going to be as harsh as this winter, especially since the government is proposing to raise taxes on the backs of the middle class. Ironically, there is a lot to be stressed about: Next year this Prime Minister will spend more money on servicing the debt than on paying for Canadians' health care.

As for balancing the budget, maybe that will happen in 30 years, because it has become a mirage. Members may recall that the Liberal government told Canadians they would balance the budget by 2028. Since the Minister of Finance announced that pious wish, she has announced $100 billion in new expenses. Even though we need millions of new housing units by 2030, the government, which has been scrimping on important issues since it came to power, announced this fall it would spend $15 billion on a fund that will support the construction of barely 1,500 housing units a year. I would like to remind the government that 2030 is only six years away. That is not very long, except for the people who have to sleep outside or those who have been paying double for housing since the Liberal ice age.

Now more than ever, it is clear that this bill does nothing to help ordinary Canadians. Even worse, Canadians are becoming even poorer.

● (1240)

We have seen what this Liberal government has gotten wrong. Here are a few facts to help convince my colleagues. There were a record two million visits to the food bank in a single month. The cost of housing has doubled. Mortgage payments are 150% higher now than when this government came to power. Violent crime has increased by 39%. There are tent cities in almost every major city in Canada, and a lot of the people who live there are people we know. More than half of Canadians are $200 away from not being able to pay their bills. Canadians who renew their mortgage at the current rate will see an increase of 2% to 6% or more. The IMF says that Canada is the G7 country most likely to experience a mortgage default crisis. Worse yet, the business bankruptcy rate increased by 37% this year.

While Canadians are up to their necks in debt and there is no foreseeable miracle forthcoming from the Liberal-Bloc-NDP coalition, we are trying to find a way back to a common-sense solution, a way of really being heard to mitigate the daily suffering of people across the country. I said I have been a legislator since 2006. I can say that I am not the only one to long for a government that knows how to count and invest every one of Canadian taxpayers' hard-earned dollars. A lot of people were deceived by the siren song of the Liberals' promises, and we are all paying the price now. This also proves that voting for the Bloc is costly.

They can say anything they want across the aisle and talk about the horrors of going backwards, but this country needs a Conservative government to put it back on track. We need to understand that our country was doing well, very well, actually, before this Liberal government came to power. Let us remember the interest and inflation rates before this Prime Minister. They were low. Taxes dropped faster than at any other time in our country's history. We had a balanced budget. Crime was down 25%. Our borders were secure. Housing cost half of what it does today. Net wages increased by 10% after inflation and income tax. What are we seeing now? It is a disaster. Many Canadians will have to wait up to 25 years to save enough money to buy their first house and, for many of them, home ownership is an impossible dream.

The legacy the Liberals are leaving us is a world upside down. Come the next election, voters will have two options. The first is a costly Liberal-Bloc-NDP coalition that will take taxpayers' money, raise taxes, and enable more crime. The second option is a common-sense Conservative government that will enable people to earn a bigger paycheque to buy groceries, gas and a home in a safe community. The choice is obvious. Let us just hope that our country can hold on until then.

With last fall's mini-budget, we are going to pay more taxes, because the government raised the carbon tax across the country. It is going to quadruple. That does not make any sense, and it is truly outrageous. Bill C-234 would give Canadian taxpayers a little breathing room by eliminating the carbon tax for Canadian farmers. That would bring down food prices in Canada. When the government taxes the farmers who grow food and the truckers who transport it, Canadians have to pay more to put food on the table. The Minister of Environment and Climate Change promised to resign if this bill were passed. He is not thinking about those who are struggling to make ends meet at the end of every week.

Will the Prime Minister choose to save his environment minister or to feed Canadians by lowering the cost of food through Bill C-234, which must be passed but is stuck in the Senate because of the Prime Minister's machinations? The choice is easy and obvious. Let us help our farmers and all Canadians.

● (1245)

[*English*]

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, as an FYI to the member, this bill is not about what he talked about. What he needs to recognize is that one of the big initiatives in this legislation would exempt purpose-built rentals from GST, a good, sound policy. I suspect that the Conservatives might vote in favour of that. After all, we have now seen provinces get on board. A number of provinces are doing likewise for the PST.

The federal government is leading on the housing issue, and I am wondering if my Conservative friend can explain why we as a national government today lead on housing-related issues, whereas the Conservatives in the past, under their current leader, did absolutely nothing when it came to housing in Canada.

[*Translation*]

Mr. Jacques Gourde: Madam Speaker, let me remind the government that what little it has fixed when it comes to housing in Canada is only a drop in the ocean.

The government promised $15 billion in loans and to possibly build 1,500 more housing units per year when millions more are needed. With the Liberals, it will take 2,500 years to get to where we want to be. We will need between 4 and 5 million more housing units by 2030. With the Liberal government, that is an unattainable target.

Ms. Andréanne Larouche (Shefford, BQ): Madam Speaker, when it comes to housing, the Conservatives made cuts too and did not invest enough in social and community housing, which is what is needed.

That said, how does my colleague from Quebec deal with the fact that his Conservative colleague was shown on *Infoman* to have taken some liberties with the truth—to keep things parliamentary—on the carbon tax, according to independent journalists?

This morning, we learned that independent economists raised red flags regarding the Conservative leader's so-called documentary. They said that his viral video—again, I am trying to keep things parliamentary—lacked in correctness and used arguments that are much too simplistic for such a serious crisis.

Mr. Jacques Gourde: Madam Speaker, I am going to talk about actual facts.

I have five children. Around 10 years ago, my oldest daughter bought a house for about $150,000. Seven years ago, my second daughter bought a house. It cost an additional $100,000. Three years ago, my son bought a house that cost an extra $100,000 on top of that. It cost him $350,000. My two youngest are barely able to rent a place because house prices have shot up past $450,000, $550,000 and $650,000 in the space of half a generation.

When the Conservatives were in government, young people could buy and build a home. Today, in the Liberal era, it is impossible to even rent a home. Imagine that. These are the facts and this is reality. My family has lived it. This is what every Canadian family is experiencing today.

● (1250)

[*English*]

Hon. Ed Fast (Abbotsford, CPC): Madam Speaker, the Liberals in the House have been crowing about removing the GST on housing construction. I find it ironic, and would ask my colleague to comment on this, that they talk about making life more affordable by removing GST on housing yet the government has refused to remove the carbon tax on groceries, on everything we produce in this country and on gasoline.

I would ask my colleague to comment on the apparent contradiction between the Liberal government's intent to make life more affordable by removing the GST on housing and the fact that it will not axe the tax.

[*Translation*]

Mr. Jacques Gourde: Madam Speaker, my colleague is absolutely right. The carbon tax is a totally hypocritical tax for all Canadians. It increases the price of everything, everything that is transported. All of our goods and services are transported all over Canada several times, and everyone keeps a cut. That is how we end up with two-by-fours going from $3 each to $12 each, and fruits and vegetables going from maybe 35¢ a pound to $1.50 a pound.

This is never going to end. We need to get rid of the carbon tax, because that will lower the cost of everything.

Mr. René Villemure (Trois-Rivières, BQ): Madam Speaker, I wish to inform you that I will be sharing my time with the hon. member for Lac-Saint-Jean.

The Assistant Deputy Speaker (Mrs. Carol Hughes): One second, I need to seek unanimous consent.

Is it agreed?

Some hon. members: Agreed.

Mr. René Villemure: Madam Speaker, this is the first time in two years that I have gotten the unanimous consent of the House, and I am proud of it. Before beginning my speech, I would like to make one thing clear. This is not a case of the Bloc, the NDP and the Liberal Party standing together. It is the Conservatives that stand alone. That is not the same thing.

Today we will be discussing Bill C-56, an act to amend the Excise Tax Act and the Competition Act. I will be talking mostly about that last part of the bill, in terms of both its technical points and its rationale. Before we begin, though, we always need to establish what we are talking about. What is competition? It means coming together and converging on the same point. That is what competition is. It is not necessarily a bad thing. However, what is the motivation for coming together? What is the purpose? Is it good or bad? As members of Parliament, our objective must be commendable, because we obviously have the public interest at heart.

In one amendment, the bill would increase the maximum monetary penalty for abuse of a dominant position to $25 million for the first offence and $35 million for subsequent offences. The aim is to give the law teeth, to make sure that it will not be taken lightly, that people will not think that they can get away with a slap on the wrist. This provision also makes Canadian law more comparable to U.S. law, of course.

The second important amendment in the part on competition would allow the Competition Bureau to conduct market study inquiries if the minister responsible for the act or the commissioner of competition so recommends, and would require the minister to consult the commissioner before doing so.

The Competition Bureau already has significant powers, but it cannot demand certain things from the people it is investigating. It cannot request a search unless there is a clear offence. It cannot request a search just to look around. It cannot make assumptions. All of us here know that groceries are expensive and that we pay the highest cellphone fees in the OECD. It does not take a genius to realize that the commissioner might want to investigate these things.

When it conducts a study, the bureau will have to determine whether there is adequate competition in a market or industry. Right now, it does not have that power in every industry. What the Competition Bureau can do at present is all right, but it is not necessarily the best thing right now. It may have been sufficient at the time, but now it needs to be enhanced.

In its report on the state of competition in the grocery sector, published in June, the bureau noted that the grocery chains did not really co-operate with its study. I like that euphemism: “did not really co-operate”. They said no, which is not the same thing, and the Competition Bureau, with its current powers, could not make them say yes. They refused to provide the documents the bureau asked for, and they refused to answer certain questions. My colleagues will no doubt agree that there are many shades of meaning between “did not really co-operate” and “refused to answer”. The aim of Bill C-56 is to solve this problem by granting the Competition Bureau the power to conduct inquiries where applicable.

Lastly, the bill would revise the legal test for abuse of a dominant position prohibition order to be sufficiently met if the tribunal finds that a dominant player has engaged in either a practice of anti-competitive acts or conduct that is having or is likely to have the effect of preventing competition. That is the technical part of the bill. However, when someone drafts a bill, they need to think about why they are doing it, what they are trying to accomplish.

The purpose of the Competition Act is to ensure that Quebec and Canadian consumers have freedom of choice. We sometimes talk about monopolies. What is a monopoly? It is an exclusive right. What does “exclusive” mean? It means doing everything possible to keep others out. It means restricting, refusing, blocking, rejecting. Exclusivity means limiting access. It is almost like a secret agreement.

The bill also seeks to prevent stakeholders from abusing a dominant market position. To dominate means to master, to control. In the past minute, I have talked about refusing, blocking, mastering, controlling, exclusive rights. All of this goes against the free market that this country promises, that it says it has, but that is sometimes, in reality, only an illusion.

● (1255)

Essentially, the drafters of the bill wanted the Competition Bureau to have more power, the power to provide us with freedom of choice, the power to investigate where appropriate until it is satisfied that it can make this possible.

As I said at the beginning of my speech, competition means getting together and converging on the same point. If that is not possible, if certain players dominating a market prevent that from happening, we are being deprived of our freedom of choice. It is a sort of manipulation. It is a sort of lie.

Without calling anyone a liar, we can still talk about what a lie is, here in the House of Commons. A lie from someone in a dominant position may prevent someone else from doing something they would have done had they known the truth. Lies imply secrecy. Monopolies imply secrecy. It is this secrecy that this bill seeks to eliminate so that everyone can exercise freedom.

[*English*]

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, I appreciated the comments about the bureau and how when we think of competition and enhancing competition, making changes to the act would, in fact, take away the efficiency argument.

Therefore, I believe, at the end of the day, it would be healthier for Canadians because it would ensure there is more competition. The member made reference to cellphones. Whether it is cellphones or groceries, taking away the efficiency argument within this legislation, I believe, would help address that going forward.

Can he expand on why it was good to see changes to the legislation affecting the bureau?

[*Translation*]

Mr. René Villemure: Madam Speaker, those who hold monopolies or exclusive rights do not need to be good at what they do. They just have to be there. At the end of the day, they can charge whatever they want, with whatever conditions they want, to whoever they want. They do not have to sell to everyone if they do not want to.

The law will need to improve the efficiency of service providers, because they will not have the luxury of serving a passive and captive clientele.

[*English*]

Hon. Ed Fast (Abbotsford, CPC): Madam Speaker, all the legislation in the world and all the regulations in the world will not help us make our environment and economy more competitive if we do not have a government that has the backbone to say no to anti-competitive mergers. There have been a lot of mergers over the last eight years that the Liberal government has approved, and those mergers have reduced competition in the marketplace here in Canada.

Has the Bloc supported those mergers or does it support a more cautious approach to making sure Canadians have full competition, so the price of groceries and the price of housing go down in this country?

● (1300)

[*Translation*]

Mr. René Villemure: Madam Speaker, competition is for oil companies too. Funny how the price of gas never goes down, only up.

Regulation is not always a cure-all, but it is the right solution in this case because the players are not trustworthy. If they were, we might be inclined to let them self-regulate, but they have shown that that was not good enough, particularly when they refused to answer questions from the Competition Bureau.

I think that the proposed legislation seeks to restore consumer confidence in the bureau's services. I do not believe that there will be a loss of efficiency. I think that we will see increased efficiency, because the players will have no other choice.

[*English*]

Mr. Kevin Lamoureux: Madam Speaker, as I have pointed out previously, another aspect of the legislation is to increase the number of purpose-built rentals to increase housing supply. What we have witnessed, and I mentioned earlier, is provinces adopting the same policies where they are incorporating sales tax relief to encourage more construction. I am not too sure what the Province of Quebec has done.

Does the member know what the Province of Quebec has done with respect to the GST being forgiven for purpose-built rentals?

[*Translation*]

Mr. René Villemure: Madam Speaker, I will respond candidly and honestly: I simply do not know.

If my colleague so desires, I can look into it and get back to him later. At this point, I could not say.

Mr. Alexis Brunelle-Duceppe (Lac-Saint-Jean, BQ): Madam Speaker, on many occasions I had the fortune or the misfortune to observe that when a member of the Bloc Québécois uses the old expression “it is about time” in the House, most of the time, unfortunately, it is a euphemism. Unsurprisingly, that old saying “it is about time” applies well to the bill before us today.

Currently, when the Competition Bureau studies the competitive environment in a given sector, it cannot compel anyone to testify or order the production of documents. That is not very convenient. However, with the passage of the Bill C-56, it will be able to do so. When I say it is about time, that is because the Bloc has been calling for this measure for a good 20 years.

On the other hand, I would be lying if I said that Bill C-56 did not lack teeth. I will spoil the surprise right away: I will vote in favour of Bill C-56 like my Bloc Québécois colleagues. Here are the reasons why. This bill contains some good measures. Most of all, it does not contain any that are outright harmful. Let us just say that I expected more. For me, this is just a drop in an ocean of needs. Now I will explain my thoughts in greater detail.

Part 1 of Bill C-56 modifies the Excise Tax Act. It extends a GST rebate, 5% of the sales tax, to builders of rental housing. The rebate will occur at the moment of sale or alleged sale if the builder becomes the owner. The rebate does not apply when the purchaser is already entirely or partially exempt. For example, this is the case for government organizations, municipalities, not-for-profit organizations or housing co-ops. That means that Bill C-56 will have no impact on the cost of social or community housing projects because it concerns only private housing.

Part 2 makes three amendments to the Competition Act. The first, as I said earlier, gives real investigative powers to the commissioner of competition. The second broadens the range of anti-competitive practices prohibited by law. At present, competitors cannot agree to push another player out of the market. Bill C-56 will prohibit agreements even with non-market players aimed at reducing competition. For example, when a grocer rents space in a shopping centre, it is common for the lease to contain clauses prohibiting the landlord from renting to another grocer. Such practices that effectively limit competition will be prohibited under Bill C-56.

The third amendment to the Competition Act will make mergers and acquisitions more difficult. Today, when a business wants to buy a competitor, for example the Royal Bank's proposed acquisition of HSBC, the act states that the Competition Bureau should allow the merger if it can be proven that the purchase will result in a gain in efficiency, even if the merger will reduce competition. This provision, which appears to favour concentration, will be repealed by Bill C-56. The Bloc Québécois and my colleague, the member from Terrebonne, have been asking for this measure for some time now.

As I said at the start of my speech, Bill C-56 contains a number of good measures and, more importantly, none that are outright harmful. However, I also said I believe it is but a drop in an ocean of needs.

In housing, there is real urgency. However, nothing indicates Bill C-56 will do anything to reduce rents. It would be astonishing if a landlord dropped rents just because they no longer had to pay the GST on a new property, especially since interest rates alone are driving up mortgage costs. This increase will greatly exceed the GST exemption on new rental units. When landlords renew their mortgage, who will they pass the increase on to? The question is rhetorical. We can expect prices will keep rising, with or without Bill C-56. At best, by removing the tax on rental buildings, Bill C-56 might entice some developers to build rentals instead of condos. It might simply become more profitable for them. Again, this is just speculation.

Although Bill C-56 will not directly affect rents, it could help alleviate the housing shortage in some small measure. If Bill C-56 increases the percentage of new rental housing construction even a little, it will be a good thing. However, we would still be light years away from meeting needs.

I repeat: There are some good things in this bill, such as the amendments to the Competition Act. The Bloc Québécois fully endorses those. On the other hand, we consider it misleading to claim that the bill will help lower the cost of groceries, as the government suggests.

● (1305)

Giving the commissioner of competition real investigative powers when carrying out a study should enable him to get to the bottom of things when it comes to the competitive environment in a given sector. That is very true. Now, learning more about an issue is a good thing, but it does not increase competition and it certainly does not bring down grocery costs.

Since 1986, the vast majority of grocery chains have disappeared, after being bought out by competitors. Steinberg disappeared. A&P disappeared. Provigo was bought by Loblaws. IGA was bought by Sobeys. Marché Adonis was bought by Metro. Of the 13 grocery chains that existed in 1986, only three remain. If we include the two American big box stores that also sell groceries, Costco and Walmart, that means that five players control 80% of the market.

While it is true that a number of factors are contributing to the increase in food prices, it is important not to lose sight of the grocers' profit margins. When prices go up, profits go up. However, according to the Competition Bureau study published last June, grocers did not just maintain their profit margin, they increased it.

When a merchant can raise prices at will, it is a blatant sign of a lack of competition. The amendments to the Competition Act found in Bill C-56 will certainly prevent the situation from worsening, and they will make mergers and acquisitions harder to do in the future. However, they do not resolve the situation. The damage is done and, unfortunately, Bill C-56 will do nothing to fix it.

In short, even though Bill C-56 does put forward some good measures, this cannot possibly be the government's one and only response to the skyrocketing cost of housing and groceries. When it comes to housing, the government needs to review and improve the national housing strategy, which, let us face it, has failed.

In terms of competition, they need to review the notion of abuse to prevent the big players from endlessly profiting from their disproportionate market share. Those two initiatives must be undertaken, and we are just starting both, whether Bill C-56 passes or not.

To end my speech, I would like to say the following. The Bloc Québécois's support for Bill C-56 is certainly not a motion to congratulate the government, quite the contrary. However, we do see it as a step in the right direction. The Bloc Québécois's support today is like a pat on the back. It is like a nod of the head, but coupled with a "what comes next?".

I suspect that I may have to wait awhile before the government actually takes any further action, but I hope I will not have to wait too long.

● (1310)

[*English*]

Mr. Lloyd Longfield (Guelph, Lib.): Madam Speaker, I listened carefully as the member described the steps we are taking as a federal government to try and alleviate some of the pressure in the rental market. The rental market is generally under provincial jurisdiction, which I know the Bloc watches very carefully.

Removing the GST in a time of high interest rates is to try and stimulate construction, create conditions where there are more units to rent and introduce competition in the rental market and, therefore, drive down prices. That is the move we are trying to make as a federal government.

Could the hon. member comment on how creating the right conditions in the market might actually help the people of Quebec?

[*Translation*]

Mr. Alexis Brunelle-Duceppe: Madam Speaker, I thank my colleague for his excellent question.

The problem that we have with this provision, which seeks to eliminate the GST on the construction of rental housing, is that the government is making assumptions. The government is trusting the private sector to bring prices down. It is always a bit risky to trust the private sector to lower prices. There is nothing to guarantee that, once the rental units have been built, private builders will pass those savings on to renters in the form of lower rental costs. The government is making assumptions.

That is why we do not think that this is the answer to the problem we are facing. However, as I said in my speech, this measure could result in the construction of more rental units, which would reduce pressure on the market by increasing availability, but there is no guarantee of that. The government is hoping that is what will happen if it implements this measure, but we are not convinced that it will have such a major impact on lowering rent. In fact, we are not convinced that that will happen at all. That being said, we will not vote against Bill C-56, because it contains good measures and nothing harmful.

Mr. Alexandre Boulerice (Rosemont—La Petite-Patrie, NDP): Madam Speaker, for the most part, I agree with my colleague's observations and analysis.

I am not suggesting that removing the GST from rental housing construction is a bad measure. It was one of our proposals as well. However, I agree that this measure alone is not going to solve the housing crisis that has been going on since 1994, when the federal government completely pulled out of building truly affordable social housing.

I would like to hear his thoughts about the fact that the real solution is non-market housing, such as co-ops, community housing, student housing and, most importantly, social housing.

Mr. Alexis Brunelle-Duceppe: Madam Speaker, the member for Rosemont—La Petite-Patrie and I generally agree on that.

Quebec is a unique ecosystem. In fact, we call that a distinct society, a nation. The co-operative system is rather unique in Quebec, at least in terms of the number of co-operatives that exist in Quebec.

Housing falls under the jurisdiction of Quebec. Social and affordable housing requires funding. As usual, Ottawa knows best and it is interfering in a jurisdiction that is not its responsibility. The federal government does not have the expertise, but it has the money because of the fiscal imbalance and because all of the revenues are in Ottawa and all the expenses are in Quebec and the provinces.

We are asking Ottawa to send money to Quebec, the provinces and the territories who have the expertise in affordable and social housing. Then things will go much smoother. That being said, there is an even more radical solution that would be even better and would practically solve everything: if the federal government stayed out of Quebec and we had all the power over such matters. If we were a country, the housing situation would be lot better.

● (1315)

[*English*]

Mr. Daniel Blaikie (Elmwood—Transcona, NDP): Madam Speaker, I am pleased to rise to speak to Bill C-56 once again and maybe take a stab at addressing some of the issues that have come up in debate. I will start just by saying, first of all, that New Democrats, of course, support this legislation.

What we said at the beginning in respect to housing was that it is good to increase supply but that it is not just any increase in supply that is going to help with the housing crisis. We have to be concerned about the various kinds of housing along the way and ensure that we are increasing supply in all parts of the housing spectrum where there is need. Of course, there is a need for more market-based, purpose-built rental and eliminating the GST off purpose-built rental is a way to incent the development of more market rent apartments. This will be great for Canadians who can afford market rent, which is certainly a smaller percentage of Canadians than it was just a short time ago. Nevertheless, for those who can afford it, are looking for it and cannot find it, more market supply will certainly be helpful.

However, we cannot wash our hands of the issue and think that the work is done simply because we have brought in a measure to incent the development of more market-based housing. A lot of other Canadians out there will not be able to access that market housing; nevertheless, they need to be housed, deserve to be housed and, as far as I am concerned, should have an enforceable right to be housed in Canada. That is why, from the word go, when this bill was introduced, New Democrats said that this on its own would not be enough. We want to see the government accompany this legislation with some measures for development of non-market housing, which does not always mean affordable or social housing. Non-market housing can be provided at market rents. We see that in some co-ops that choose to offer market rent suites to those who can afford them and, at the same time, offer some affordable rents or social rents, where rent is actually geared to folks' income. Therefore, it is only ever a percentage of their income. It does not eat up the entirety of a household's budget.

All this is to say that incenting more market supply is not enough. This bill would do that. It is one component of addressing the housing crisis. There is a lot more to do. New Democrats were certainly disappointed in the fall economic statement for not having been more ambitious on that front. There was a billion dollars announced for a replenishment of the coinvestment fund, but the fact that this replenishment does not come until 2025 is a serious issue. I think it is a sign that the government still does not understand the extent to which we need to confront the housing crisis in Canada with a serious sense of urgency.

Other housing that we need to look at, whether market or non-market, is housing to be able to address the concerns of many indigenous communities across Canada. I just want to take a moment to recognize the good work that my colleagues from Nunavut have done, both the current member for Nunavut and Mumilaaq Qaqqaq, who was the MP for Nunavut in the last Parliament. She spent a considerable amount of time travelling through her riding, the territory of Nunavut, documenting the serious housing need there: the overcrowding, the mould and the dilapidated condition of a lot of housing that has been built. I think it is important to note that taking the GST off purpose-built rental is not going to do a thing for folks in Nunavut and small remote communities, where there is not an abundance of contractors waiting to build housing. They are not looking to go there as a market.

We have talked a lot about the competition space, whether it is telecoms, grocery companies, banks, fossil fuel companies, where we have these oligopolies that have developed in Canada. Members can just name the market. We can talk about better competition policy until we are blue in the face. If we are talking about grocery prices at the one grocery store in a rural community where people have to drive hundreds of kilometres just to get to the next grocery store, the fact is that improving the competition framework is not going to do a lot in respect to pricing in a community like that. Taking the GST off purpose-built rental is not going to do a lot to incent the development of new housing in small and remote communities in Nunavut. That is why we have to go outside just thinking about the market and how to incent market players. What do we hope they will do? It is not profitable in the way that they are used to making profit in a place such as Toronto, Vancouver or even Winnipeg or Halifax.

● (1320)

It is not profitable to build up there, and folks certainly do not have the money to pay to make it profitable for somebody to build up there. However, we need people to do so. That is why we need good public policy that is not dependent on just trying to provide little carrots for profit-seeking companies in the market.

It is not that they are doing anything wrong. They are not bad people for not wanting to move their business from downtown Toronto, where they develop condos, to Nunavut and start building appropriate housing for people in small, remote northern communities.

We should not expect people to do that all on their own; however, one needs public policy in the context of a strategy that includes addressing workforce needs and training up local people to have skills. Such a strategy includes having the funding required, when they are done building homes in one community, to move that infrastructure and the people to the next community to do some of that building and to share those skills. It also includes having what amounts to an economic development plan that is about putting indigenous people back in charge of their own communities while ensuring that they have the resources to do something with their skills as they develop them.

The market is not going to do that. It is not meant to do that, nor is it interested in doing that.

We get up and talk a lot about these things. People say that we do not care about entrepreneurs, business or risk-taking. That is not true, but we understand the limits of it.

There is an intellectual and administrative laziness that permeates the Liberal and Conservative parties, where they would rather just pretend as though somehow, if one gives the market enough of a free hand, it will fix all these problems. It is not true.

The market is not designed to fix certain kinds of problems. Sometimes, the very problems that it is not designed to fix are some of the most important problems. The people who, not wrongly, but we all make choices, decide to live their life seeking profit in the market are not interested in solving these problems, because there is no money to be made in solving them in that way. However, they are life and death problems.

The problem of housing in Nunavut is killing people right now. It is making it impossible for them to get an education. We have heard stories about schools built in indigenous communities that were not even open for six months before they got shut down. A shoddy job was done of building the school, and they ended up having structural problems with the school right away. We were just talking about this last week.

If a child is fortunate enough to have a school, and they go to school, come back and try to do homework, but their home was built for five people and houses 15, we can be damn sure that this child is going to struggle to get their homework done. If they have to sleep in shifts because there are not enough bedrooms for people to go and lie down, the child will struggle to focus on learning.

We know that, even in major centres, kids in school right now are having a hard time concentrating. This happens more and more as Canadians struggle to afford food, because the kids do not have a full belly.

This is why New Democrats have been supporting the idea of a national school food program.

I am proud to say that this is a priority of the new government in Manitoba, and I look forward to it getting done. I do not think it should have to do it on its own. I think the federal government should be at the table doing that. We have heard a lot of words, but we have not seen a lot of action. We certainly have not seen any funding for that.

We need to get on with that. If we want people to succeed, if we want the "pull yourself up by your own bootstraps" language to make any sense at all, it has to be in a world where people have the resources to be able to do that.

As a starting point, they have to be housed. They have to be fed. Their parents cannot be working three jobs just to make ends meet and never be around to have any time to provide support or direction.

These are some things that the market is not going to do for us. That is not what it is there for. It is all well and good for people who are well resourced, whose children have opportunities and who are well-supported, to say, "We did it. Why can't everybody else?"

The fact of the matter is that there are so many more children who can do it and would do it if they had the right start and just a little bit of those resources that so many of us have the privilege of being able to take for granted.

● (1325)

I say yes to eliminating GST from purpose-built rental, but we cannot then pretend that the work is done. I think the fall economic statement betrayed that the government does think that the work is done and that it can take its sweet time getting around to the rest of it. The government thinks it can say to the territorial government in Nunavut that if it wants money for housing, it will have to apply to the indigenous government that it already gave money to, failing to recognize that they serve different populations. There is a lot of overlap, but their mandates are not the same. Indigenous governments should get money to provide housing to people in their communities, but not in lieu of territorial governments getting resources to build housing in those communities. The deficit of affordable housing is large enough that we need both of these organizations, if they are willing, to be working together to try to meet the housing need.

We need to start addressing some of these things, just as we need to address some of the larger infrastructure required in order to build the housing. I think of the Kivalliq Hydro-Fibre Link, for instance, which, if built, would deliver power to a community in Nunavut, as well as a mine. It is an important thing we could do, both to incent economic development in the region and also to make it possible to build housing. There is no point in building a house in the 21st century for somebody who does not have electricity. We need to find a way to get power to communities even as we think about building more housing in those communities.

I talked before a little about what I think is a kind of intellectual laziness and an administrative laziness, by which I mean governments that do not want to do the hard public policy work of developing an effective strategy, funding it and resourcing it. Let us be frank; I think we tend to dismiss the work of public administration. However, it is important to be able to have a plan and line up all the players, which includes market players. For instance, we are not going to have a housing strategy that does not involve talking to the people who build the homes. I am an electrician by trade. There is a lot of good information that can be gleaned from the people who actually do the work, as opposed to talking just to the engineers or the estimators.

To put together a public strategy like that, to bring all of those pieces together, takes a lot of time and a lot of work. It is also a unique set of skills that we do not necessarily see everywhere else. That is why courses in public administration are offered. For too long, there has been a prevailing attitude, in both of the parties that have governed since the mid-1990s, when they cancelled the national housing strategy, that we are here just to make it easy for the guys in the market to take care of it all, and that if cannot be taken care of by the market, it is not for us to worry about.

It is quite the contrary; that is exactly the thing that people in government should be worried about. It is exactly the job of government to take care of some of the very important things that the market will not take care of. However, first of all, we have to accept and admit that the market will not take care of every need if it is left to its own devices. Thankfully there is a lot of overlap between what one can make a lot of money at and providing services to people in good ways. We see that in many facets of our economy; small and medium-sized businesses, particularly, are very good at identifying gaps in the services in their local communities, and developing a product and selling it at a fair price. When we look at some of the larger companies, like telecom companies, oil and gas companies and banks, that is not what is going on. Even though they make a lot of money and benefit greatly from a public policy environment designed to help them make their money and defend their interests and power in the economy, they do not accept any reciprocal responsibility.

There are only three big Canadian grocery chains. Do they accept any responsibility for providing groceries at an affordable price to Canadians? No, it is very clear they do not see that as their job. Just take a look at the work that my colleague, the member for Cowichan—Malahat—Langford has done, asking difficult questions of grocery CEOs at the agriculture committee. They made it pretty clear that they accept no responsibility. They have a completely privileged position in that market. Food is something Canadians cannot decide to do without. The CEOs accept no reciprocal sense of responsibility to Canadians for that.

We can look at oil and gas companies that have been making money hand over first lately, even while laying off more employees. Do the Canadian oil and gas companies think that they need to do anything to try to reduce the cost at the pump? Absolutely they do not. They see an opportunity. They see that they have a captive market. To the extent that they can push prices up, they certainly have been doing so.

● (1330)

Between 2019 and 2022, oil and gas profits in Canada rose by 1000%. This is not an industry that accepts any responsibility for the privileged position it occupies and the power that comes with it in the Canadian economy. The idea that we are going to leave it all to the market is, I think, a false idea, but unfortunately it has been the predominant idea for at least 30 years in Canada. We can trace it back at least to the original free trade agreement debate in 1988 and the years leading up to that. This is relevant to the point of competition, I would say. My Conservative and Liberal colleagues usually argue about who is the greatest supporter of corporate free trade.

It is interesting to watch, after the Conservatives voted against the Canada-Ukraine free trade agreement most recently, how the argument goes. We see that the Conservatives voted against the trade agreement for no good reason I can identify except to make everything about the carbon tax. That includes things that are not about it, like a conflict half a world away that has everything to do with the preservation of democracy. Instead of taking that seriously on its own terms, they would rather make it about the carbon tax for their own domestic political needs. That is a sign of a government that does not have our back. It has been interesting to watch Conservatives try to defend their position as the greatest defenders of corporate free trade while voting against that trade agreement.

It has been interesting to watch the Liberals not just zero in on the Ukraine issue but also see this as their opportunity to establish themselves as the biggest champion of corporate free trade in the Canadian political space. That has been fascinating, because the thing about free trade is that it was supposed to bring us lower prices. I just heard a Conservative member talk about how there are only five big grocery companies in Canada, three Canadian ones and two American ones. He talked about how he wants more Canadian companies. That was the argument New Democrats were making in the free trade debate: that if we opened up the economy, what we would end up with is Americans coming over and taking over essential industries. Just watch.

There are Conservatives who believe we should deregulate the air industry and invite American airlines into Canadian spaces as a way to lower prices and improve service. Just wait until it happens; they are going to be singing the same crocodile tears song 20 years after it happens that they are singing now about grocery companies, as if anyone should believe them. Either we are of the point of view that we can take a strategic approach to certain pillars of our economy and believe that we need the tools at our disposal to protect those things and conduct business in a certain way, or we believe that we should open it up completely to competition and free trade agreements and even give foreign companies the right to sue the Canadian government, which is what Conservative and Liberal governments have done when they have tried to have a strategic economic approach.

Conservatives get up and cry foul, not just on groceries but also on the battery plant jobs and on workers coming in. Do they know how they are coming in? They are not coming in through the temporary foreign worker program, for the most part, although we would not know that when listening to the Conservatives. What is interesting on that point too is that the TFW program blew up under the Conservatives' watch and then had to be fixed because it had become such an exploitation of foreign workers. The workers are coming in under international labour mobility provisions negotiated in free trade agreements by the Conservatives. At the time, when we asked them if they knew that would mean that multinational companies were going to import foreign workforces when there is a big investment in Canada, they said that it would not happen, that they would just bring in supervisors who were going to help share some specific expertise and then move along. The jury is out on whether that is what is happening in the battery plants. The government owes Canadians a better answer and more guarantees for what it is doing for their tax dollars. The fact of the matter is that it is just egregious for Conservatives to get up and pretend they do not know how those international labour mobility provisions work or that they did not negotiate them.

I look forward to talking more about these things in the Q and A.

● (1335)

Mr. Mark Gerretsen (Kingston and the Islands, Lib.): Madam Speaker, I listened with interest to my colleague's speech. I noted, when he was talking about the Canada-Ukraine free trade agreement, that he was positioning it as though the government's position were to somehow one-up the Conservatives with respect to our commitments to free trade.

I have been very vocal on this issue. For me, this is not about bringing attention to one side's being better than the other on free trade; rather, the whole issue of the Canada-Ukraine free trade agreement is to suggest that Canadians look into why it is that Conservatives have taken this position. I believe it is because they are moving so far to the right that we are now seeing an all-right influence from the United States, the pro-Russian propaganda they are buying into. Would he agree with me that this is a shared concern that he and his NDP colleagues have?

Mr. Daniel Blaikie: Madam Speaker, as I said, what is important is that the conflict be judged on its merits and that Canada take a position to support Ukraine, because I do think that is an important front for freedom and democracy in the world right now, and Russia cannot be allowed to win. The effort to try to make it about something else, like the carbon tax, to suit the domestic political needs of the Conservatives is short-sighted, and I think it is wrong. There is a serious question to be asked about why they do not see that and why it is not decisive for them.

We can think about the time that Canadian Conservatives spend with the Republicans across the border talking about political strategy and about how to implement a common agenda for North America, and about the prominence of Donald Trump in the Republican movement and the fact that he was bought and paid for by the Russians a long time ago and has been influencing the Republican Party, which is not to let any of the Republicans themselves off the hook, to diminish support for Ukraine. I think that there are some real questions we should be asking about the Canadian Conservative connection to that movement.

Ms. Marilyn Gladu (Sarnia—Lambton, CPC): Madam Speaker, I have a lot of respect for my colleague opposite, but there seem to be a lot of conspiracy theories flying around the chamber about the Conservatives' view of Ukraine. We have been clear that we support Ukraine. We already have a free trade agreement with Ukraine. Ukraine has asked for more munitions and weapons; the liberals and the NDP voted against that. The Liberals have also not given the LNG that Ukraine is asking for. Certainly, I think it would be good to look at the record of the members opposite on that file.

However, the current debate is about affordability. Instantly, if the Liberals and the NDP both cared about affordability for Canadians, they could axe the tax that is going to be quadrupled and the tax on that tax.

Why is the member standing and supporting the Liberal government to drive people into poverty?

Mr. Daniel Blaikie: Madam Speaker, I have supported carbon pricing consistently from the time I was nominated, right through all three elections in which I have been elected in Elmwood—Transcona, so there has been no change of position on my part. I am happy to answer to the electors in Elmwood—Transcona any time on that issue, and I have already three times.

However, when it comes to the question of Ukraine, I just watched, on Friday morning, the Conservative caucus that bothered to show up and vote, because they did not all bother to vote and the record will show that, but of the ones who did—

The Assistant Deputy Speaker (Mrs. Carol Hughes): The hon. member for Prince George—Peace River—Northern Rockies is rising on a point of order.

Mr. Bob Zimmer: Madam Speaker, the member well knows we are not supposed to point out absence or presence in the House of Commons.

Mr. Kevin Lamoureux: Well, there were a lot of Conservatives absent. We are not talking about an individual.

Mr. Bob Zimmer: Madam Speaker, to finish my point of order, if we were able to reflect on who was or was not here, we could easily reflect on that party, the NDP, whose members were not here either, or members of the Liberal Party as well.

Mr. Mark Gerretsen: Madam Speaker, on the same point of order, it is very clear to see that between midnight and 6 a.m., fewer than 49% of the Conservatives were actually voting.

The Assistant Deputy Speaker (Mrs. Carol Hughes): This is starting to cause disorder in the House. The hon. member did not quite indicate specific individuals who were not in the House, but I do want to remind members that if it is causing disorder in the House, then I would ask members to refrain from that.

The hon. member for Elmwood—Transcona.

● (1340)

Mr. Daniel Blaikie: Madam Speaker, I do apologize, I should not have used the term “show up”. What I was referring to was the public voting record. No number of points of order are going to change the public voting record, and if Canadians consult the record, they will see that many Conservatives did not vote through the whole voting marathon.

However, the point stands that the Conservatives who did vote voted against $500 million in military aid to Ukraine. On three occasions, they voted against funding for Operation Unifier, and on a separate occasion, they voted against funding for the emergency assistance for folks who want to leave Ukraine and come to Canada. If we add up all of what they voted against, the baseline is $500 million, but I believe it is almost $1 billion in aid to Ukraine. That is after they voted against the Canada-Ukraine free trade agreement, which President Zelenskyy asked us to vote for. His ambassador to Canada has expressed disappointment that there was not a unanimous vote. The Ukrainian Canadian Congress has written a letter to the Conservative leader, also expressing disappointment not only on the Canada-Ukraine free trade agreement but also on the Conservative votes last week against funding. Therefore, let us not pretend that somehow I am making something up. I will take no lessons about conspiracy theories from the member for Sarnia—Lambton.

[*Translation*]

Mr. Luc Desilets (Rivière-des-Mille-Îles, BQ): Madam Speaker, I have a question for my colleague.

Many of us in the House believe that the GST rebate for rental property builders will not really have any impact on the availability and affordability of housing. If the results are questionable, how does my colleague explain the government proposing that this be spread over seven or even 12 years for the final reimbursement, until December 31, 2035, to be exact? I would like his opinion on that.

Mr. Daniel Blaikie: Madam Speaker, as I said, I believe it is appropriate to introduce targeted measures for the market, but not in a context where the work is not being done to ensure that housing is being built and that the necessary resources are available for not-for-profit organizations that have a mandate to build other kinds of housing.

I think this government has a habit of focusing on what amount to market mechanisms and ignoring its responsibility to invest in non-market housing. The government's highest duty lies precisely in that type of housing, because the other players in the economy will not be interested in that type of housing, which does not make a lot of money.

Yes, we can build more housing that turns a profit, but the government must also focus on non-market housing.

[*English*]

Mr. Alistair MacGregor (Cowichan—Malahat—Langford, NDP): Madam Speaker, I would like to thank my hon. colleague from Elmwood—Transcona for his speech and also for his interventions with other members of this House. We have been studying this issue in depth at the agriculture committee and I have had the chance to question multiple CEOs; notably Galen Weston of Loblaw.

The problem is that we can see the data and everyone talks about small margins in the grocery sector. The fact of the matter is that the margins have actually doubled since the pandemic and the grocery chains are making record profits and they do have gross amounts of executive pay. Mr. Weston's compensation is 431 times the average salary of his employees. We know from unions representing grocery workers that in many cases those workers cannot afford to shop where they work. None of the CEOs could tell me how many of their employees are using food banks to get by.

I would like to hear my colleague's thoughts on the fact that through both Liberals and Conservatives we have a policy, over the last 40 years, of too much corporate deference in this country and not enough hard analysis of how we are letting corporations get away with this. Canadians are being asked to shoulder the blame while corporations are continuing to make a lot of money off their backs.

● (1345)

Mr. Daniel Blaikie: Madam Speaker, my colleague has done so much work on this. Canadians do see that they have just a handful of companies that largely control their access to food, which is something they cannot just decide to do without, and that the leadership of those companies do not feel any sense of responsibility for their incredible money-making power, which has grown, as the member for Cowichan—Malahat—Langford has pointed out, over the last number of years. The leadership of the companies do not have any sense of responsibility for the fact that they are the ones who control the food.

This is not just another product on the market. This is Canadians' access to the basic necessities of life. The companies have been allowed to do that for exactly the reason that my colleague identified, which is a sense of deference: If they are a big company, they must be doing something right and we do not want to get in their way. However, we have to do better in Canada than to allow a handful of companies that control our access to food to single-mindedly pursue the highest return to their shareholders, because it is Canadians who are getting burned.

Mr. Kevin Lamoureux (Parliamentary Secretary to the Leader of the Government in the House of Commons, Lib.): Madam Speaker, it is a pleasure to rise to speak on Bill C-56. It is yet another initiative the government is taking to support Canadians. From virtually day one, through the introduction of legislation and taking budgetary measures, as a government we have been very supportive of having the backs of Canadians, whether with the very first piece of legislation we introduced back in 2015-16 regarding a tax break for Canada's middle class or the many support programs put together during the pandemic that ensured small businesses and Canadians had the disposable income and supports necessary for Canada to do as well as it has. This was done through a team Canada approach, not only getting us out of the pandemic but putting our economy in a great position to do exceptionally well going forward.

This is reflected in one of the most important stats I believe we have, which is regarding employment. Employment numbers are very encouraging, especially when we compare Canada to other jurisdictions particularly in the G20 or the G7. Relatively speaking, Canada is doing quite well. It does not mean we let up. It means we need to continue to recognize the issues Canadians are facing on a daily basis, which is what Bill C-56 is all about.

Bill C-56 would be there to support Canadians. Before I speak about Bill C-56, I want to recognize this week is a very important week, because we are doing the formal expansion of the dental program. This will allow for seniors and people with disabilities to participate in the dental program, which is going to help literally hundreds of thousands of Canadians. Again, this is a very progressive move. It is a move that clearly demonstrates there are elements with the House of Commons today, contrary to the Conservatives', that are there to provide more hope and opportunities for Canadians.

Bill C-56 would, in essence, do a couple of things. I want to focus on two points. First and foremost is the issue of competition. Changes would be made to the Competition Act that would ensure we have more competition here in Canada going forward. For example, it would get rid of the efficiencies argument. The efficiencies argument is something corporations have used in the past in order to justify taking over large businesses. The one I have often made reference to is a very good example because it is relative to the debates and discussions we have had for a number of months now. It is about the price of groceries, the concerns over that and the steps being taken, whether by the Minister of Finance or the standing committee calling the big five grocery companies to come to Ottawa to be held more accountable for their actions. I see this as a positive thing.

Bill C-56 would provide more of an opportunity to ensure healthier competition into the future. The best example I can come up with offhand is when the current leader of the Conservative Party sat around the cabinet table of Stephen Harper and that government actually approved the Loblaws purchase of Shoppers Drug Mart. For individuals watching or listening in to the debate, I invite them to visit a Shoppers Drug Mart, where they will see a great deal of food products. We are talking about a multi-billion-dollar deal that took away competition. I do not know all of the arguments that were used at the time, but what I do know is that was the last time we saw such a major acquisition of a grocery line. I would suggest that was not healthy for Canadians, and we are starting to see that today.

● (1350)

We are now down to five major grocery stores and we are looking at having a grocery code of conduct. We need to establish that certain behaviours are not acceptable. I was pleased when Canada Bread actually got a fine through the courts. It was tens of millions of dollars because of price fixing. We need to ensure the Competition Bureau has teeth for this type of thing. Not only does it get rid of the efficiency argument, but it also increases the opportunity for fines and gives it more power to conduct investigations. That would make a positive difference. I think all members of the House should support this legislation.

The other part to the legislation is something that I believe would make a huge difference. We know housing is an issue in Canada. Never before have we seen a national government invest as much in housing as we have with this Prime Minister and this government. We are talking about historic levels of funding. This is in terms of our involvement, support and encouragement in housing, like non-profits, and that is what Bill C-56 would do. It would encourage the growth of purpose-built rentals. These things would have a huge impact. We are talking tens of thousands of new units. The policy is so sound that provinces are also looking at engaging with the provincial sales tax component. They realize this is a good way to ensure we build purpose-built rentals.

Ironically, as has been pointed out, the Conservative Party has taken a position that is very anti-housing. When the current leader of the Conservative Party was responsible for housing in Canada, it was an absolute disaster. The federal government did not do its work back then and that is very clear by the actions, or lack of actions, from the Conservative Party. He might say he was just following Stephen Harper's orders. Maybe that is his excuse. However, on Thursday going into Friday, there was a voting marathon. There was a vote dealing with housing and ensuring that the money would go to supporting over 80,000 new apartments, including an affordable home component. The Conservative Party members who showed up to vote actually voted no to that measure. That reinforces that the Conservative Party of Canada, under its current leadership, does not support housing.

When Conservative members raise issues about housing, they have zero credibility on that file. Never before have we had a government that has demonstrated as much leadership in working with municipalities and provinces, and invested more financial resources than this government in the history of Canada. On the other side, we have an incompetent Conservative leader who was a disaster when he was the minister responsible for housing. When there is such a huge demand, what does the Conservative Party do? The members who decide to vote, show up and vote against supporting housing. They are oozing with hypocrisy. Unfortunately, that example is not alone. I was listening to the back and forth, and the questions that were being asked.

● (1355)

Consistently, this government has recognized the importance of Canada's middle class and those aspiring to be part of it. We want an economy that is going to work for all Canadians in all regions. That is the reason we have invested so much energy into trade. Trade supports all of us.

It is surprising, when we think of affordability, that the Conservatives voted against the trade agreement. I have talked a great deal about that, the principles of trade and how important it is that we get behind the Canada-Ukraine free trade agreement. Hopefully I will get more time to focus on that in a while, but I was shocked to see the Conservatives not once, not twice, but on three occasions vote against financial supports for Ukraine. There were votes on individual lines, and they voted against Ukraine once again.

It is a consistent policy with the Conservative Party. Whether on housing or trade, the Conservative Party is reckless in its policy development. A number of Conservatives have stood today on this legislation and talked about affordability. We recognize affordability. That is why we brought in the grocery rebate. That is why we have legislation such as this, which will have a positive impact. What is the Conservative Party's policy? It is very simple. It is a bumper sticker that says, “Axe the tax”.

The Conservatives' whole concept of axing the tax is stealing money from Canadians. That is what they are doing, because most Canadians get more money back than they pay for the price on—

Some hon. members: Oh, oh!

The Assistant Deputy Speaker (Mrs. Carol Hughes): Order. I would remind members there will be 10 minutes of questions and comments. If members have something to say, they should wait until then.

The hon. parliamentary secretary.

Mr. Kevin Lamoureux: Madam Speaker, let us think about it. They are saying they are going to get rid—

The Assistant Deputy Speaker (Mrs. Carol Hughes): The hon. member for North Okanagan—Shuswap is rising on a point of order.

Mr. Mel Arnold: Madam Speaker, I believe the language the member used is unparliamentary. We cannot say indirectly what we cannot say directly. He basically stated that Conservatives are stealing from taxpayers. I would ask him to withdraw that statement and apologize.

Mr. Kevin Lamoureux: Madam Speaker, on the same point of order, if they take away the rebate, they are taking money out of the pockets of Canadians. Many would say that is taking away—

The Assistant Deputy Speaker (Mrs. Carol Hughes): This is a debate. I would remind members that they cannot say indirectly what they cannot say directly.

If the hon. member would withdraw his comment, we will go to Statements by Members and he can continue his speech later.

The hon. parliamentary secretary.

Mr. Kevin Lamoureux: Madam Speaker, I withdraw it.

STATEMENTS BY MEMBERS

● (1400)

[*English*]

RECONCILIATION

Mrs. Jenica Atwin (Fredericton, Lib.): Madam Speaker, last week, instead of voting to support over $20 million in investments for first nations children, the official opposition prioritized filibustering Parliament for over 30 hours. Through these actions, Conservatives said loud and clear that political theatre was more important to them than the continued transfer and control of child and family services and laws to first nations communities.

Unlike the leader of the official opposition, who cares only about first nations when it suits his needs, we believe in furthering progress toward self-determination. We will not let childish antics get in the way of providing the tools and support needed for first nations to act on what is best for their children, families and communities.

Enough is enough. On this side of the House, we will do what is required to right the wrongs of the past and move forward together in true reconciliation.

* * *

SEASON'S GREETINGS

Mr. Richard Bragdon (Tobique—Mactaquac, CPC): Madam Speaker, today, we remember the real reason for the season.

C is for the Christ child who was born in Bethlehem that first Christmas night.

H is for the hope for all humanity that came down to us.

R is for the fact that there was no room in the inn for Him. The question remains: Is there room for Him in our world and hearts today?

I is for Immanuel, which means "God is with us", and He is indeed with us through whatever we are going through and will be with us until the end.

S is for the shepherds, commoners, farmers and keepers of the flock, who were the first to be entrusted with the great news of His birth.

T is for the three wise men, who came searching for the newborn king of Israel. The wise still seek Him today.

M is for the fact that He makes all things new again.

A is for all, because the promise of Christmas is for all people everywhere.

S is for the Saviour, who frees the whole world and every individual from fear, sin, shame and sadness, and as a result, a weary world rejoices.

From my family to others and to all Canadians, merry Christmas and happy new year.

* * *

WOMEN ENTREPRENEURS

Ms. Lena Metlege Diab (Halifax West, Lib.): Mr. Speaker, our women entrepreneurship strategy is reshaping the entrepreneurial landscape in Canada. With $7 billion in investments spanning over 20 federal departments, the program is not just a gesture; it is a resounding declaration that we recognize the untapped potential of women entrepreneurs.

In my community of Halifax West, funding empowers the Centre for Women in Business to continue its work fostering women-led businesses. With the nearly 9,000 loans this program has already provided, we are helping women realize their dreams and break down the barriers to their success. The data shows that women are jumping at the chance to access these resources, connect with mentors and further their education.

Women have their place in the world of entrepreneurship, and we will continue to hand them the tools they need to make their mark. While the Leader of the Opposition forces his caucus to vote against the program, we will always be there to empower women across the country.

* * *

[*Translation*]

AGRICULTURE

Mr. Yves Perron (Berthier—Maskinongé, BQ): Mr. Speaker, last week, more than 1,000 farmers took to the streets of Quebec City to ask for more government support.

GOVERNMENT ORDERS

[*English*]

AFFORDABLE HOUSING AND GROCERIES ACT

The House resumed consideration of the motion that Bill C-56, An Act to amend the Excise Tax Act and the Competition Act, be read the third time and passed.

The Deputy Speaker: Pursuant to order made on Thursday, November 23, it is my duty to interrupt the proceedings and put forthwith every question necessary to dispose of the third reading stage of the bill now before the House.

If a member participating in person wishes that the motion be carried or carried on division, or if a member of a recognized party participating in person wishes to request a recorded division, I would invite them to rise and indicate it to the Chair.

Mr. Kevin Lamoureux: Mr. Speaker, I would request a recorded vote.

The Deputy Speaker: Call in the members.

● (1900)

(The House divided on the motion, which was agreed to on the following division:)

(Division No. 606)

YEAS

Members

Aboultaif
Albas
Alghabra
Allison
Anandasangaree
Arnold
Arya
Badawey
Baker
Barlow
Barron
Battiste
Beech
Bennett
Berthold
Bezan
Bittle
Blanchet
Blaney
Blois
Boulerice
Bragdon
Brière
Brunelle-Duceppe
Cannings
Carr
Casey
Chagger
Chambers
Champoux
Chen
Chong
Collins (Victoria)
Cormier
Dabrusin
Davidson
DeBellefeuille
Desbiens
Aitchison
Aldag
Ali
Anand
Angus
Arseneault
Atwin
Bains
Baldinelli
Barrett
Barsalou-Duval
Beaulieu
Bendayan
Bergeron
Bérubé
Bibeau
Blaikie
Blanchette-Joncas
Block
Boissonnault
Bradford
Brassard
Brock
Calkins
Caputo
Carrie
Chabot
Chahal
Champagne
Chatel
Chiang
Collins (Hamilton East—Stoney Creek)
Cooper
Coteau
Damoff
Davies
Deltell
Desilets
Desjarlais
Dhillon
Doherty
Dowdall
Drouin
Duclos
Duncan (Stormont—Dundas—South Glengarry)
El-Khoury
Epp
Falk (Battlefords—Lloydminster)
Fast
Fillmore
Fisher
Fortier
Fragiskatos
Freeland
Gaheer
Gallant
Garrison
Gazan
Genuis
Gill
Godin
Gould
Gray
Hajdu
Hanley
Hepfner
Hughes
Iacono
Ien
Jeneroux
Joly
Jowhari
Kayabaga
Kelly
Khanna
Kitchen
Koutrakis
Kramp-Neuman
Kusie
Kwan
Lambropoulos
Lamoureux
Lapointe
Lattanzio
Lawrence
Lebouthillier
Lemire
Lewis (Essex)
Liepert
Lloyd
Long
Louis (Kitchener—Conestoga)
MacDonald (Malpeque)
MacKinnon (Gatineau)
Majumdar
Martel
Masse
May (Cambridge)
McCauley (Edmonton West)
McGuinty
McKinnon (Coquitlam—Port Coquitlam)
McLeod
Melillo
Mendicino
Miller
Morantz
Morrison
Motz
Muys
Nater
Normandin
Dhaliwal
Diab
Dong
Dreeshen
Dubourg
Duguid
Dzerowicz
Ellis
Erskine-Smith
Falk (Provencher)
Ferreri
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Lantsman
Larouche
Lauzon
LeBlanc
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Leslie
Lewis (Haldimand—Norfolk)
Lightbound
Lobb
Longfield
MacAulay (Cardigan)
MacGregor
Maguire
Maloney
Martinez Ferrada
Mathyssen
Mazier
McDonald (Avalon)
McKay
McLean
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Mendès
Miao
Moore
Morrice
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Murray
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O'Connell

Oliphant
Patzer
Pauzé
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Sgro
Sheehan
Shipley
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Yip
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Members

Deltell
Hussen

Guilbeault
Michaud– — 4

The Deputy Speaker: I declare the motion carried.

(Bill read the third time and passed)

The Deputy Speaker: Pursuant to order made on Thursday, December 7, the House shall now resolve itself into a committee of the whole to consider Motion No. 32 under Government Business.

* * *

[*Translation*]

INDIGENOUS SERVICES

(House in committee of the whole on Government Business No. 32, Mr. Chris d'Entremont in the chair)

The Chair: Before we begin this evening's debate, I would like to remind hon. members how the proceedings will unfold.

[*English*]

Each member speaking will be allotted 10 minutes for debate, followed by 10 minutes for questions and comments.

Pursuant to order made on Thursday, December 7, members may divide their time with another member. The time provided for the debate may be extended beyond four hours, as needed, to include a minimum of 12 periods of 20 minutes each. The Chair will receive no quorum calls, dilatory motions or requests for unanimous consent.

[*Translation*]

We will now begin the take-note debate.

Hon. Karina Gould (Leader of the Government in the House of Commons, Lib.) moved:

That this committee take note of Indigenous services.

[*English*]

Mrs. Jenica Atwin (Parliamentary Secretary to the Minister of Indigenous Services, Lib.): Mr. Chair, I would like to begin by acknowledging that we are gathered on the unceded, unsurrendered territory of the Algonquin Anishinabe people.

I would also like to preface my comments this evening by reminding colleagues in the House that we are not just talking about numbers or policies here. We are talking about people, communities, families and children, and what we do in this House really matters.

It was my great honour to be here today as the Minister of Indigenous Services introduced Bill C-61, an act respecting water, source water, drinking water, waste water and related infrastructure on first nation lands.

We do not always have good days in this House, but today was a good day. First nations have long called for legislation that affirms their inherent rights, recognizes their stewardship in keeping water clean and meets first nations' needs. Today, we collectively leapt closer to making access and security to safe and clean drinking water a reality.

Before I came to the House, and I have spoken many times about my role in education, I was a teacher. I think about my time at Fredericton High School in particular. I used to teach my students about the ongoing water crisis here in Canada and what our nation was and was not doing to address it. I often pointed to the example of Shoal Lake 40 First Nation in Winnipeg. At the time, it was under 18 years of a long-term boil water advisory. Community members had to bring in large jugs. They could not brush their teeth, cook or bathe in the water. Then we built the human rights museum, and they could see this museum from their community. I always thought, “Whose human rights are we fighting for in this country?” I am so proud to say that Shoal Lake 40 First Nation has come off the long-term boil water advisory list.

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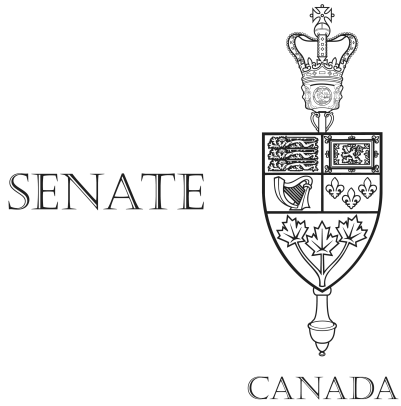
P20709

This is Exhibit “I” to the affidavit of **Mallory Kelly,** affirmed
remotely and stated as being located
in the city of Gatineau, in the province of Quebec,
before me at the city of Ottawa in the province of Ontario,on
July 4, 2025, in accordance with
O. Reg 431/20, Administering Oath or Declaration Remotely.



DEBATES OF THE SENATE

1st SESSION • 44th PARLIAMENT • VOLUME 153 • NUMBER 172

OFFICIAL REPORT
(HANSARD)

Thursday, December 14, 2023

The Honourable RAYMONDE GAGNÉ,
Speaker

THE SENATE

Thursday, December 14, 2023

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

JIMMY LAI

Hon. Pierre J. Dalphond: Honourable senators, on behalf of Senator Housakos, Senator Omidvar, Senator Miville-Dechêne and Senator Patterson from Ontario — and no doubt many others — I rise to call for the release from prison of Jimmy Lai, a hero for democracy in Hong Kong.

Mr. Lai founded the hugely popular and independent newspaper *Apple Daily* in response to the Tiananmen Square events. Unfortunately, it was forcibly closed in 2021 by the Hong Kong authorities.

He was arrested in 2020, following his participation in legal pro-democracy protests in Hong Kong, and has since faced legal warfare. Mr. Lai just spent his seventy-sixth birthday in prison on December 8, held for the last three years on bogus charges brought under the infamous national security law and imposed on Hong Kong by the Beijing government.

Mr. Lai's next trial is for sedition. It's scheduled to begin on December 18. It will be tried without a jury by a special group of judges. He faces a life sentence. His ideas are so dangerous for the Hong Kong government that he's currently being held in solitary confinement in a maximum-security prison.

This is an influential, peaceful man who dared to publish the truth. The free world must stand with Mr. Lai and other champions of media freedom, democracy and human rights.

Last week, I had the pleasure to meet with his son, Sebastien, and his legal team, who came to Ottawa to meet with a few MPs and senators. I met them with Irwin Cotler and Brandon Silver of Montreal's Raoul Wallenberg Centre for Human Rights.

Let me add that as we prepare to celebrate Christmas, Jimmy Lai is a Catholic who will not be able to, once more, observe Christmas with his family. Despite that, he said:

> There is always a price to pay when you put truth, justice and goodness ahead of your own comfort . . . . Luckily God has made this price a grace in disguise. I am so grateful.

Colleagues, for these reasons, on behalf of Senator Housakos, Senator Omidvar, Senator Miville-Dechêne and Senator Patterson from Ontario, today I will introduce a motion identical to the one unanimously adopted in the House of Commons this past Tuesday, calling for Mr. Lai's release. I hope that we will quickly adopt this motion tomorrow, and send a message to the Chinese government that our entire Parliament stands with Mr. Lai.

Thank you. *Meegwetch*.

EXPRESSION OF GOOD WISHES FOR THE SEASON

Hon. Yuen Pau Woo: Honourable senators: ‘

‘Twas some weeks before Christmas, when all through this house
A commotion broke out and tempers did rouse.
Senators had lined up with speeches to share
On a bill about carbon pricing and whether it's fair.
Members were nestled all snug at their desks:
"Was this a caper or some weird jest?"
The Speaker in her chair, with Clerk Till at her side,
Was bracing herself for a rather rough ride.
When out on the floor there arose such a clatter,
I sprang to my laptop to see what was the matter.
Away to the screen, I made a quick dash.
I clicked on my mouse and blinked at the flash.
The moon on the breast of the new fallen snow
Gave a lustre of midday to objects below,
When what to my wondering eyes should appear . . .
But an adjournment motion that rang out most clear.
In moments so fraught, so lively and quick,
We can do with a visit from good old St. Nick.
More rapid than eagles, his coursers we welcome —
I mean, Dasher, and Dancer, and Prancer, and then some.
To the top of the scrolls! To the top of our call!
Order and decorum for one and for all.
As leaves that before the wild hurricane fly,
When they meet with an obstacle, mount to the sky.
So up to the Hill, new senators they flew
With sleighs full of experience and savvy too.
They came from the provinces of Atlantic Canada,
But what about the Prairies, Ontario and British Columbia?
To the Red Chamber new colleagues did join,
An oath to the Crown — you know, the guy on the coin.
"Laying aside all difficulties and excuses" our duties must not a senator refuses.
Which is what our colleague did model, Senator Renée Dupuis — the Honourable.
We wish her Godspeed and offer farewells,
May she have health and happiness, and a life without bells.
To everything there's a season,
even if we don't know the reason.
Must we deal with such "weighty and arduous matters?"
So much of our world is now in tatters.
And so in this time of great sorrow,
We cling to the hope of a better tomorrow.
May your St. Nick bring gifts this holiday period,
In ways and forms that are rich and myriad.
And as we spring to our sleighs and give the whistle,
As we fly home like the down of a thistle.

Honourable senators, in reflecting on Bill S-14, I would like to emphasize the importance of deepening our consultations, particularly by reinviting the House of Commons to consider a more exhaustive approach. My feeling is that the bill, as it stands, would benefit from more diverse perspectives and a more thorough examination.

It is also essential that the industrial and mining sector — whose economic impact is significant in many regions affected by Bill S-14 — be consulted more extensively. The value of their perspectives and their specific knowledge of the challenges and opportunities related to this bill is indispensable for fully assessing its economic impact and the practical repercussions.

Similarly, particular attention should be paid to the voices of mayors and local officials of small towns. As representatives of the communities directly affected by Bill S-14, their understanding of local needs and issues is critical for assessing the real impact of this bill on the daily lives of citizens.

The historical example of Louisbourg, where massive expropriation led to dramatic consequences for the community, should serve as a lesson. It is essential that we learn from the past to avoid repeating the same mistakes in the application of Bill S-14. This part of our history underscores the need for careful planning and thorough consultation to avoid adverse effects on communities, land management, heritage and people.

In conclusion, I appeal to my colleagues to recognize the importance of expanding and deepening consultations around Bill S-14. It is our duty, as legislators, to ensure that all relevant perspectives are taken into account in order to ensure balanced, well-considered and beneficial legislation for all Canadians. I thank you for your attention on this important issue.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to and bill, as amended, read third time and passed.)

• (1540)

AFFORDABLE HOUSING AND GROCERIES BILL

BILL TO AMEND—THIRD READING

Hon. Éric Forest moved third reading of Bill C-56, An Act to amend the Excise Tax Act and the Competition Act.

Hon. Colin Deacon: Colleagues, "Capitalism without competition isn't capitalism; it's exploitation."

This statement describes a central pillar of President Joe Biden's economic policy. He goes on to say, ". . . Without healthy competition, big players can change and charge whatever they want and treat you however they want."

Those of us who fly each week live the effects of that reality.

Conversely, competitive markets force companies to innovate so that they can deliver greater value and attract more customers. Robustly contested markets cause increases in business investment, efficiency, innovation and productivity. Competition creates better products and lower prices for customers. As a consequence, competitive markets drive companies to become stronger global competitors.

Business investment and productivity in Canada have been declining steadily over 20 years. The emerging consensus is that our outdated competition laws and policies shoulder much of the blame.

Colleagues, this is why I'm thrilled to rise to speak today at third reading in support of Bill C-56, the affordable housing and groceries act. I'm pleased to see the government follow through on Budget 2022's "down payment" on competition policy reform. Bill C-56 introduces the most meaningful reforms to Canada's competition laws since the 1980s. It will implement measures intended to increase the affordability of housing and increase competition across our economy, including in the grocery sector.

But, first, let me step back and give you some insight as to why I'm so passionate about competition law and policy reform in Canada.

When first introduced in 1985, the purpose of the Competition Act was to:

> . . . maintain and encourage competition in Canada in order to promote the efficiency and adaptability of the Canadian economy, in order to expand opportunities for Canadian participation in world markets while at the same time recognizing the role of foreign competition in Canada, in order to ensure that small and medium-sized enterprises have an equitable opportunity to participate in the Canadian economy and in order to provide consumers with competitive prices and product choices.

That purpose remains relevant today. The challenge, however, is that market realities have fundamentally changed in the ensuing 38 years, rendering many parts of the bill no longer fit for purpose. Our Competition Act dates from an era when it was assumed that fostering big, homegrown companies was a national economic priority.

This belief has been completely discredited by evidence, yet it lives on in our Competition Act.

For example, as a result of how we manage competition in the telecom sector, the 85% of Canadians who have smartphones pay some of the highest telecom bills in the world. Let me walk you through a few of the resulting inequities.

I use my Senate smartphone a lot. I am probably not alone. It only costs $30 a month thanks to the deal that the federal organizations have with Bell Canada.

Conversely, the cost of my personal phone is about $90 a month, about three times the cost of my Senate phone. I'm absolutely certain of one thing: Bell would never offer this $30-a-month deal unless it was profitable to do so.

So those who can pay the most pay the least, and those who can pay the least pay the most. Bell has the luxury of engaging in price discrimination amongst its customers because our competition laws and policies protect oligopolies from robust competition, even made-in-Canada competition. If you think it is bad here in Canada's South, I suggest you speak to one of our three senators from the territories.

I now want to cite a recent industry and merger example to further make my point. Over the last 18 months, we've seen large-scale corporate consolidation in real time with Rogers acquiring Shaw for $26 billion.

When Rogers' proposed $26-billion acquisition of Shaw threatened to further consolidate the market, Canada's Commissioner of Competition, Matthew Boswell, dared to challenge the merger and defend the interests of Canadian consumers. Suddenly, in the midst of tribunal preparation at the bureau, Rogers and Shaw, Rogers committed to sell the wireless division of Shaw called Freedom Mobile. Rogers gambled that it could unilaterally predetermine its own remedy to the merger's anti-competitive effects. It ended up working.

Rogers had received two credible bids for Freedom Mobile and, remarkably, the Rogers board accepted the offer that was a billion dollars less than an unsolicited offer from a more robust and completely independent competitor. The Rogers board would never have accepted a billion dollars less in that asset sale unless they were confident that the discounted sale price would ultimately deliver much higher returns well into the future because the asset was being sold to a weaker competitor.

Whatever their rationale, Canada's weak competition laws were exploited by Rogers, allowing it to boldly and publicly choose its own competitor as a remedy to what many felt was an anti-competitive merger.

Ultimately, in January of this year, the tribunal ruled in favour of letting the merger proceed. Then, in August, the tribunal went so far as to determine that Canadian taxpayers pay Rogers and Shaw about $13 million because, under our competition law, as it currently stands, Canada's Commissioner of Competition, in their opinion, had been too aggressive in his challenge of the merger.

Colleagues, our oligopolies have consistently benefited from legacy legislation policies across the whole of government. This problem is not limited to groceries or telecom — far from it.

Many of our oligopolies have become so dominant that they can just focus on serving the interests of their shareholders, without having to first concern themselves with the interests of customers. Indeed, the general state of competition in Canada is such that it has resulted in our country having accumulated one of the greatest regulatory burdens in the OECD. Ironically, the cost of adhering to Canada's federal, provincial and municipal regulatory burdens are so great that regulations initially intended to protect citizens now do a much better job of protecting the interests of incumbent oligopolies. Our complex and cumbersome regulatory burdens can't be afforded by innovative new entrants.

In our Banking Committee, I like to ask economists at our big banks about the importance of competition. They reliably and ironically describe robust competition as being central to improving innovation, productivity and prosperity in Canada. And Bank of Canada Governor Tiff Macklem consistently describes robust competition as being a crucial ally in the long-term fight against inflation.

Colleagues, you have likely heard me say before that you can never regulate a company into becoming customer-centric. Only competition makes that happen. We desperately need to change course if we want to protect our future prosperity.

Now I would like to climb off my soapbox and speak directly to the competition-related elements in Bill C-56.

In November 2022, ISED initiated a consultation on the future of Canada's competition policy. The public consultation garnered considerable interest with over 130 submissions from identified stakeholders and over 400 members of the general public. Collectively, these submissions proposed over 100 possible policy reforms. There were also round tables and one-on-one meetings held with stakeholders.

In September, the results of this consultation were published in a *What We Heard* report, and the amendments to the Competition Act in Bill C-56 all flow from that consultation. The amendments incorporate additional measures through an agreement with the NDP, but all of these align with the consultation report.

The amendments are as follows: First, the Competition Bureau will now have the power to initiate market studies that examine inefficiencies that may be due to weak competition. Importantly, the bureau has also been provided the authority to compel the production of information from the related businesses. Prior to this amendment, when conducting a market study, the bureau could only politely ask the related businesses to hand over non-public evidence.

We wonder how that might work in police investigations, for example.

This lack of authority was illogical and completely out of line with practices in our peer nations.

Indeed, in their submission to the Canadian consultation, Assistant Attorney General Jonathan Kanter, responsible for enforcement of antitrust law in the United States, and Federal Trade Commissioner Lina Khan wrote:

> The Competition Bureau, like the FTC, has the authority to conduct market studies. Unlike the Competition Bureau, however, the FTC has the authority to use compulsory process in the aid of such studies.

• (1550)

They continued, writing:

> These studies allow the FTC to gather information and documents outside the enforcement context and can play a key role in identifying and analyzing emerging competition trends and issues. . . .

An amendment in the House's Finance Committee broadened the power of the Commissioner of Competition to initiate market studies without a directive from the minister — this was an important change — although the terms of reference will have to be coordinated and approved by the minister.

Second, the efficiencies defence will be eliminated. Canada has been an outlier with this clause. It prevents an anti-competitive merger from being legally challenged if the merging parties can hypothetically demonstrate that the merger could produce economic efficiencies, yet they are under no obligation to deliver on these efficiencies. No other peer jurisdiction has allowed this.

Third, the amendments expand the competitor collaboration provisions to include collaborations among parties that are not direct competitors. An example of this relates directly to groceries.

Under current rules, a grocer who owns a mall can prevent a competitor from opening a rival store nearby. Even worse, the contractual obligations can outlive the closing down of that grocery, creating a food desert. These amendments would allow the Competition Bureau to prosecute this practice.

Fourth, the Competition Bureau will be enabled to go after big corporate players who abuse their dominance to engage in anti-competitive acts, such as squeezing out small players. The amendment adds ". . . directly or indirectly imposing excessive and unfair selling prices" to a list of acts:

> . . . intended to have a predatory, exclusionary or disciplinary negative effect on a competitor, or to have an adverse effect on competition . . . .

Some have interpreted this amendment as putting the Competition Bureau in an uncomfortable position of enforcing price controls, but the preamble prevents that risk.

Lastly, the administrative monetary penalties, or AMPs, for anti-competitive acts are increased from $10 million to $25 million — and from $15 million to $35 million for subsequent orders. It has generally been understood that the current penalties amount to a business expense for large players. The most troubling recent example relates to Facebook's penalty for its commercial deception in the Cambridge Analytica affair. In Canada, the maximum penalty could only be $10 million, while in the United States, the same infraction garnered a $5-billion penalty from the U.S. government.

Some have expressed concern that these amendments are occurring on a piecemeal basis. That's fair. Regardless, I'm fully supportive of these meaningful changes, but I look forward to examining much more closely those included in Bill C-59.

Colleagues, competition is about much more than just low prices. It is about a free, fair and democratic society. As monopolies emerge, governments are forced to create regulations to combat the harms from those monopolies. These regulations get embedded, making it more difficult for new entrants to disrupt a market, and entrenching that monopoly.

Remember one truth if you remember nothing else: You can never regulate a company into becoming customer-centric. Only robust competition can do that.

If we want Canada to emerge from the pervasive slump of low productivity and command-and-control regulations, we must reform our competition laws. Bill C-56 is an important first step. These amendments are crucial and widely supported by thought leaders and the Competition Bureau alike. This truly is the beginning of a generational change.

Thank you, colleagues.

Hon. Rosa Galvez: Would Senator Deacon answer a question?

Senator C. Deacon: Absolutely. Thank you.

Senator Galvez: Yesterday, I asked the Commissioner of Competition this question: Will Bill C-56 and the amendments to the Competition Act result in a reduction in grocery prices in the next few months or the next year? He said no, but that in the long term, the changes to the competition law will bring some good things.

The other side of the question is that they have known that grocery stores have been amalgamating for the last decade, and so competition was being reduced — they put out different reports. They did not do anything.

I wonder about the relationship with the Lobbying Act. Can you comment on the impact of the Lobbying Act and the fact that oligopolies keep growing in Canada? Thank you.

The Hon. the Speaker pro tempore: Senator Deacon, you are out of time to answer the question. Are you requesting leave to answer this question?

Senator C. Deacon: Five more minutes, if the chamber is so agreeable. I do not think that I will need it all.

The Hon. the Speaker pro tempore: Is leave granted, senators?

Hon. Senators: Agreed.

Senator C. Deacon: My goodness. Thank you, Senator Plett, for your graciousness.

Senator Galvez, that is an important question. It is a question of who has the ability to gain access, and the costs of getting lobbyists, putting forward good arguments, using high-priced lawyers to help you make your case and so on are quite significant. Emerging businesses that are disruptive do not have the time, resources or experience to fight that battle.

The loudest, most connected and most powerful voice can often be the one that is heard; others are not heard as clearly.

What is really important is that there are some changes in Bill C-56 to the Competition Act that start to make it harder for the rules to work automatically for oligopolies. My hope is that we are going to see continued change and that oligopolies will have to compete for customers; they will not get to build a protective moat around their business, which is this big regulatory burden. Big companies like regulations because they protect them from innovative entrants. They can spread the cost of those regulations across a much larger revenue base.

From my standpoint, this is a great beginning. It is far from the end to ensure that Canada has more robust competition.

With respect to what the commissioner said around the effect on prices specifically, the Governor of the Bank of Canada, Tiff Macklem, has been very clear: This is a really important ally in the long-term fight to keep prices down and against inflation. It is not an overnight issue by any means, but it will certainly help us all in the long run. I hope that helps. Thank you.

[*Translation*]

Hon. Clément Gignac: Colleagues, today, I would like to speak to Bill C-56, An Act to amend the Excise Tax Act and the Competition Act.

I want to begin by making it clear that I do not intend to make any amendments to this bill and by saying that I will keep my remarks brief, because I am in favour the initiatives set out in the bill. You are therefore no doubt wondering why I am rising. The reason is that I want to speak out in this chamber, loud and clear, against the very little time that was allocated to studying this bill.

It's nothing personal against the Government Representative in the Senate or the chair of the National Finance Committee, the Honourable Senator Mockler. On the contrary, as a member of the steering committee, Senator Mockler informed me on Monday at noon that we would have a hard time analyzing and passing this bill before we rise for the holidays, unless we were to take exceptional measures, such as holding a meeting in Committee of the Whole. According to my research, this was the first time in 10 years that the Senate has resolved into Committee of the Whole to debate an economic bill.

Honourable senators, I must admit that I was not familiar with that exceptional procedure. Like my two colleagues from the Canadian Senators Group, I was left wanting more, since each of us were allotted only three and a half minutes to ask questions of the two ministers with responsibilities in the economic sector.

Allow me to publicly thank the leader of the Canadian Senators Group for insisting earlier this week that the Standing Senate Committee on National Finance hold a special session immediately after the Committee of the Whole to hear a few witnesses on this bill.

Hats off to our clerk, Mireille Aubé, and her two analysts, who, with less than 24 hours' notice, managed to secure the attendance of four witnesses at our committee yesterday afternoon.

• (1600)

Honourable senators, this bill passed first reading in the other place on September 21 and was received here in the Senate on Monday evening of this week. Allow me to point out that the finance committee of the other place was able to devote over eight hours of its time to this bill and heard from nine witnesses. At first glance, you will probably find that reassuring.

However, you should know that the Canadian Bar Association wasn't able to testify, but it did submit a brief, which I have here. It is 30 pages long and contains 19 recommendations.

Moreover, during the clause-by-clause consideration in the other place's committee, four amendments were presented and adopted. To me, that's clear proof that this bill, the first reform of the Competition Act in 35 years, undoubtedly deserved a much more sober second look here.

Honourable Senators, you can no doubt sense a little anger, or at least a little intellectual frustration, in this speech I'm giving as a senator and member of this upper chamber, which is known as the place of sober second thought.

This week, I didn't feel as though we were part of a bicameral system of Parliament with two chambers. Instead, I felt like I was sitting in the basement of the lower chamber, being treated like a second-class parliamentarian. It's as if someone had forgotten that we are senators, no doubt of different political persuasions, but all with one common denominator: the desire to do the right thing in a transparent way for the good of Canadians.

I would like to thank my colleagues on the steering committee of National Finance, who agreed to raise the tone a little in the commentary presented last night. Usually, at National Finance, we use gentle, polite and courteous words. This time, we raised our voices a little, pointing out that we found it contemptuous that the committee had so little time to analyze the bill.

Honourable senators, I will close with that. Unfortunately, I think I've caught Senator Carignan's nasty sore throat, so I will end here and probably won't be able to answer your questions. Thank you.

Hon. Marc Gold (Government Representative in the Senate): I do have a question. Can I ask you, colleague, to reconsider?

Senator Gignac: That's the only question I'll answer, and only out of respect for Senator Gold.

Senator Gold: Thank you, senator. It's very important that we here in the Senate have enough time to give bills the attention they deserve. That is the best way to proceed, and it's always my hope, even though bills sometimes show up on our legislative agenda very late.

Senator, my question is this: Did you know that my office recommended that the National Finance Committee do a pre-study of this bill, which would have included the participation of — Excuse me, I'll restart.

The bill was in the other place, and we didn't know exactly when the Senate would get it, but since it's a priority for the government and Canadians, did you know that my office suggested doing a pre-study that both ministers would have been a part of? The Finance Committee was ready to receive them Tuesday morning, but certain leaders refused. Not all of them, but enough of them that we didn't get the consensus we needed to do the pre-study, given the calendar. Are you aware that it's—

[*English*]

The Hon. the Speaker pro tempore: Senator Gold, please ask your question.

[*Translation*]

Senator Gold: Are you aware that the Government Representative Office suggested that the committee conduct a pre-study, which would have allowed for more time to study and debate this bill if the proposal had been agreed to? Unfortunately, it was not.

Senator Gignac: Honourable senators, I was not aware of all of these dealings or negotiations between the leaders. With all due respect, thank you for sharing that information with us. We often see this in connection with budget implementation bills: the National Finance Committee frequently conducts pre-studies because it can sit almost whenever it wants.

I was therefore very surprised that the approach normally followed for budget implementation bills was not being used. Naturally, I was frustrated, at an intellectual level. We are talking about the Competition Act, which is no laughing matter. It is a very serious issue. Senator Deacon, our expert, who unfortunately does not sit on the National Finance Committee or on the Banking Committee . . . We were unable to split the bill in two to send the competition provisions to the Banking and Economy Committee, which would have studied them carefully, and the excise tax provisions to the National Finance Committee. We sometimes divide things up when we examine budget implementation bills. This time, we did not even have the opportunity to do that.

This is the first time that I've encountered a situation like this. I don't think I was the only one feeling frustrated. At the same time, Canadians understandably need relief. I just wanted to mention it, all partisanship aside, because I think that we are all here to improve the lives of Canadians, regardless of our convictions.

You know, I have only one commitment outside the Senate, and it's a voluntary one. I chair the board of directors of the Collège des administrateurs de sociétés. Good corporate governance is very important to me. What we've seen this week is not good practice, it is bad practice.

I wasn't aware of that, but I appeal to all four leaders. Please, next time, during your negotiations — I understand, I was in politics for three and a half years and I know what that can entail — when it comes to bills like this, work together to authorize a pre-study. It's necessary.

Let me make a prediction. When I look at the Canadian Bar Association's brief, which is about 30 pages long and contains 19 recommendations, it's quite clear that there will be amendments to this bill over the next few months. Things are going to happen. This legislation has not been examined properly. We really weren't treated like parliamentarians in the upper chamber. We were mistreated.

As I said in my preamble, Senator Gold, this is nothing personal against you or the chair of the National Finance Committee. It was damage control, and we had to deal with the decisions that were made.

Hon. Jean-Guy Dagenais: Honourable senators, never in my 12 years as a senator have I felt so belittled, insulted and victimized by such a total lack of respect for my office and the job we all do here.

Yesterday, we held a committee meeting for a few hours and heard from six witnesses who provided very little information — and that is all the time we got to study a bill that I would describe as half-baked.

Some will say that this bill is important for Canadians, and I agree.

• (1610)

Why then did this government drag its feet for so long? Why did we only get this bill on December 13, just hours before we rise for the holidays? Just because the government is saying that this is urgent does not mean that we should shirk our responsibilities as senators, including the responsibility to rigorously examine legislation, amend it if necessary and, most importantly, properly represent the interests of Canadians in our respective regions.

I want to draw a comparison with Bill C-21. For a month, the committee met three times a week and heard from two, three, or even four groups of witnesses per meeting. Then, it just so happened that all of the amendments that we proposed to better protect our fellow citizens, even the most useful ones, were defeated in committee and in this chamber.

I'm going to take this a step further. This government does not have a very good track record when it comes to the quality of its legislation. I'm not the one saying that. That's something the Supreme Court pointed out with the bill on medical assistance in dying. The Senate amendments to that legislation would have saved Canadians time and money.

The Senate is called the upper chamber. I fear that this haste to obey the government's political commands lowers us to a dangerous degree when that same government prevents us from being diligent about the work we were appointed to do. I've often heard us called a chamber of reflection. Not a lot of reflection happened with Bill C-56, which we spent less than 90 minutes on.

People call the Senate the chamber of sober second thought. I can tell you we didn't think about this one for very long. People also say that the Senate is an independent chamber. Let me just say that this use of the word forces me to reconsider its meaning. I sincerely believe that a number of my colleagues should do likewise.

The past three weeks in Parliament haven't been easy. For all these reasons, I won't vote in favour of Bill C-56, but I won't vote against it either. I will abstain. I will do better than that, actually. I'm going to take a coffee break so that I don't have to witness what I don't want to endorse.

Thank you.

[*English*]

Hon. Scott Tannas: Honourable senators, for the edification of everyone here, there was mention of a pre-study and a rejection of that notion. Just so that everybody is clear, the bill arrived here on Monday; the suggestion of a pre-study was raised on Tuesday; it's now Thursday. In that time frame, we had the ministers here and the agreement of everybody. We asked the National Finance Committee to hold a hearing and bring as many witnesses as they could, to listen to concerns and to provide us with a report, of which they have done yeoman's work.

The answer to this problem was not to do a pre-study on Tuesday and Wednesday. The answer to this problem, in my humble opinion, is for us, through the government leader, to provide guidance to the House of Commons on when it is they need to get bills here if they expect them to pass within a certain amount of time.

It was done before quite smoothly. We have heard in various conversations about Senator Carstairs, who stood up to her masters in the House of Commons and said, "If you don't have a bill here by X date, don't lean on us to rush through it." That is the kind of thing that will solve this problem, not a pre-study notion on a Tuesday and some different result than what we have here on a Thursday. Thank you.

Hon. Elizabeth Marshall: Honourable senators, against that backdrop, I'm going to start my speech on Bill C-56, but I will go back to Part 1 of the bill and talk about the substance of the bill.

This bill has two parts: Part 1 and 2. I'm going to talk about both parts separately. They are distinct but not unrelated because both parts are intended to address affordability issues that are being experienced by Canadians. I'm going to address each part separately.

The first part amends the Excise Tax Act in order to implement a temporary enhancement to the GST. It's called the "GST New Residential Rental Property Rebate in respect of new purpose-built rental housing." Effectively, Part 1 of Bill C-56 enhances the GST rental rebate by increasing the rebate from 36% to 100% and removing the existing GST rental rebate phase-out thresholds for new rental housing projects, such as apartment buildings, student housing and senior residences.

Government officials have said that because the bill is very short with very scanty information, the details will be provided in regulations at a later date. However, they did provide the following information, and although it's not in the legislation or regulations, it was provided.

First of all, the rental rebate is directed at buildings with at least four private apartment units or residences with at least 10 private rooms. Of the residential units in the buildings, 90% have to be designated for long-term rental. The GST rental rebate will not apply to luxury condominiums or rental units to be converted afterwards into short-term vacation rentals, and the GST rental rebate also applies to substantial renovations that would transform an existing building into new rental units.

While these conditions have been relayed by government officials, regulations have yet to be authorized and gazetted. We just had the discussion about how little time was spent at the National Finance Committee on this. This is information we had to find by researching; it didn't come from officials directly.

Bill C-56 indicates that the rental rebate program will run to 2035; that's 12 years. Specifically, the GST rental rebate will apply to projects that begin on or after September 14 of this year, which is when the measure was first announced, until December 31, 2030, but the projects must be completed by the end of 2035.

The fall fiscal update indicates that the estimated cost of this program will be $4.5 billion over the next six years, beginning with $5 million this year and increasing to about $1.5 billion in 2028-29, which is the sixth year of the program. But there have been no further estimates provided for the following seven years of the program, which would run from 2029-30 through to 2036.

Bill C-56 indicates that the program will continue to December 31, 2035, so the estimated cost for those seven years is not disclosed. In fact, it's not even mentioned anywhere.

At a recent meeting of the Standing Senate Committee on National Finance, Ms. Lisa Williams, Senior Vice-President of Housing Programs at the Canada Mortgage and Housing Corporation, or CMHC, told us that Canada will need to build 5.8 million homes by 2030 to reach affordability. She emphasized that this would be an additional 3.5 million homes on top of what the country is already expected to produce. However, Mr. Bob Dugan, Chief Economist at the CMHC, told us that the corporation had not had time to estimate the specific impact that

the GST rental rebate program will have on the building of new rental units. In other words, the government has no estimate on the number of housing units to be built with the $4.5 billion.

Minister Freeland told us yesterday at the Committee of the Whole that one of Canada's top housing experts has estimated that 200,000 to 300,000 homes will be built with the $4.5 billion. However, it is notable that the minister is quoting an estimate provided by an individual outside the government. It is not the government's estimate, because the government has not yet estimated or assessed the impact of this housing program.

At the November 23 meeting of the Standing Senate Committee on Banking, Minister of Housing Sean Fraser said that there was not a specific housing strategy outlined in the Fall Economic Statement, which is amazing, because this program is $4.5 billion, and there are already billions of dollars going into housing by the CMHC and other government departments, yet there's no housing strategy.

• (1620)

He further said:

> We're working on developing a comprehensive plan that will have a suite of federal measures designed to address the national housing crisis. . . .

Honourable senators, the rental property rebate program is estimated to cost $4.5 billion over the next six years, and, as I've already indicated, there's been no assessment as to the impact this will have on the housing supply, including the number of homes to be constructed.

In addition, the program is to continue for 7 additional years after the initial 6 years — for 13 years in total — with no cost estimates provided by the government for the second round of 7 years.

In addition, the regulations governing the details of the rental property rebate program have yet to be released. How can private sector partners be expected to step up and participate in a program for which the program details are not yet available?

Before I speak to Part 2 of the bill, I just want to summarize the issues with the GST rental rebate program, from my perspective, which I feel has not been addressed.

First of all, there's been no impact assessment of the GST rental rebate program, which would indicate how the program will impact housing, nor is there an estimate of the number of units to be constructed. Only a partial cost of the program has been estimated. It's the first 6 years of the 13-year program, and it's $4.5 billion. There's no estimate on the costs of the program in the following seven years.

The government has no housing plan, despite spending billions of dollars on housing initiatives. Regulations required to define the details of this program have yet to be released.

Finally, the government has yet to indicate whether housing initiatives — which commenced prior to the announcement of the program, but otherwise meet program requirements — would qualify for the GST rental rebate.

I'm going to move on now to Part 2 of the bill, and Senator Deacon went through that part of the bill fairly thoroughly, so I may not repeat some of the items that he covered. Part 2 is going to amend the Competition Act. I feel very comfortable reviewing the first part of the bill, because finance is my background. When delving into the Competition Act, I've had some experience, being on the Banking Committee, but the Competition Act is not what I call my cup of tea; I find it very complex.

Part 2 — the second part of Bill C-56 — is going to amend the Competition Act, and it proposes a number of amendments. There were already some amendments included last year in the budget. I know there's going to be more coming. Amendments to the Competition Act have been under consideration by the government for some time.

Last November, the Minister of Innovation, Science and Industry launched a consultation on the future of Canada's competition policy, which was seen as a major step in the government's efforts to modernize the Competition Act. The public consultation period concluded on March 31 of this year, and there was significant interest in the consultation.

The government indicated they had received over 130 submissions from identified stakeholders, as well as more than 400 responses from members of the general public. Submissions raised, as Senator Deacon said, over 100 potential reform proposals, and stakeholders included academic experts, law practitioners, labour unions, consumer groups, businesses and their associations and so on.

Included on the government's website is a 48-page summary of what the government heard during the consultation period, so it's evident that there is significant interest in the government's competition policy.

The amendments to the Competition Act included in Bill C-56 appear to be another group of amendments that were anticipated. We received some in the budget bill, and some here now, and I think there are some more in Bill C-59, so we're receiving it in stages. Hopefully, we'll be able to see an overall picture.

Honourable senators, we're all familiar with the challenges faced by business investment in Canada. Numerous studies have been carried out, including a study last year by the Senate Banking Committee. A group of senators, under the leadership of Senator Harder, issued the prosperity report, and we looked at that issue when we were preparing the prosperity report.

The Competition Policy Council of the C.D. Howe Institute released a report last month on Canada's Competition Act. In that report, the majority of members on the council supported the 2018 view of the Competition Bureau that competition enforcement:

> . . . must strike the right balance between taking steps to prevent behaviour that truly harms competition and over-enforcement that chills innovation and dynamic competition. . . .

In other words, there's pressure on the government to get it right.

Last month, the Finance Committee in the other place held several meetings to discuss Bill C-56. I knew that we were going to receive the bill, so I was listening to what they were saying. That committee had the opportunity to hear from numerous witnesses, including the Minister of Finance and the Minister of Innovation, Science and Industry. Their meeting actually lasted two hours. They heard from numerous government officials, as well as witnesses from outside the government.

That committee over in the other place had the opportunity to study the bill at length, discuss it, debate it and suggest amendments, and there was a lot of debate. There were pages and pages of debates that I read. In fact, there were several amendments to the bill made in the other place. They had amendments in the other place.

Meanwhile, in the Senate, we received the benefit of a one-hour Committee of the Whole and one panel of witnesses at a National Finance Committee meeting, which was quickly arranged at the last minute. We did not have the time or the opportunity to study the bill in detail, nor to discuss it as the members did in the other place. I felt like we had become a rubber stamp.

Members of our Standing Senate Committee on National Finance discussed this matter in detail yesterday while in camera, and we have provided an observation to our report on this bill. Specifically, the Standing Senate Committee on National Finance, in its report on Bill C-56, states the following:

> Your committee supports the measures included in Bill C-56 regarding the enhancement to the goods and services tax rebate for new residential rental property and modifications to the *Competition Act*. However, it is contemptuous that your committee was afforded a very limited time to conduct its study of the bill. As a result, it was prevented from thoroughly studying the bill and properly performing its duties.

I'm going to move briefly into some of the amendments. Senator Deacon went through a number of them, but I want to mention a couple of the proposed amendments that are in Bill C-56.

According to the government's website, the Competition Bureau is an independent law enforcement agency which protects and promotes competition for the benefit of Canadian consumers and businesses. Headed by the Commissioner of Competition, the Competition Bureau administers and enforces the Competition Act.

Clause 3 of the bill, prior to its amendment in the other place, proposed to amend section 10 of the Competition Act by adding a new section. This clause would have allowed the Minister of Innovation, Science and Industry to direct the Commissioner of Competition to conduct an inquiry into the state of competition in a market or industry if it's in the public interest.

That original clause in Bill C-56 was amended in the other place, and another subclause was added to also allow the Commissioner of Competition to conduct an inquiry into the state of competition in a market or industry. However, there was concern expressed by some members of our National Finance Committee — including myself, but not solely myself — that the clause permitting the minister to direct the Commissioner of Competition to conduct an inquiry into the state of competition in a market or industry would impair the independence of the Commissioner of Competition.

Clause 3 also requires the minister and the commissioner to consult with each other on the feasibility and the cost of the inquiry, as well as the process for the preparation and publication of, and the public commentary on, the terms of reference, but there is a risk that the independence of the Competition Bureau and the Commissioner of Competition may be impaired.

There are also clauses 4, 5, 6, 7 and 11 of the bill that will amend several sections of the existing Competition Act to include proposed section 10.1. It's important to recognize that these amendments extend the commissioner's investigative and enforcement powers, along with the increase in the minister's participation in the Competition Bureau. I even wonder if maybe the Competition Bureau should just become a division of the department, since it seems like it's being drawn closer to the department.

• (1630)

Many stakeholders who were consulted on the future of Canada's competition policy felt that an act allowing anti-competitive transactions undermines the central purpose of the competition policy. Section 92 of the Competition Act is against anti-competitive mergers if they have generated or are likely to generate efficiencies great enough to offset the effects of harm to competition and if such an order would impede the likelihood of those efficiencies. That section of the Competition Act was repealed.

One of the recurring complaints that we hear at the Senate standing committees when studying government bills is the inadequacy of consultations with stakeholders, and Bill C-56 is no exception. Between November 17 of last year and March 31 of this year, the government undertook public consultations with stakeholders and citizens on the future of Canada's competition policy. On September 20, the government released a summary of the consultations on its website. Unfortunately, Bill C-56 received first reading the following day, on September 21. There were no consultations or discussions with stakeholders on the proposed amendments that would affect them. This is not consultation.

This issue was raised by several senators who attended the briefing by government officials on Bill C-56 on Tuesday. It was also raised by Matthew Holmes, Senior Vice President of Policy and Government Relations with the Canadian Chamber of Commerce, at our Finance Committee meeting yesterday.

Mr. Holmes said that the Canadian Chamber of Commerce was supportive of the need to enhance competition in Canada. However, he said that the chamber is:

> . . . very concerned by the manner in which changes have been repeatedly introduced as parts of omnibus implementation bills, ways and means motions, or peppered throughout other legislation, such as Bill C-56, without . . . real consultation with the Canadian business community or academic experts in a very particular area of the law.

He said it is almost absurd to be speaking about a handful of changes in Bill C-56 when other changes are being proposed in Bill C-59, which is currently before the House of Commons. Intentionally or not, he said, this approach lacks transparency and obscures the actual plan for the future of competition law in Canada. He said that approach ultimately makes it more difficult, more expensive and riskier for business.

Regarding the market study powers now in the bill, Mr. Holmes said that the Chamber of Commerce would like to see due process and guidelines furthered and developed for the industry so that there is a clear sense of due process in how these market studies would be conducted.

The representative for the Canadian Chamber of Commerce further said that many members of the chamber in many sectors are silent on this because they feel that it is being politicized:

> They feel that there is a whole group of sectors that are routinely brought before parliamentarians and admonished. . . . It's an environment that can become quite toxic towards businesses, and our concern is that we don't know how this information may be used, shared or provided in a public way in the future.

As there are new powers for market studies, the compelling information and release of that information, we do not know how that information will be monitored, by whom and under what parameters. What are the rules? What are the standards for the access to proprietary information that may be misused by other competitors in the future?

In summary, with respect to the amendments of the Competition Act, including Part 2 of the bill, the consultation process was not adequate.

In addition, the Senate, and specifically the Standing Senate Committee on National Finance, to which Bill C-56 was referred, was not given sufficient time to properly study the bill and assess the implications of the proposed amendments. With respect to Part 1 of the bill, the government is implementing the GST rental rebate program estimated to cost $4.5 billion without an adequate plan. Yesterday, the Minister of Finance held up a copy of the Fall Economic Statement and said it was the government's housing plan. Honourable senators, the Fall Economic Statement is not a housing plan.

At a recent meeting of the Senate Banking Committee, the minister responsible for housing, in a response to a question from the chair of the committee on the housing crisis, clearly said, ". . . there was not a specific strategy outlined in the Fall Economic Statement . . . ."

He further said:

> We're working on developing a comprehensive plan that will have a suite of federal measures designed to address the national housing crisis. . . .

For a program that costs $4.5 billion, there is no plan.

In conclusion, although I have many concerns about this bill, I cannot vote against a bill intended to help Canadians during a deepening affordability crisis, and so I will support it.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to and bill read third time and passed.)

BILL TO AMEND THE CRIMINAL CODE AND THE WILD ANIMAL AND PLANT PROTECTION AND REGULATION OF INTERNATIONAL AND INTERPROVINCIAL TRADE ACT

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Klyne, seconded by the Honourable Senator Harder, P.C., for the second reading of Bill S-15, An Act to amend the Criminal Code and the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act.

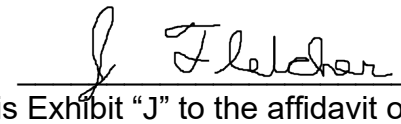
Hon. Rosa Galvez: Honourable senators, I rise today to speak about Bill S-15, a bill that aims to protect elephants and great apes from captivity that is not in the best interests of their welfare or is not for the purpose of a scientific research or conservation program.

I would like to begin by acknowledging the work of the government in putting this bill forward. This bill is a step toward fulfilling one of their campaign promises to protect animals in captivity, which also appears in the mandate letter of the Minister

CONTENTS

Thursday, December 14, 2023

ORDERS OF THE DAY



P20709

This is Exhibit “J” to the affidavit of **Mallory Kelly,** affirmed
remotely and stated as being located
in the city of Gatineau, in the province of Quebec,
before me at the city of Ottawa in the province of Ontario,on
July 4, 2025, in accordance with
O. Reg 431/20, Administering Oath or Declaration Remotely.

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1/2003
of 16 December 2002
on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty
(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 83 thereof,

Having regard to the proposal from the Commission ([1]),

Having regard to the opinion of the European Parliament ([2]),

Having regard to the opinion of the European Economic and Social Committee ([3]),

Whereas:

(1) In order to establish a system which ensures that competition in the common market is not distorted, Articles 81 and 82 of the Treaty must be applied effectively and uniformly in the Community. Council Regulation No 17 of 6 February 1962, First Regulation implementing Articles 81 and 82 (*) of the Treaty ([4]), has allowed a Community competition policy to develop that has helped to disseminate a competition culture within the Community. In the light of experience, however, that Regulation should now be replaced by legislation designed to meet the challenges of an integrated market and a future enlargement of the Community.

(2) In particular, there is a need to rethink the arrangements for applying the exception from the prohibition on agreements, which restrict competition, laid down in Article 81(3) of the Treaty. Under Article 83(2)(b) of the Treaty, account must be taken in this regard of the need to ensure effective supervision, on the one hand, and to simplify administration to the greatest possible extent, on the other.

(3) The centralised scheme set up by Regulation No 17 no longer secures a balance between those two objectives. It hampers application of the Community competition rules by the courts and competition authorities of the Member States, and the system of notification it involves prevents the Commission from concentrating its resources on curbing the most serious infringements. It also imposes considerable costs on undertakings.

(4) The present system should therefore be replaced by a directly applicable exception system in which the competition authorities and courts of the Member States have the power to apply not only Article 81(1) and Article 82 of the Treaty, which have direct applicability by virtue of the case-law of the Court of Justice of the European Communities, but also Article 81(3) of the Treaty.

([1]) OJ C 365 E, 19.12.2000, p. 284.
([2]) OJ C 72 E, 21.3.2002, p. 305.
([3]) OJ C 155, 29.5.2001, p. 73.
(*) The title of Regulation No 17 has been adjusted to take account of the renumbering of the Articles of the EC Treaty, in accordance with Article 12 of the Treaty of Amsterdam; the original reference was to Articles 85 and 86 of the Treaty.
([4]) OJ 13, 21.2.1962, p. 204/62. Regulation as last amended by Regulation (EC) No 1216/1999 (OJ L 148, 15.6.1999, p. 5).

(5) In order to ensure an effective enforcement of the Community competition rules and at the same time the respect of fundamental rights of defence, this Regulation should regulate the burden of proof under Articles 81 and 82 of the Treaty. It should be for the party or the authority alleging an infringement of Article 81(1) and Article 82 of the Treaty to prove the existence thereof to the required legal standard. It should be for the undertaking or association of undertakings invoking the benefit of a defence against a finding of an infringement to demonstrate to the required legal standard that the conditions for applying such defence are satisfied. This Regulation affects neither national rules on the standard of proof nor obligations of competition authorities and courts of the Member States to ascertain the relevant facts of a case, provided that such rules and obligations are compatible with general principles of Community law.

(6) In order to ensure that the Community competition rules are applied effectively, the competition authorities of the Member States should be associated more closely with their application. To this end, they should be empowered to apply Community law.

(7) National courts have an essential part to play in applying the Community competition rules. When deciding disputes between private individuals, they protect the subjective rights under Community law, for example by awarding damages to the victims of infringements. The role of the national courts here complements that of the competition authorities of the Member States. They should therefore be allowed to apply Articles 81 and 82 of the Treaty in full.

(8) In order to ensure the effective enforcement of the Community competition rules and the proper functioning of the cooperation mechanisms contained in this Regulation, it is necessary to oblige the competition authorities and courts of the Member States to also apply Articles 81 and 82 of the Treaty where they apply national competition law to agreements and practices which may affect trade between Member States. In order to create a level playing field for agreements, decisions by associations of undertakings and concerted practices within the internal market, it is also necessary to determine pursuant to Article 83(2)(e) of the Treaty the relationship between national laws and Community competition law. To that effect it is necessary to provide that the application of national competition laws to agreements, decisions or concerted practices within the meaning of Article 81(1) of the Treaty may not lead to the prohibition of such agreements, decisions and concerted practices if they are not also prohibited under Community competition law. The notions of agreements, decisions and concerted practices are autonomous concepts of Community competition law covering the coordination of behaviour of undertakings on the market as interpreted by the Community Courts. Member States should not under this Regulation be precluded from adopting and applying on their territory stricter national competition laws which prohibit or impose sanctions on unilateral conduct engaged in by undertakings. These stricter national laws may include provisions which prohibit or impose sanctions on abusive behaviour toward economically dependent undertakings. Furthermore, this Regulation does not apply to national laws which impose criminal sanctions on natural persons except to the extent that such sanctions are the means whereby competition rules applying to undertakings are enforced.

(9) Articles 81 and 82 of the Treaty have as their objective the protection of competition on the market. This Regulation, which is adopted for the implementation of these Treaty provisions, does not preclude Member States from implementing on their territory national legislation, which protects other legitimate interests provided that such legislation is compatible with general principles and other provisions of Community law. In so far as such national legislation pursues predominantly an objective different from that of protecting competition on the market, the competition authorities and courts of the Member States may apply such legislation on their territory. Accordingly, Member States may under this Regulation implement on their territory national legislation that prohibits or imposes sanctions on acts of unfair trading practice, be they unilateral or contractual. Such legislation pursues a specific objective, irrespective of the actual or presumed effects of such acts on competition on the market. This is particularly the case of legislation which prohibits undertakings from imposing on their trading partners, obtaining or attempting to obtain from them terms and conditions that are unjustified, disproportionate or without consideration.

(10) Regulations such as 19/65/EEC [1], (EEC) No 2821/71 [2], (EEC) No 3976/87 [3], (EEC) No 1534/91 [4], or (EEC) No 479/92 [5] empower the Commission to apply Article 81(3) of the Treaty by Regulation to certain categories of agreements, decisions by associations of undertakings and concerted practices. In the areas defined by such Regulations, the Commission has adopted and may continue to adopt so called 'block' exemption Regulations by which it declares Article 81(1) of the Treaty inapplicable to categories of agreements, decisions and concerted practices. Where agreements, decisions and concerted practices to which such Regulations apply nonetheless have effects that are incompatible with Article 81(3) of the Treaty, the Commission and the competition authorities of the Member States should have the power to withdraw in a particular case the benefit of the block exemption Regulation.

(11) For it to ensure that the provisions of the Treaty are applied, the Commission should be able to address decisions to undertakings or associations of undertakings for the purpose of bringing to an end infringements of Articles 81 and 82 of the Treaty. Provided there is a legitimate interest in doing so, the Commission should also be able to adopt decisions which find that an infringement has been committed in the past even if it does not impose a fine. This Regulation should also make explicit provision for the Commission's power to adopt decisions ordering interim measures, which has been acknowledged by the Court of Justice.

(12) This Regulation should make explicit provision for the Commission's power to impose any remedy, whether behavioural or structural, which is necessary to bring the infringement effectively to an end, having regard to the principle of proportionality. Structural remedies should only be imposed either where there is no equally effective behavioural remedy or where any equally effective behavioural remedy would be more burdensome for the undertaking concerned than the structural remedy. Changes to the structure of an undertaking as it existed before the infringement was committed would only be proportionate where there is a substantial risk of a lasting or repeated infringement that derives from the very structure of the undertaking.

(13) Where, in the course of proceedings which might lead to an agreement or practice being prohibited, undertakings offer the Commission commitments such as to meet its concerns, the Commission should be able to adopt decisions which make those commitments binding on the undertakings concerned. Commitment decisions should find that there are no longer grounds for action by the Commission without concluding whether or not there has been or still is an infringement. Commitment decisions are without prejudice to the powers of competition authorities and courts of the Member States to make such a finding and decide upon the case. Commitment decisions are not appropriate in cases where the Commission intends to impose a fine.

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[1] Council Regulation No 19/65/EEC of 2 March 1965 on the application of Article 81(3) (The titles of the Regulations have been adjusted to take account of the renumbering of the Articles of the EC Treaty, in accordance with Article 12 of the Treaty of Amsterdam; the original reference was to Article 85(3) of the Treaty) of the Treaty to certain categories of agreements and concerted practices (OJ 36, 6.3.1965, p. 533). Regulation as last amended by Regulation (EC) No 1215/1999 (OJ L 148, 15.6.1999, p. 1).

[2] Council Regulation (EEC) No 2821/71 of 20 December 1971 on the application of Article 81(3) (The titles of the Regulations have been adjusted to take account of the renumbering of the Articles of the EC Treaty, in accordance with Article 12 of the Treaty of Amsterdam; the original reference was to Article 85(3) of the Treaty) of the Treaty to categories of agreements, decisions and concerted practices (OJ L 285, 29.12.1971, p. 46). Regulation as last amended by the Act of Accession of 1994.

[3] Council Regulation (EEC) No 3976/87 of 14 December 1987 on the application of Article 81(3) (The titles of the Regulations have been adjusted to take account of the renumbering of the Articles of the EC Treaty, in accordance with Article 12 of the Treaty of Amsterdam; the original reference was to Article 85(3) of the Treaty) of the Treaty to certain categories of agreements and concerted practices in the air transport sector (OJ L 374, 31.12.1987, p. 9). Regulation as last amended by the Act of Accession of 1994.

[4] Council Regulation (EEC) No 1534/91 of 31 May 1991 on the application of Article 81(3) (The titles of the Regulations have been adjusted to take account of the renumbering of the Articles of the EC Treaty, in accordance with Article 12 of the Treaty of Amsterdam; the original reference was to Article 85(3) of the Treaty) of the Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector (OJ L 143, 7.6.1991, p. 1).

[5] Council Regulation (EEC) No 479/92 of 25 February 1992 on the application of Article 81(3) (The titles of the Regulations have been adjusted to take account of the renumbering of the Articles of the EC Treaty, in accordance with Article 12 of the Treaty of Amsterdam; the original reference was to Article 85(3) of the Treaty) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (Consortia) (OJ L 55, 29.2.1992, p. 3). Regulation amended by the Act of Accession of 1994.

(14) In exceptional cases where the public interest of the Community so requires, it may also be expedient for the Commission to adopt a decision of a declaratory nature finding that the prohibition in Article 81 or Article 82 of the Treaty does not apply, with a view to clarifying the law and ensuring its consistent application throughout the Community, in particular with regard to new types of agreements or practices that have not been settled in the existing case-law and administrative practice.

(15) The Commission and the competition authorities of the Member States should form together a network of public authorities applying the Community competition rules in close cooperation. For that purpose it is necessary to set up arrangements for information and consultation. Further modalities for the cooperation within the network will be laid down and revised by the Commission, in close cooperation with the Member States.

(16) Notwithstanding any national provision to the contrary, the exchange of information and the use of such information in evidence should be allowed between the members of the network even where the information is confidential. This information may be used for the application of Articles 81 and 82 of the Treaty as well as for the parallel application of national competition law, provided that the latter application relates to the same case and does not lead to a different outcome. When the information exchanged is used by the receiving authority to impose sanctions on undertakings, there should be no other limit to the use of the information than the obligation to use it for the purpose for which it was collected given the fact that the sanctions imposed on undertakings are of the same type in all systems. The rights of defence enjoyed by undertakings in the various systems can be considered as sufficiently equivalent. However, as regards natural persons, they may be subject to substantially different types of sanctions across the various systems. Where that is the case, it is necessary to ensure that information can only be used if it has been collected in a way which respects the same level of protection of the rights of defence of natural persons as provided for under the national rules of the receiving authority.

(17) If the competition rules are to be applied consistently and, at the same time, the network is to be managed in the best possible way, it is essential to retain the rule that the competition authorities of the Member States are automatically relieved of their competence if the Commission initiates its own proceedings. Where a competition authority of a Member State is already acting on a case and the Commission intends to initiate proceedings, it should endeavour to do so as soon as possible. Before initiating proceedings, the Commission should consult the national authority concerned.

(18) To ensure that cases are dealt with by the most appropriate authorities within the network, a general provision should be laid down allowing a competition authority to suspend or close a case on the ground that another authority is dealing with it or has already dealt with it, the objective being that each case should be handled by a single authority. This provision should not prevent the Commission from rejecting a complaint for lack of Community interest, as the case-law of the Court of Justice has acknowledged it may do, even if no other competition authority has indicated its intention of dealing with the case.

(19) The Advisory Committee on Restrictive Practices and Dominant Positions set up by Regulation No 17 has functioned in a very satisfactory manner. It will fit well into the new system of decentralised application. It is necessary, therefore, to build upon the rules laid down by Regulation No 17, while improving the effectiveness of the organisational arrangements. To this end, it would be expedient to allow opinions to be delivered by written procedure. The Advisory Committee should also be able to act as a forum for discussing cases that are being handled by the competition authorities of the Member States, so as to help safeguard the consistent application of the Community competition rules.

(20) The Advisory Committee should be composed of representatives of the competition authorities of the Member States. For meetings in which general issues are being discussed, Member States should be able to appoint an additional representative. This is without prejudice to members of the Committee being assisted by other experts from the Member States.

(21) Consistency in the application of the competition rules also requires that arrangements be established for cooperation between the courts of the Member States and the Commission. This is relevant for all courts of the Member States that apply Articles 81 and 82 of the Treaty, whether applying these rules in lawsuits between private parties, acting as public enforcers or as review courts. In particular, national courts should be able to ask the Commission for information or for its opinion on points concerning the application of Community competition law. The Commission and the competition authorities of the Member States should also be able to submit written or oral observations to courts called upon to apply Article 81 or Article 82 of the Treaty. These observations should be submitted within the framework of national procedural rules and practices including those safeguarding the rights of the parties. Steps should therefore be taken to ensure that the Commission and the competition authorities of the Member States are kept sufficiently well informed of proceedings before national courts.

(22) In order to ensure compliance with the principles of legal certainty and the uniform application of the Community competition rules in a system of parallel powers, conflicting decisions must be avoided. It is therefore necessary to clarify, in accordance with the case-law of the Court of Justice, the effects of Commission decisions and proceedings on courts and competition authorities of the Member States. Commitment decisions adopted by the Commission do not affect the power of the courts and the competition authorities of the Member States to apply Articles 81 and 82 of the Treaty.

(23) The Commission should be empowered throughout the Community to require such information to be supplied as is necessary to detect any agreement, decision or concerted practice prohibited by Article 81 of the Treaty or any abuse of a dominant position prohibited by Article 82 of the Treaty. When complying with a decision of the Commission, undertakings cannot be forced to admit that they have committed an infringement, but they are in any event obliged to answer factual questions and to provide documents, even if this information may be used to establish against them or against another undertaking the existence of an infringement.

(24) The Commission should also be empowered to undertake such inspections as are necessary to detect any agreement, decision or concerted practice prohibited by Article 81 of the Treaty or any abuse of a dominant position prohibited by Article 82 of the Treaty. The competition authorities of the Member States should cooperate actively in the exercise of these powers.

(25) The detection of infringements of the competition rules is growing ever more difficult, and, in order to protect competition effectively, the Commission's powers of investigation need to be supplemented. The Commission should in particular be empowered to interview any persons who may be in possession of useful information and to record the statements made. In the course of an inspection, officials authorised by the Commission should be empowered to affix seals for the period of time necessary for the inspection. Seals should normally not be affixed for more than 72 hours. Officials authorised by the Commission should also be empowered to ask for any information relevant to the subject matter and purpose of the inspection.

(26) Experience has shown that there are cases where business records are kept in the homes of directors or other people working for an undertaking. In order to safeguard the effectiveness of inspections, therefore, officials and other persons authorised by the Commission should be empowered to enter any premises where business records may be kept, including private homes. However, the exercise of this latter power should be subject to the authorisation of the judicial authority.

(27) Without prejudice to the case-law of the Court of Justice, it is useful to set out the scope of the control that the national judicial authority may carry out when it authorises, as foreseen by national law including as a precautionary measure, assistance from law enforcement authorities in order to overcome possible opposition on the part of the undertaking or the execution of the decision to carry out inspections in non-business premises. It results from the case-law that the national judicial authority may in particular ask the Commission for further information which it needs to carry out its control and in the absence of which it could refuse the authorisation. The case-law also confirms the competence of the national courts to control the application of national rules governing the implementation of coercive measures.

(28) In order to help the competition authorities of the Member States to apply Articles 81 and 82 of the Treaty effectively, it is expedient to enable them to assist one another by carrying out inspections and other fact-finding measures.

(29) Compliance with Articles 81 and 82 of the Treaty and the fulfilment of the obligations imposed on undertakings and associations of undertakings under this Regulation should be enforceable by means of fines and periodic penalty payments. To that end, appropriate levels of fine should also be laid down for infringements of the procedural rules.

(30) In order to ensure effective recovery of fines imposed on associations of undertakings for infringements that they have committed, it is necessary to lay down the conditions on which the Commission may require payment of the fine from the members of the association where the association is not solvent. In doing so, the Commission should have regard to the relative size of the undertakings belonging to the association and in particular to the situation of small and medium-sized enterprises. Payment of the fine by one or several members of an association is without prejudice to rules of national law that provide for recovery of the amount paid from other members of the association.

(31) The rules on periods of limitation for the imposition of fines and periodic penalty payments were laid down in Council Regulation (EEC) No 2988/74 [1], which also concerns penalties in the field of transport. In a system of parallel powers, the acts, which may interrupt a limitation period, should include procedural steps taken independently by the competition authority of a Member State. To clarify the legal framework, Regulation (EEC) No 2988/74 should therefore be amended to prevent it applying to matters covered by this Regulation, and this Regulation should include provisions on periods of limitation.

(32) The undertakings concerned should be accorded the right to be heard by the Commission, third parties whose interests may be affected by a decision should be given the opportunity of submitting their observations beforehand, and the decisions taken should be widely publicised. While ensuring the rights of defence of the undertakings concerned, in particular, the right of access to the file, it is essential that business secrets be protected. The confidentiality of information exchanged in the network should likewise be safeguarded.

(33) Since all decisions taken by the Commission under this Regulation are subject to review by the Court of Justice in accordance with the Treaty, the Court of Justice should, in accordance with Article 229 thereof be given unlimited jurisdiction in respect of decisions by which the Commission imposes fines or periodic penalty payments.

(34) The principles laid down in Articles 81 and 82 of the Treaty, as they have been applied by Regulation No 17, have given a central role to the Community bodies. This central role should be retained, whilst associating the Member States more closely with the application of the Community competition rules. In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty, this Regulation does not go beyond what is necessary in order to achieve its objective, which is to allow the Community competition rules to be applied effectively.

(35) In order to attain a proper enforcement of Community competition law, Member States should designate and empower authorities to apply Articles 81 and 82 of the Treaty as public enforcers. They should be able to designate administrative as well as judicial authorities to carry out the various functions conferred upon competition authorities in this Regulation. This Regulation recognises the wide variation which exists in the public enforcement systems of Member States. The effects of Article 11(6) of this Regulation should apply to all competition authorities. As an exception to this general rule, where a prosecuting authority brings a case before a separate judicial

[1] Council Regulation (EEC) No 2988/74 of 26 November 1974 concerning limitation periods in proceedings and the enforcement of sanctions under the rules of the European Economic Community relating to transport and competition (OJ L 319, 29.11.1974, p. 1).

authority, Article 11(6) should apply to the prosecuting authority subject to the conditions in Article 35(4) of this Regulation. Where these conditions are not fulfilled, the general rule should apply. In any case, Article 11(6) should not apply to courts insofar as they are acting as review courts.

(36) As the case-law has made it clear that the competition rules apply to transport, that sector should be made subject to the procedural provisions of this Regulation. Council Regulation No 141 of 26 November 1962 exempting transport from the application of Regulation No 17 ([1]) should therefore be repealed and Regulations (EEC) No 1017/68 ([2]), (EEC) No 4056/86 ([3]) and (EEC) No 3975/87 ([4]) should be amended in order to delete the specific procedural provisions they contain.

(37) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. Accordingly, this Regulation should be interpreted and applied with respect to those rights and principles.

(38) Legal certainty for undertakings operating under the Community competition rules contributes to the promotion of innovation and investment. Where cases give rise to genuine uncertainty because they present novel or unresolved questions for the application of these rules, individual undertakings may wish to seek informal guidance from the Commission. This Regulation is without prejudice to the ability of the Commission to issue such informal guidance,

HAS ADOPTED THIS REGULATION:

CHAPTER I

PRINCIPLES

Article 1

Application of Articles 81 and 82 of the Treaty

1. Agreements, decisions and concerted practices caught by Article 81(1) of the Treaty which do not satisfy the conditions of Article 81(3) of the Treaty shall be prohibited, no prior decision to that effect being required.

2. Agreements, decisions and concerted practices caught by Article 81(1) of the Treaty which satisfy the conditions of Article 81(3) of the Treaty shall not be prohibited, no prior decision to that effect being required.

3. The abuse of a dominant position referred to in Article 82 of the Treaty shall be prohibited, no prior decision to that effect being required.

([1]) OJ 124, 28.11.1962, p. 2751/62; Regulation as last amended by Regulation No 1002/67/EEC (OJ 306, 16.12.1967, p. 1).

([2]) Council Regulation (EEC) No 1017/68 of 19 July 1968 applying rules of competition to transport by rail, road and inland waterway (OJ L 175, 23.7.1968, p. 1). Regulation as last amended by the Act of Accession of 1994.

([3]) Council Regulation (EEC) No 4056/86 of 22 December 1986 laying down detailed rules for the application of Articles 81 and 82 (The title of the Regulation has been adjusted to take account of the renumbering of the Articles of the EC Treaty, in accordance with Article 12 of the Treaty of Amsterdam; the original reference was to Articles 85 and 86 of the Treaty) of the Treaty to maritime transport (OJ L 378, 31.12.1986, p. 4). Regulation as last amended by the Act of Accession of 1994.

([4]) Council Regulation (EEC) No 3975/87 of 14 December 1987 laying down the procedure for the application of the rules on competition to undertakings in the air transport sector (OJ L 374, 31.12.1987, p. 1). Regulation as last amended by Regulation (EEC) No 2410/92 (OJ L 240, 24.8.1992, p. 18).

Article 2

Burden of proof

In any national or Community proceedings for the application of Articles 81 and 82 of the Treaty, the burden of proving an infringement of Article 81(1) or of Article 82 of the Treaty shall rest on the party or the authority alleging the infringement. The undertaking or association of undertakings claiming the benefit of Article 81(3) of the Treaty shall bear the burden of proving that the conditions of that paragraph are fulfilled.

Article 3

Relationship between Articles 81 and 82 of the Treaty and national competition laws

1. Where the competition authorities of the Member States or national courts apply national competition law to agreements, decisions by associations of undertakings or concerted practices within the meaning of Article 81(1) of the Treaty which may affect trade between Member States within the meaning of that provision, they shall also apply Article 81 of the Treaty to such agreements, decisions or concerted practices. Where the competition authorities of the Member States or national courts apply national competition law to any abuse prohibited by Article 82 of the Treaty, they shall also apply Article 82 of the Treaty.

2. The application of national competition law may not lead to the prohibition of agreements, decisions by associations of undertakings or concerted practices which may affect trade between Member States but which do not restrict competition within the meaning of Article 81(1) of the Treaty, or which fulfil the conditions of Article 81(3) of the Treaty or which are covered by a Regulation for the application of Article 81(3) of the Treaty. Member States shall not under this Regulation be precluded from adopting and applying on their territory stricter national laws which prohibit or sanction unilateral conduct engaged in by undertakings.

3. Without prejudice to general principles and other provisions of Community law, paragraphs 1 and 2 do not apply when the competition authorities and the courts of the Member States apply national merger control laws nor do they preclude the application of provisions of national law that predominantly pursue an objective different from that pursued by Articles 81 and 82 of the Treaty.

CHAPTER II

POWERS

Article 4

Powers of the Commission

For the purpose of applying Articles 81 and 82 of the Treaty, the Commission shall have the powers provided for by this Regulation.

Article 5

Powers of the competition authorities of the Member States

The competition authorities of the Member States shall have the power to apply Articles 81 and 82 of the Treaty in individual cases. For this purpose, acting on their own initiative or on a complaint, they may take the following decisions:

— requiring that an infringement be brought to an end,

— ordering interim measures,

— accepting commitments,

— imposing fines, periodic penalty payments or any other penalty provided for in their national law.

Where on the basis of the information in their possession the conditions for prohibition are not met they may likewise decide that there are no grounds for action on their part.

Article 6

Powers of the national courts

National courts shall have the power to apply Articles 81 and 82 of the Treaty.

CHAPTER III

COMMISSION DECISIONS

Article 7

Finding and termination of infringement

1. Where the Commission, acting on a complaint or on its own initiative, finds that there is an infringement of Article 81 or of Article 82 of the Treaty, it may by decision require the undertakings and associations of undertakings concerned to bring such infringement to an end. For this purpose, it may impose on them any behavioural or structural remedies which are proportionate to the infringement committed and necessary to bring the infringement effectively to an end. Structural remedies can only be imposed either where there is no equally effective behavioural remedy or where any equally effective behavioural remedy would be more burdensome for the undertaking concerned than the structural remedy. If the Commission has a legitimate interest in doing so, it may also find that an infringement has been committed in the past.

2. Those entitled to lodge a complaint for the purposes of paragraph 1 are natural or legal persons who can show a legitimate interest and Member States.

Article 8

Interim measures

1. In cases of urgency due to the risk of serious and irreparable damage to competition, the Commission, acting on its own initiative may by decision, on the basis of a *prima facie* finding of infringement, order interim measures.

2. A decision under paragraph 1 shall apply for a specified period of time and may be renewed in so far this is necessary and appropriate.

Article 9

Commitments

1. Where the Commission intends to adopt a decision requiring that an infringement be brought to an end and the undertakings concerned offer commitments to meet the concerns expressed to them by the Commission in its preliminary assessment, the Commission may by decision make those commitments binding on the undertakings. Such a decision may be adopted for a specified period and shall conclude that there are no longer grounds for action by the Commission.

2. The Commission may, upon request or on its own initiative, reopen the proceedings:

(a) where there has been a material change in any of the facts on which the decision was based;

(b) where the undertakings concerned act contrary to their commitments; or

(c) where the decision was based on incomplete, incorrect or misleading information provided by the parties.

Article 10

Finding of inapplicability

Where the Community public interest relating to the application of Articles 81 and 82 of the Treaty so requires, the Commission, acting on its own initiative, may by decision find that Article 81 of the Treaty is not applicable to an agreement, a decision by an association of undertakings or a concerted practice, either because the conditions of Article 81(1) of the Treaty are not fulfilled, or because the conditions of Article 81(3) of the Treaty are satisfied.

The Commission may likewise make such a finding with reference to Article 82 of the Treaty.

CHAPTER IV

COOPERATION

Article 11

Cooperation between the Commission and the competition authorities of the Member States

1. The Commission and the competition authorities of the Member States shall apply the Community competition rules in close cooperation.

2. The Commission shall transmit to the competition authorities of the Member States copies of the most important documents it has collected with a view to applying Articles 7, 8, 9, 10 and Article 29(1). At the request of the competition authority of a Member State, the Commission shall provide it with a copy of other existing documents necessary for the assessment of the case.

3. The competition authorities of the Member States shall, when acting under Article 81 or Article 82 of the Treaty, inform the Commission in writing before or without delay after commencing the first formal investigative measure. This information may also be made available to the competition authorities of the other Member States.

4. No later than 30 days before the adoption of a decision requiring that an infringement be brought to an end, accepting commitments or withdrawing the benefit of a block exemption Regulation, the competition authorities of the Member States shall inform the Commission. To that effect, they shall provide the Commission with a summary of the case, the envisaged decision or, in the absence thereof, any other document indicating the proposed course of action. This information may also be made available to the competition authorities of the other Member States. At the request of the Commission, the acting competition authority shall make available to the Commission other documents it holds which are necessary for the assessment of the case. The information supplied to the Commission may be made available to the competition authorities of the other Member States. National competition authorities may also exchange between themselves information necessary for the assessment of a case that they are dealing with under Article 81 or Article 82 of the Treaty.

5. The competition authorities of the Member States may consult the Commission on any case involving the application of Community law.

6. The initiation by the Commission of proceedings for the adoption of a decision under Chapter III shall relieve the competition authorities of the Member States of their competence to apply Articles 81 and 82 of the Treaty. If a competition authority of a Member State is already acting on a case, the Commission shall only initiate proceedings after consulting with that national competition authority.

Article 12

Exchange of information

1. For the purpose of applying Articles 81 and 82 of the Treaty the Commission and the competition authorities of the Member States shall have the power to provide one another with and use in evidence any matter of fact or of law, including confidential information.

2. Information exchanged shall only be used in evidence for the purpose of applying Article 81 or Article 82 of the Treaty and in respect of the subject-matter for which it was collected by the transmitting authority. However, where national competition law is applied in the same case and in parallel to Community competition law and does not lead to a different outcome, information exchanged under this Article may also be used for the application of national competition law.

3. Information exchanged pursuant to paragraph 1 can only be used in evidence to impose sanctions on natural persons where:

— the law of the transmitting authority foresees sanctions of a similar kind in relation to an infringement of Article 81 or Article 82 of the Treaty or, in the absence thereof,

— the information has been collected in a way which respects the same level of protection of the rights of defence of natural persons as provided for under the national rules of the receiving authority. However, in this case, the information exchanged cannot be used by the receiving authority to impose custodial sanctions.

Article 13

Suspension or termination of proceedings

1. Where competition authorities of two or more Member States have received a complaint or are acting on their own initiative under Article 81 or Article 82 of the Treaty against the same agreement, decision of an association or practice, the fact that one authority is dealing with the case shall be sufficient grounds for the others to suspend the proceedings before them or to reject the complaint. The Commission may likewise reject a complaint on the ground that a competition authority of a Member State is dealing with the case.

2. Where a competition authority of a Member State or the Commission has received a complaint against an agreement, decision of an association or practice which has already been dealt with by another competition authority, it may reject it.

Article 14

Advisory Committee

1. The Commission shall consult an Advisory Committee on Restrictive Practices and Dominant Positions prior to the taking of any decision under Articles 7, 8, 9, 10, 23, Article 24(2) and Article 29(1).

2. For the discussion of individual cases, the Advisory Committee shall be composed of representatives of the competition authorities of the Member States. For meetings in which issues other than individual cases are being discussed, an additional Member State representative competent in competition matters may be appointed. Representatives may, if unable to attend, be replaced by other representatives.

3. The consultation may take place at a meeting convened and chaired by the Commission, held not earlier than 14 days after dispatch of the notice convening it, together with a summary of the case, an indication of the most important documents and a preliminary draft decision. In respect of decisions pursuant to Article 8, the meeting may be held seven days after the dispatch of the operative part of a draft decision. Where the Commission dispatches a notice convening the meeting which gives a shorter period of notice than those specified above, the meeting may take place on the proposed date in the absence of an objection by any Member State. The Advisory Committee shall deliver a written opinion on the Commission's preliminary draft decision. It may deliver an opinion even if some members are absent and are not represented. At the request of one or several members, the positions stated in the opinion shall be reasoned.

4. Consultation may also take place by written procedure. However, if any Member State so requests, the Commission shall convene a meeting. In case of written procedure, the Commission shall determine a time-limit of not less than 14 days within which the Member States are to put forward their observations for circulation to all other Member States. In case of decisions to be taken pursuant to Article 8, the time-limit of 14 days is replaced by seven days. Where the Commission determines a time-limit for the written procedure which is shorter than those specified above, the proposed time-limit shall be applicable in the absence of an objection by any Member State.

5. The Commission shall take the utmost account of the opinion delivered by the Advisory Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

6. Where the Advisory Committee delivers a written opinion, this opinion shall be appended to the draft decision. If the Advisory Committee recommends publication of the opinion, the Commission shall carry out such publication taking into account the legitimate interest of undertakings in the protection of their business secrets.

7. At the request of a competition authority of a Member State, the Commission shall include on the agenda of the Advisory Committee cases that are being dealt with by a competition authority of a Member State under Article 81 or Article 82 of the Treaty. The Commission may also do so on its own initiative. In either case, the Commission shall inform the competition authority concerned.

A request may in particular be made by a competition authority of a Member State in respect of a case where the Commission intends to initiate proceedings with the effect of Article 11(6).

The Advisory Committee shall not issue opinions on cases dealt with by competition authorities of the Member States. The Advisory Committee may also discuss general issues of Community competition law.

Article 15

Cooperation with national courts

1. In proceedings for the application of Article 81 or Article 82 of the Treaty, courts of the Member States may ask the Commission to transmit to them information in its possession or its opinion on questions concerning the application of the Community competition rules.

2. Member States shall forward to the Commission a copy of any written judgment of national courts deciding on the application of Article 81 or Article 82 of the Treaty. Such copy shall be forwarded without delay after the full written judgment is notified to the parties.

3. Competition authorities of the Member States, acting on their own initiative, may submit written observations to the national courts of their Member State on issues relating to the application of Article 81 or Article 82 of the Treaty. With the permission of the court in question, they may also submit oral observations to the national courts of their Member State. Where the coherent application of Article 81 or Article 82 of the Treaty so requires, the Commission, acting on its own initiative, may submit written observations to courts of the Member States. With the permission of the court in question, it may also make oral observations.

For the purpose of the preparation of their observations only, the competition authorities of the Member States and the Commission may request the relevant court of the Member State to transmit or ensure the transmission to them of any documents necessary for the assessment of the case.

4. This Article is without prejudice to wider powers to make observations before courts conferred on competition authorities of the Member States under the law of their Member State.

Article 16

Uniform application of Community competition law

1. When national courts rule on agreements, decisions or practices under Article 81 or Article 82 of the Treaty which are already the subject of a Commission decision, they cannot take decisions running counter to the decision adopted by the Commission. They must also avoid giving decisions which would conflict with a decision contemplated by the Commission in proceedings it has initiated. To that effect, the national court may assess whether it is necessary to stay its proceedings. This obligation is without prejudice to the rights and obligations under Article 234 of the Treaty.

2. When competition authorities of the Member States rule on agreements, decisions or practices under Article 81 or Article 82 of the Treaty which are already the subject of a Commission decision, they cannot take decisions which would run counter to the decision adopted by the Commission.

CHAPTER V

POWERS OF INVESTIGATION

Article 17

Investigations into sectors of the economy and into types of agreements

1. Where the trend of trade between Member States, the rigidity of prices or other circumstances suggest that competition may be restricted or distorted within the common market, the Commission may conduct its inquiry into a particular sector of the economy or into a particular type of agreements across various sectors. In the course of that inquiry, the Commission may request the undertakings or associations of undertakings concerned to supply the information necessary for giving effect to Articles 81 and 82 of the Treaty and may carry out any inspections necessary for that purpose.

The Commission may in particular request the undertakings or associations of undertakings concerned to communicate to it all agreements, decisions and concerted practices.

The Commission may publish a report on the results of its inquiry into particular sectors of the economy or particular types of agreements across various sectors and invite comments from interested parties.

2. Articles 14, 18, 19, 20, 22, 23 and 24 shall apply *mutatis mutandis*.

Article 18

Requests for information

1. In order to carry out the duties assigned to it by this Regulation, the Commission may, by simple request or by decision, require undertakings and associations of undertakings to provide all necessary information.

2. When sending a simple request for information to an undertaking or association of undertakings, the Commission shall state the legal basis and the purpose of the request, specify what information is required and fix the time-limit within which the information is to be provided, and the penalties provided for in Article 23 for supplying incorrect or misleading information.

3. Where the Commission requires undertakings and associations of undertakings to supply information by decision, it shall state the legal basis and the purpose of the request, specify what information is required and fix the time-limit within which it is to be provided. It shall also indicate the penalties provided for in Article 23 and indicate or impose the penalties provided for in Article 24. It shall further indicate the right to have the decision reviewed by the Court of Justice.

4. The owners of the undertakings or their representatives and, in the case of legal persons, companies or firms, or associations having no legal personality, the persons authorised to represent them by law or by their constitution shall supply the information requested on behalf of the undertaking or the association of undertakings concerned. Lawyers duly authorised to act may supply the information on behalf of their clients. The latter shall remain fully responsible if the information supplied is incomplete, incorrect or misleading.

5. The Commission shall without delay forward a copy of the simple request or of the decision to the competition authority of the Member State in whose territory the seat of the undertaking or association of undertakings is situated and the competition authority of the Member State whose territory is affected.

6. At the request of the Commission the governments and competition authorities of the Member States shall provide the Commission with all necessary information to carry out the duties assigned to it by this Regulation.

Article 19

Power to take statements

1. In order to carry out the duties assigned to it by this Regulation, the Commission may interview any natural or legal person who consents to be interviewed for the purpose of collecting information relating to the subject-matter of an investigation.

2. Where an interview pursuant to paragraph 1 is conducted in the premises of an undertaking, the Commission shall inform the competition authority of the Member State in whose territory the interview takes place. If so requested by the competition authority of that Member State, its officials may assist the officials and other accompanying persons authorised by the Commission to conduct the interview.

Article 20

The Commission's powers of inspection

1. In order to carry out the duties assigned to it by this Regulation, the Commission may conduct all necessary inspections of undertakings and associations of undertakings.

2. The officials and other accompanying persons authorised by the Commission to conduct an inspection are empowered:

(a) to enter any premises, land and means of transport of undertakings and associations of undertakings;

(b) to examine the books and other records related to the business, irrespective of the medium on which they are stored;

(c) to take or obtain in any form copies of or extracts from such books or records;

(d) to seal any business premises and books or records for the period and to the extent necessary for the inspection;

(e) to ask any representative or member of staff of the undertaking or association of undertakings for explanations on facts or documents relating to the subject-matter and purpose of the inspection and to record the answers.

3. The officials and other accompanying persons authorised by the Commission to conduct an inspection shall exercise their powers upon production of a written authorisation specifying the subject matter and purpose of the inspection and the penalties provided for in Article 23 in case the production of the required books or other records related to the business is incomplete or where the answers to questions asked under paragraph 2 of the present Article are incorrect or misleading. In good time before the inspection, the Commission shall give notice of the inspection to the competition authority of the Member State in whose territory it is to be conducted.

4. Undertakings and associations of undertakings are required to submit to inspections ordered by decision of the Commission. The decision shall specify the subject matter and purpose of the inspection, appoint the date on which it is to begin and indicate the penalties provided for in Articles 23 and 24 and the right to have the decision reviewed by the Court of Justice. The Commission shall take such decisions after consulting the competition authority of the Member State in whose territory the inspection is to be conducted.

5. Officials of as well as those authorised or appointed by the competition authority of the Member State in whose territory the inspection is to be conducted shall, at the request of that authority or of the Commission, actively assist the officials and other accompanying persons authorised by the Commission. To this end, they shall enjoy the powers specified in paragraph 2.

6. Where the officials and other accompanying persons authorised by the Commission find that an undertaking opposes an inspection ordered pursuant to this Article, the Member State concerned shall afford them the necessary assistance, requesting where appropriate the assistance of the police or of an equivalent enforcement authority, so as to enable them to conduct their inspection.

7. If the assistance provided for in paragraph 6 requires authorisation from a judicial authority according to national rules, such authorisation shall be applied for. Such authorisation may also be applied for as a precautionary measure.

8. Where authorisation as referred to in paragraph 7 is applied for, the national judicial authority shall control that the Commission decision is authentic and that the coercive measures envisaged are neither arbitrary nor excessive having regard to the subject matter of the inspection. In its control of the proportionality of the coercive measures, the national judicial authority may ask the Commission, directly or through the Member State competition authority, for detailed explanations in particular on the grounds the Commission has for suspecting infringement of Articles 81 and 82 of the Treaty, as well as on the seriousness of the suspected infringement and on the nature of the involvement of the undertaking concerned. However, the national judicial authority may not call into question the necessity for the inspection nor demand that it be provided with the information in the Commission's file. The lawfulness of the Commission decision shall be subject to review only by the Court of Justice.

Article 21

Inspection of other premises

1. If a reasonable suspicion exists that books or other records related to the business and to the subject-matter of the inspection, which may be relevant to prove a serious violation of Article 81 or Article 82 of the Treaty, are being kept in any other premises, land and means of transport, including the homes of directors, managers and other members of staff of the undertakings and associations of undertakings concerned, the Commission can by decision order an inspection to be conducted in such other premises, land and means of transport.

2. The decision shall specify the subject matter and purpose of the inspection, appoint the date on which it is to begin and indicate the right to have the decision reviewed by the Court of Justice. It shall in particular state the reasons that have led the Commission to conclude that a suspicion in the sense of paragraph 1 exists. The Commission shall take such decisions after consulting the competition authority of the Member State in whose territory the inspection is to be conducted.

3. A decision adopted pursuant to paragraph 1 cannot be executed without prior authorisation from the national judicial authority of the Member State concerned. The national judicial authority shall control that the Commission decision is authentic and that the coercive measures envisaged are neither arbitrary nor excessive having regard in particular to the seriousness of the suspected infringement, to the importance of the evidence sought, to the involvement of the undertaking concerned and to the reasonable likelihood that business books and records relating to the subject matter of the inspection are kept in the premises for which the authorisation is requested. The national judicial authority may ask the Commission, directly or through the Member State competition authority, for detailed explanations on those elements which are necessary to allow its control of the proportionality of the coercive measures envisaged.

However, the national judicial authority may not call into question the necessity for the inspection nor demand that it be provided with information in the Commission's file. The lawfulness of the Commission decision shall be subject to review only by the Court of Justice.

4. The officials and other accompanying persons authorised by the Commission to conduct an inspection ordered in accordance with paragraph 1 of this Article shall have the powers set out in Article 20(2)(a), (b) and (c). Article 20(5) and (6) shall apply *mutatis mutandis*.

Article 22

Investigations by competition authorities of Member States

1. The competition authority of a Member State may in its own territory carry out any inspection or other fact-finding measure under its national law on behalf and for the account of the competition authority of another Member State in order to establish whether there has been an infringement of Article 81 or Article 82 of the Treaty. Any exchange and use of the information collected shall be carried out in accordance with Article 12.

2. At the request of the Commission, the competition authorities of the Member States shall undertake the inspections which the Commission considers to be necessary under Article 20(1) or which it has ordered by decision pursuant to Article 20(4). The officials of the competition authorities of the Member States who are responsible for conducting these inspections as well as those authorised or appointed by them shall exercise their powers in accordance with their national law.

If so requested by the Commission or by the competition authority of the Member State in whose territory the inspection is to be conducted, officials and other accompanying persons authorised by the Commission may assist the officials of the authority concerned.

CHAPTER VI

PENALTIES

Article 23

Fines

1. The Commission may by decision impose on undertakings and associations of undertakings fines not exceeding 1 % of the total turnover in the preceding business year where, intentionally or negligently:

(a) they supply incorrect or misleading information in response to a request made pursuant to Article 17 or Article 18(2);

(b) in response to a request made by decision adopted pursuant to Article 17 or Article 18(3), they supply incorrect, incomplete or misleading information or do not supply information within the required time-limit;

(c) they produce the required books or other records related to the business in incomplete form during inspections under Article 20 or refuse to submit to inspections ordered by a decision adopted pursuant to Article 20(4);

(d) in response to a question asked in accordance with Article 20(2)(e),

— they give an incorrect or misleading answer,

— they fail to rectify within a time-limit set by the Commission an incorrect, incomplete or misleading answer given by a member of staff, or

— they fail or refuse to provide a complete answer on facts relating to the subject-matter and purpose of an inspection ordered by a decision adopted pursuant to Article 20(4);

(e) seals affixed in accordance with Article 20(2)(d) by officials or other accompanying persons authorised by the Commission have been broken.

2. The Commission may by decision impose fines on undertakings and associations of undertakings where, either intentionally or negligently:

(a) they infringe Article 81 or Article 82 of the Treaty; or

(b) they contravene a decision ordering interim measures under Article 8; or

(c) they fail to comply with a commitment made binding by a decision pursuant to Article 9.

For each undertaking and association of undertakings participating in the infringement, the fine shall not exceed 10 % of its total turnover in the preceding business year.

Where the infringement of an association relates to the activities of its members, the fine shall not exceed 10 % of the sum of the total turnover of each member active on the market affected by the infringement of the association.

3. In fixing the amount of the fine, regard shall be had both to the gravity and to the duration of the infringement.

4. When a fine is imposed on an association of undertakings taking account of the turnover of its members and the association is not solvent, the association is obliged to call for contributions from its members to cover the amount of the fine.

Where such contributions have not been made to the association within a time-limit fixed by the Commission, the Commission may require payment of the fine directly by any of the undertakings whose representatives were members of the decision-making bodies concerned of the association.

After the Commission has required payment under the second subparagraph, where necessary to ensure full payment of the fine, the Commission may require payment of the balance by any of the members of the association which were active on the market on which the infringement occurred.

However, the Commission shall not require payment under the second or the third subparagraph from undertakings which show that they have not implemented the infringing decision of the association and either were not aware of its existence or have actively distanced themselves from it before the Commission started investigating the case.

The financial liability of each undertaking in respect of the payment of the fine shall not exceed 10 % of its total turnover in the preceding business year.

5. Decisions taken pursuant to paragraphs 1 and 2 shall not be of a criminal law nature.

Article 24

Periodic penalty payments

1. The Commission may, by decision, impose on undertakings or associations of undertakings periodic penalty payments not exceeding 5 % of the average daily turnover in the preceding business year per day and calculated from the date appointed by the decision, in order to compel them:

(a) to put an end to an infringement of Article 81 or Article 82 of the Treaty, in accordance with a decision taken pursuant to Article 7;

(b) to comply with a decision ordering interim measures taken pursuant to Article 8;

(c) to comply with a commitment made binding by a decision pursuant to Article 9;

(d) to supply complete and correct information which it has requested by decision taken pursuant to Article 17 or Article 18(3);

(e) to submit to an inspection which it has ordered by decision taken pursuant to Article 20(4).

2. Where the undertakings or associations of undertakings have satisfied the obligation which the periodic penalty payment was intended to enforce, the Commission may fix the definitive amount of the periodic penalty payment at a figure lower than that which would arise under the original decision. Article 23(4) shall apply correspondingly.

CHAPTER VII

LIMITATION PERIODS

Article 25

Limitation periods for the imposition of penalties

1. The powers conferred on the Commission by Articles 23 and 24 shall be subject to the following limitation periods:

(a) three years in the case of infringements of provisions concerning requests for information or the conduct of inspections;

(b) five years in the case of all other infringements.

2. Time shall begin to run on the day on which the infringement is committed. However, in the case of continuing or repeated infringements, time shall begin to run on the day on which the infringement ceases.

3. Any action taken by the Commission or by the competition authority of a Member State for the purpose of the investigation or proceedings in respect of an infringement shall interrupt the limitation period for the imposition of fines or periodic penalty payments. The limitation period shall be interrupted with effect from the date on which the action is notified to at least one undertaking or association of undertakings which has participated in the infringement. Actions which interrupt the running of the period shall include in particular the following:

(a) written requests for information by the Commission or by the competition authority of a Member State;

(b) written authorisations to conduct inspections issued to its officials by the Commission or by the competition authority of a Member State;

(c) the initiation of proceedings by the Commission or by the competition authority of a Member State;

(d) notification of the statement of objections of the Commission or of the competition authority of a Member State.

4. The interruption of the limitation period shall apply for all the undertakings or associations of undertakings which have participated in the infringement.

5. Each interruption shall start time running afresh. However, the limitation period shall expire at the latest on the day on which a period equal to twice the limitation period has elapsed without the Commission having imposed a fine or a periodic penalty payment. That period shall be extended by the time during which limitation is suspended pursuant to paragraph 6.

6. The limitation period for the imposition of fines or periodic penalty payments shall be suspended for as long as the decision of the Commission is the subject of proceedings pending before the Court of Justice.

Article 26

Limitation period for the enforcement of penalties

1. The power of the Commission to enforce decisions taken pursuant to Articles 23 and 24 shall be subject to a limitation period of five years.

2. Time shall begin to run on the day on which the decision becomes final.

3. The limitation period for the enforcement of penalties shall be interrupted:

(a) by notification of a decision varying the original amount of the fine or periodic penalty payment or refusing an application for variation;

(b) by any action of the Commission or of a Member State, acting at the request of the Commission, designed to enforce payment of the fine or periodic penalty payment.

4. Each interruption shall start time running afresh.

5. The limitation period for the enforcement of penalties shall be suspended for so long as:

(a) time to pay is allowed;

(b) enforcement of payment is suspended pursuant to a decision of the Court of Justice.

CHAPTER VIII

HEARINGS AND PROFESSIONAL SECRECY

Article 27

Hearing of the parties, complainants and others

1. Before taking decisions as provided for in Articles 7, 8, 23 and Article 24(2), the Commission shall give the undertakings or associations of undertakings which are the subject of the proceedings conducted by the Commission the opportunity of being heard on the matters to which the Commission has taken objection. The Commission shall base its decisions only on objections on which the parties concerned have been able to comment. Complainants shall be associated closely with the proceedings.

2. The rights of defence of the parties concerned shall be fully respected in the proceedings. They shall be entitled to have access to the Commission's file, subject to the legitimate interest of undertakings in the protection of their business secrets. The right of access to the file shall not extend to confidential information and internal documents of the Commission or the competition authorities of the Member States. In particular, the right of access shall not extend to correspondence between the Commission and the competition authorities of the Member States, or between the latter, including documents drawn up pursuant to Articles 11 and 14. Nothing in this paragraph shall prevent the Commission from disclosing and using information necessary to prove an infringement.

3. If the Commission considers it necessary, it may also hear other natural or legal persons. Applications to be heard on the part of such persons shall, where they show a sufficient interest, be granted. The competition authorities of the Member States may also ask the Commission to hear other natural or legal persons.

4. Where the Commission intends to adopt a decision pursuant to Article 9 or Article 10, it shall publish a concise summary of the case and the main content of the commitments or of the proposed course of action. Interested third parties may submit their observations within a time limit which is fixed by the Commission in its publication and which may not be less than one month. Publication shall have regard to the legitimate interest of undertakings in the protection of their business secrets.

Article 28

Professional secrecy

1. Without prejudice to Articles 12 and 15, information collected pursuant to Articles 17 to 22 shall be used only for the purpose for which it was acquired.

2. Without prejudice to the exchange and to the use of information foreseen in Articles 11, 12, 14, 15 and 27, the Commission and the competition authorities of the Member States, their officials, servants and other persons working under the supervision of these authorities as well as officials and civil servants of other authorities of the Member States shall not disclose information acquired or exchanged by them pursuant to this Regulation and of the kind covered by the obligation of professional secrecy. This obligation also applies to all representatives and experts of Member States attending meetings of the Advisory Committee pursuant to Article 14.

CHAPTER IX

EXEMPTION REGULATIONS

Article 29

Withdrawal in individual cases

1. Where the Commission, empowered by a Council Regulation, such as Regulations 19/65/EEC, (EEC) No 2821/71, (EEC) No 3976/87, (EEC) No 1534/91 or (EEC) No 479/92, to apply Article 81(3) of the Treaty by regulation, has declared Article 81(1) of the Treaty inapplicable to certain categories of agreements, decisions by associations of undertakings or concerted practices, it may, acting on its own initiative or on a complaint, withdraw the benefit of such an exemption Regulation when it finds that in any particular case an agreement, decision or concerted practice to which the exemption Regulation applies has certain effects which are incompatible with Article 81(3) of the Treaty.

2. Where, in any particular case, agreements, decisions by associations of undertakings or concerted practices to which a Commission Regulation referred to in paragraph 1 applies have effects which are incompatible with Article 81(3) of the Treaty in the territory of a Member State, or in a part thereof, which has all the characteristics of a distinct geographic market, the competition authority of that Member State may withdraw the benefit of the Regulation in question in respect of that territory.

CHAPTER X

GENERAL PROVISIONS

Article 30

Publication of decisions

1. The Commission shall publish the decisions, which it takes pursuant to Articles 7 to 10, 23 and 24.

2. The publication shall state the names of the parties and the main content of the decision, including any penalties imposed. It shall have regard to the legitimate interest of undertakings in the protection of their business secrets.

Article 31

Review by the Court of Justice

The Court of Justice shall have unlimited jurisdiction to review decisions whereby the Commission has fixed a fine or periodic penalty payment. It may cancel, reduce or increase the fine or periodic penalty payment imposed.

Article 32

Exclusions

This Regulation shall not apply to:

(a) international tramp vessel services as defined in Article 1(3)(a) of Regulation (EEC) No 4056/86;

(b) a maritime transport service that takes place exclusively between ports in one and the same Member State as foreseen in Article 1(2) of Regulation (EEC) No 4056/86;

(c) air transport between Community airports and third countries.

Article 33

Implementing provisions

1. The Commission shall be authorised to take such measures as may be appropriate in order to apply this Regulation. The measures may concern, *inter alia*:

(a) the form, content and other details of complaints lodged pursuant to Article 7 and the procedure for rejecting complaints;

(b) the practical arrangements for the exchange of information and consultations provided for in Article 11;

(c) the practical arrangements for the hearings provided for in Article 27.

2. Before the adoption of any measures pursuant to paragraph 1, the Commission shall publish a draft thereof and invite all interested parties to submit their comments within the time-limit it lays down, which may not be less than one month. Before publishing a draft measure and before adopting it, the Commission shall consult the Advisory Committee on Restrictive Practices and Dominant Positions.

CHAPTER XI

TRANSITIONAL, AMENDING AND FINAL PROVISIONS

Article 34

Transitional provisions

1. Applications made to the Commission under Article 2 of Regulation No 17, notifications made under Articles 4 and 5 of that Regulation and the corresponding applications and notifications made under Regulations (EEC) No 1017/68, (EEC) No 4056/86 and (EEC) No 3975/87 shall lapse as from the date of application of this Regulation.

2. Procedural steps taken under Regulation No 17 and Regulations (EEC) No 1017/68, (EEC) No 4056/86 and (EEC) No 3975/87 shall continue to have effect for the purposes of applying this Regulation.

Article 35

Designation of competition authorities of Member States

1. The Member States shall designate the competition authority or authorities responsible for the application of Articles 81 and 82 of the Treaty in such a way that the provisions of this regulation are effectively complied with. The measures necessary to empower those authorities to apply those Articles shall be taken before 1 May 2004. The authorities designated may include courts.

2. When enforcement of Community competition law is entrusted to national administrative and judicial authorities, the Member States may allocate different powers and functions to those different national authorities, whether administrative or judicial.

3. The effects of Article 11(6) apply to the authorities designated by the Member States including courts that exercise functions regarding the preparation and the adoption of the types of decisions foreseen in Article 5. The effects of Article 11(6) do not extend to courts insofar as they act as review courts in respect of the types of decisions foreseen in Article 5.

4. Notwithstanding paragraph 3, in the Member States where, for the adoption of certain types of decisions foreseen in Article 5, an authority brings an action before a judicial authority that is separate and different from the prosecuting authority and provided that the terms of this paragraph are complied with, the effects of Article 11(6) shall be limited to the authority prosecuting the case which shall withdraw its claim before the judicial authority when the Commission opens proceedings and this withdrawal shall bring the national proceedings effectively to an end.

Article 36

Amendment of Regulation (EEC) No 1017/68

Regulation (EEC) No 1017/68 is amended as follows:

1. Article 2 is repealed;

2. in Article 3(1), the words 'The prohibition laid down in Article 2' are replaced by the words 'The prohibition in Article 81(1) of the Treaty';

3. Article 4 is amended as follows:

   (a) In paragraph 1, the words 'The agreements, decisions and concerted practices referred to in Article 2' are replaced by the words 'Agreements, decisions and concerted practices pursuant to Article 81(1) of the Treaty';

   (b) Paragraph 2 is replaced by the following:

   '2. If the implementation of any agreement, decision or concerted practice covered by paragraph 1 has, in a given case, effects which are incompatible with the requirements of Article 81(3) of the Treaty, undertakings or associations of undertakings may be required to make such effects cease.'

4. Articles 5 to 29 are repealed with the exception of Article 13(3) which continues to apply to decisions adopted pursuant to Article 5 of Regulation (EEC) No 1017/68 prior to the date of application of this Regulation until the date of expiration of those decisions;

5. in Article 30, paragraphs 2, 3 and 4 are deleted.

Article 37

Amendment of Regulation (EEC) No 2988/74

In Regulation (EEC) No 2988/74, the following Article is inserted:

'Article 7a

Exclusion

This Regulation shall not apply to measures taken under Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (*).

(*) OJ L 1, 4.1.2003, p. 1.'

Article 38

Amendment of Regulation (EEC) No 4056/86

Regulation (EEC) No 4056/86 is amended as follows:

1. Article 7 is amended as follows:

   (a) Paragraph 1 is replaced by the following:

   '1. *Breach of an obligation*

   Where the persons concerned are in breach of an obligation which, pursuant to Article 5, attaches to the exemption provided for in Article 3, the Commission may, in order to put an end to such breach and under the conditions laid down in Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (*) adopt a decision that either prohibits them from carrying out or requires them to perform certain specific acts, or withdraws the benefit of the block exemption which they enjoyed.

   (*) OJ L 1, 4.1.2003, p. 1.'

   (b) Paragraph 2 is amended as follows:

   (i) In point (a), the words 'under the conditions laid down in Section II' are replaced by the words 'under the conditions laid down in Regulation (EC) No 1/2003';

   (ii) The second sentence of the second subparagraph of point (c)(i) is replaced by the following:

   'At the same time it shall decide, in accordance with Article 9 of Regulation (EC) No 1/2003, whether to accept commitments offered by the undertakings concerned with a view, *inter alia*, to obtaining access to the market for non-conference lines.'

2. Article 8 is amended as follows:

   (a) Paragraph 1 is deleted.

   (b) In paragraph 2 the words 'pursuant to Article 10' are replaced by the words 'pursuant to Regulation (EC) No 1/2003'.

   (c) Paragraph 3 is deleted;

3. Article 9 is amended as follows:

   (a) In paragraph 1, the words 'Advisory Committee referred to in Article 15' are replaced by the words 'Advisory Committee referred to in Article 14 of Regulation (EC) No 1/2003';

   (b) In paragraph 2, the words 'Advisory Committee as referred to in Article 15' are replaced by the words 'Advisory Committee referred to in Article 14 of Regulation (EC) No 1/2003';

4. Articles 10 to 25 are repealed with the exception of Article 13(3) which continues to apply to decisions adopted pursuant to Article 81(3) of the Treaty prior to the date of application of this Regulation until the date of expiration of those decisions;

5. in Article 26, the words 'the form, content and other details of complaints pursuant to Article 10, applications pursuant to Article 12 and the hearings provided for in Article 23(1) and (2)' are deleted.

Article 39

Amendment of Regulation (EEC) No 3975/87

Articles 3 to 19 of Regulation (EEC) No 3975/87 are repealed with the exception of Article 6(3) which continues to apply to decisions adopted pursuant to Article 81(3) of the Treaty prior to the date of application of this Regulation until the date of expiration of those decisions.

Article 40

Amendment of Regulations No 19/65/EEC, (EEC) No 2821/71 and (EEC) No 1534/91

Article 7 of Regulation No 19/65/EEC, Article 7 of Regulation (EEC) No 2821/71 and Article 7 of Regulation (EEC) No 1534/91 are repealed.

Article 41

Amendment of Regulation (EEC) No 3976/87

Regulation (EEC) No 3976/87 is amended as follows:

1. Article 6 is replaced by the following:

'*Article 6*

The Commission shall consult the Advisory Committee referred to in Article 14 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (*) before publishing a draft Regulation and before adopting a Regulation.

(*) OJ L 1, 4.1.2003, p. 1.'

2. Article 7 is repealed.

Article 42

Amendment of Regulation (EEC) No 479/92

Regulation (EEC) No 479/92 is amended as follows:

1. Article 5 is replaced by the following:

'*Article 5*

Before publishing the draft Regulation and before adopting the Regulation, the Commission shall consult the Advisory Committee referred to in Article 14 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (*).

(*) OJ L 1, 4.1.2003, p. 1.'

2. Article 6 is repealed.

Article 43

Repeal of Regulations No 17 and No 141

1. Regulation No 17 is repealed with the exception of Article 8(3) which continues to apply to decisions adopted pursuant to Article 81(3) of the Treaty prior to the date of application of this Regulation until the date of expiration of those decisions.

2. Regulation No 141 is repealed.

3. References to the repealed Regulations shall be construed as references to this Regulation.

Article 44

Report on the application of the present Regulation

Five years from the date of application of this Regulation, the Commission shall report to the European Parliament and the Council on the functioning of this Regulation, in particular on the application of Article 11(6) and Article 17.

On the basis of this report, the Commission shall assess whether it is appropriate to propose to the Council a revision of this Regulation.

Article 45

Entry into force

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Communities*.

It shall apply from 1 May 2004.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 December 2002.

For the Council

The President

M. FISCHER BOEL

P20709

This is Exhibit “K” to the affidavit of **Mallory Kelly,** affirmed
remotely and stated as being located
in the city of Gatineau, in the province of Quebec,
before me at the city of Ottawa in the province of Ontario,on
July 4, 2025, in accordance with
O. Reg 431/20, Administering Oath or Declaration Remotely.

Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003

(2006/C 210/02)

(Text with EEA relevance)

INTRODUCTION

1. Pursuant to Article 23(2)(a) of Regulation No 1/2003 [1], the Commission may, by decision, impose fines on undertakings or associations of undertakings where, either intentionally or negligently, they infringe Article 81 or 82 of the Treaty.

2. In exercising its power to impose such fines, the Commission enjoys a wide margin of discretion [2] within the limits set by Regulation No 1/2003. First, the Commission must have regard both to the gravity and to the duration of the infringement. Second, the fine imposed may not exceed the limits specified in Article 23(2), second and third subparagraphs, of Regulation No 1/2003.

3. In order to ensure the transparency and impartiality of its decisions, the Commission published on 14 January 1998 guidelines on the method of setting fines [3]. After more than eight years of implementation, the Commission has acquired sufficient experience to develop further and refine its policy on fines.

4. The Commission's power to impose fines on undertakings or associations of undertakings which, intentionally or negligently, infringe Article 81 or 82 of the Treaty is one of the means conferred on it in order for it to carry out the task of supervision entrusted to it by the Treaty. That task not only includes the duty to investigate and sanction individual infringements, but it also encompasses the duty to pursue a general policy designed to apply, in competition matters, the principles laid down by the Treaty and to steer the conduct of undertakings in the light of those principles [4]. For this purpose, the Commission must ensure that its action has the necessary deterrent effect [5]. Accordingly, when the Commission discovers that Article 81 or 82 of the Treaty has been infringed, it may be necessary to impose a fine on those who have acted in breach of the law. Fines should have a sufficiently deterrent effect, not only in order to sanction the undertakings concerned (specific deterrence) but also in order to deter other undertakings from engaging in, or continuing, behaviour that is contrary to Articles 81 and 82 of the EC Treaty (general deterrence).

5. In order to achieve these objectives, it is appropriate for the Commission to refer to the value of the sales of goods or services to which the infringement relates as a basis for setting the fine. The duration of the infringement should also play a significant role in the setting of the appropriate amount of the fine. It necessarily has an impact on the potential consequences of the infringement on the market. It is therefore considered important that the fine should also reflect the number of years during which an undertaking participated in the infringement.

6. The combination of the value of sales to which the infringement relates and of the duration of the infringement is regarded as providing an appropriate proxy to reflect the economic importance of the infringement as well as the relative weight of each undertaking in the infringement. Reference to these factors provides a good indication of the order of magnitude of the fine and should not be regarded as the basis for an automatic and arithmetical calculation method.

7. It is also considered appropriate to include in the fine a specific amount irrespective of the duration of the infringement, in order to deter companies from even entering into illegal practices.

8. The sections below set out the principles which will guide the Commission when it sets fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003.

METHOD FOR THE SETTING OF FINES

9. Without prejudice to point 37 below, the Commission will use the following two-step methodology when setting the fine to be imposed on undertakings or associations of undertakings.

10. First, the Commission will determine a basic amount for each undertaking or association of undertakings (see Section 1 below).

11. Second, it may adjust that basic amount upwards or downwards (see Section 2 below).

1. Basic amount of the fine

12. The basic amount will be set by reference to the value of sales and applying the following methodology.

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[1] Council Regulation (EC) No 1 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1).

[2] See, for example, Case C-189/02 P, C-202/02 P, C-205/02 P to C-208/02 P and C-213/02 P, *Dansk Rørindustri A/S and others v Commission* [2005] ECR I-5425, paragraph 172.

[3] Guidelines on the method of setting fines imposed pursuant to Article 15(2) of Regulation No 17 and Article 65(5) of the ECSC Treaty (OJ C 9, 14.1.1998, p. 3).

[4] See, for example, *Dansk Rørindustri A/S and others v Commission*, cited above, paragraph 170.

[5] See Joined Cases 100/80 to 103/80 *Musique Diffusion française and others v Commission* [1983] ECR 1825, paragraph 106.

A. *Calculation of the value of sales*

13. In determining the basic amount of the fine to be imposed, the Commission will take the value of the undertaking's sales of goods or services to which the infringement directly or indirectly ([1]) relates in the relevant geographic area within the EEA. It will normally take the sales made by the undertaking during the last full business year of its participation in the infringement (hereafter 'value of sales').

14. Where the infringement by an association of undertakings relates to the activities of its members, the value of sales will generally correspond to the sum of the value of sales by its members.

15. In determining the value of sales by an undertaking, the Commission will take that undertaking's best available figures.

16. Where the figures made available by an undertaking are incomplete or not reliable, the Commission may determine the value of its sales on the basis of the partial figures it has obtained and/or any other information which it regards as relevant and appropriate.

17. The value of sales will be determined before VAT and other taxes directly related to the sales.

18. Where the geographic scope of an infringement extends beyond the EEA (e.g. worldwide cartels), the relevant sales of the undertakings within the EEA may not properly reflect the weight of each undertaking in the infringement. This may be the case in particular with worldwide market-sharing arrangements.

In such circumstances, in order to reflect both the aggregate size of the relevant sales within the EEA and the relative weight of each undertaking in the infringement, the Commission may assess the total value of the sales of goods or services to which the infringement relates in the relevant geographic area (wider than the EEA), may determine the share of the sales of each undertaking party to the infringement on that market and may apply this share to the aggregate sales within the EEA of the undertakings concerned. The result will be taken as the value of sales for the purpose of setting the basic amount of the fine.

B. *Determination of the basic amount of the fine*

19. The basic amount of the fine will be related to a proportion of the value of sales, depending on the degree of gravity of the infringement, multiplied by the number of years of infringement.

20. The assessment of gravity will be made on a case-by-case basis for all types of infringement, taking account of all the relevant circumstances of the case.

21. As a general rule, the proportion of the value of sales taken into account will be set at a level of up to 30 % of the value of sales.

22. In order to decide whether the proportion of the value of sales to be considered in a given case should be at the lower end or at the higher end of that scale, the Commission will have regard to a number of factors, such as the nature of the infringement, the combined market share of all the undertakings concerned, the geographic scope of the infringement and whether or not the infringement has been implemented.

23. Horizontal price-fixing, market-sharing and output-limitation agreements ([2]), which are usually secret, are, by their very nature, among the most harmful restrictions of competition. As a matter of policy, they will be heavily fined. Therefore, the proportion of the value of sales taken into account for such infringements will generally be set at the higher end of the scale.

24. In order to take fully into account the duration of the participation of each undertaking in the infringement, the amount determined on the basis of the value of sales (see points 20 to 23 above) will be multiplied by the number of years of participation in the infringement. Periods of less than six months will be counted as half a year; periods longer than six months but shorter than one year will be counted as a full year.

25. In addition, irrespective of the duration of the undertaking's participation in the infringement, the Commission will include in the basic amount a sum of between 15 % and 25 % of the value of sales as defined in Section A above in order to deter undertakings from even entering into horizontal price-fixing, market-sharing and output-limitation agreements. The Commission may also apply such an additional amount in the case of other infringements. For the purpose of deciding the proportion of the value of sales to be considered in a given case, the Commission will have regard to a number of factors, in particular those referred in point 22.

26. Where the value of sales by undertakings participating in the infringement is similar but not identical, the Commission may set for each of them an identical basic amount. Moreover, in determining the basic amount of the fine, the Commission will use rounded figures.

2. **Adjustments to the basic amount**

27. In setting the fine, the Commission may take into account circumstances that result in an increase or decrease in the basic amount as determined in Section 1 above. It will do so on the basis of an overall assessment which takes account of all the relevant circumstances.

([1]) Such will be the case for instance for horizontal price fixing arrangements on a given product, where the price of that product then serves as a basis for the price of lower or higher quality products.

([2]) This includes agreements, concerted practices and decisions by associations of undertakings within the meaning of Article 81 of the Treaty.

A. *Aggravating circumstances*

28. The basic amount may be increased where the Commission finds that there are aggravating circumstances, such as:

— where an undertaking continues or repeats the same or a similar infringement after the Commission or a national competition authority has made a finding that the undertaking infringed Article 81 or 82: the basic amount will be increased by up to 100 % for each such infringement established;

— refusal to cooperate with or obstruction of the Commission in carrying out its investigations;

— role of leader in, or instigator of, the infringement; the Commission will also pay particular attention to any steps taken to coerce other undertakings to participate in the infringement and/or any retaliatory measures taken against other undertakings with a view to enforcing the practices constituting the infringement.

B. *Mitigating circumstances*

29. The basic amount may be reduced where the Commission finds that mitigating circumstances exist, such as:

— where the undertaking concerned provides evidence that it terminated the infringement as soon as the Commission intervened: this will not apply to secret agreements or practices (in particular, cartels);

— where the undertaking provides evidence that the infringement has been committed as a result of negligence;

— where the undertaking provides evidence that its involvement in the infringement is substantially limited and thus demonstrates that, during the period in which it was party to the offending agreement, it actually avoided applying it by adopting competitive conduct in the market: the mere fact that an undertaking participated in an infringement for a shorter duration than others will not be regarded as a mitigating circumstance since this will already be reflected in the basic amount;

— where the undertaking concerned has effectively cooperated with the Commission outside the scope of the Leniency Notice and beyond its legal obligation to do so;

— where the anti-competitive conduct of the undertaking has been authorized or encouraged by public authorities or by legislation. ([1])

([1]) This is without prejudice to any action that may be taken against the Member State concerned.

C. *Specific increase for deterrence*

30. The Commission will pay particular attention to the need to ensure that fines have a sufficiently deterrent effect; to that end, it may increase the fine to be imposed on undertakings which have a particularly large turnover beyond the sales of goods or services to which the infringement relates.

31. The Commission will also take into account the need to increase the fine in order to exceed the amount of gains improperly made as a result of the infringement where it is possible to estimate that amount.

D. *Legal maximum*

32. The final amount of the fine shall not, in any event, exceed 10 % of the total turnover in the preceding business year of the undertaking or association of undertakings participating in the infringement, as laid down in Article 23(2) of Regulation No 1/2003.

33. Where an infringement by an association of undertakings relates to the activities of its members, the fine shall not exceed 10 % of the sum of the total turnover of each member active on the market affected by that infringement.

E. *Leniency Notice*

34. The Commission will apply the leniency rules in line with the conditions set out in the applicable notice.

F. *Ability to pay*

35. In exceptional cases, the Commission may, upon request, take account of the undertaking's inability to pay in a specific social and economic context. It will not base any reduction granted for this reason in the fine on the mere finding of an adverse or loss-making financial situation. A reduction could be granted solely on the basis of objective evidence that imposition of the fine as provided for in these Guidelines would irretrievably jeopardise the economic viability of the undertaking concerned and cause its assets to lose all their value.

FINAL CONSIDERATIONS

36. The Commission may, in certain cases, impose a symbolic fine. The justification for imposing such a fine should be given in its decision.

37. Although these Guidelines present the general methodology for the setting of fines, the particularities of a given case or the need to achieve deterrence in a particular case may justify departing from such methodology or from the limits specified in point 21.

38. These Guidelines will be applied in all cases where a statement of objections is notified after their date of publication in the Official Journal, regardless of whether the fine is imposed pursuant to Article 23(2) of Regulation No 1/2003 or Article 15(2) of Regulation 17/62 ([1]).

([1]) Article 15(2) of Regulation 17/62 of 6 February 1962: First Regulation implementing Articles 85 and 86 [now 81 and 82] of the Treaty (OJ 13, 21.2.1962, p. 204).

P20709

This is Exhibit “L” to the affidavit of **Mallory Kelly,** affirmed
remotely and stated as being located
in the city of Gatineau, in the province of Quebec,
before me at the city of Ottawa in the province of Ontario,on
July 4, 2025, in accordance with
O. Reg 431/20, Administering Oath or Declaration Remotely.

Antitrust: Commission sends Statement of Objections to Google over abusive practices in online advertising technology

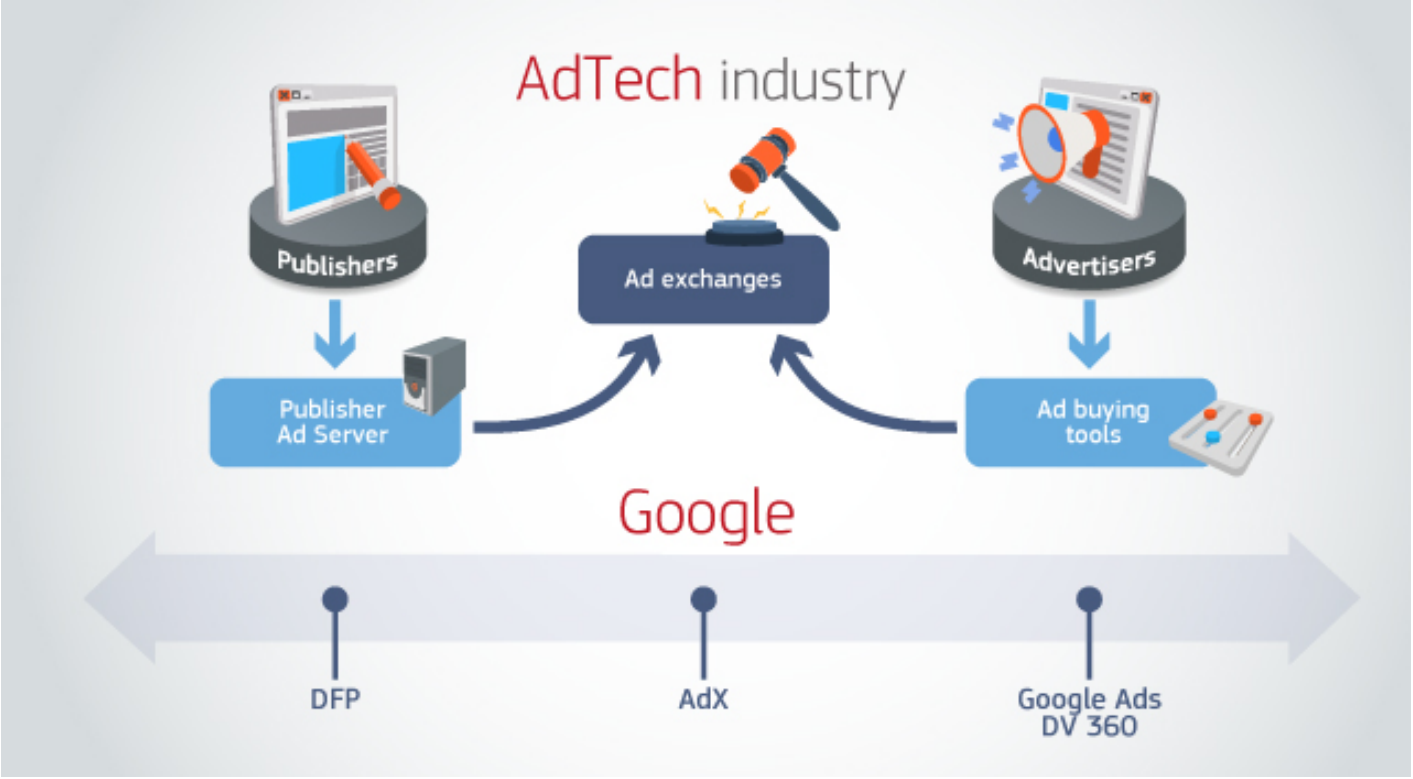
Brussels, 14 June 2023

The European Commission has informed **Google** of its preliminary view that the company breached EU antitrust rules by distorting competition in the advertising technology industry (‘adtech'). The Commission takes issue with Google favouring its own online display advertising technology services to the detriment of competing providers of advertising technology services, advertisers and online publishers.

Google is a US multinational technology company. Google's flagship service is its search engine Google Search. Google also operates other popular services, such as the video streaming platform YouTube or the mobile operating system Android. Google's main source of revenue is online advertising: (i) it **sells** advertising space on its own websites and apps; and (ii) it **intermediates** between advertisers that want to place their ads online and publishers (i.e. third-party websites and apps) that can supply such space.

Advertisers and publishers rely on the adtech industry's digital tools for the placement of real time ads not linked to a search query, such as banner ads in websites of newspapers (‘display ads'). In particular, the adtech industry provides three digital tools: (i) **publisher ad servers** used by publishers to manage the advertising space on their websites and apps; (ii) **ad buying tools** used by advertisers to manage their automated advertising campaigns; and (iii) **ad exchanges** where publishers and advertisers meet in real time, typically via auctions, to buy and sell display adds.

Google provides several adtech services that intermediate between advertisers and publishers in order to display ads on web sites or mobile apps. It operates (i) two ad buying tools - “Google Ads” and “DV 360”; (ii) a publisher ad server, “DoubleClick For Publishers, or DFP”; and (iii) an ad exchange, “AdX”.



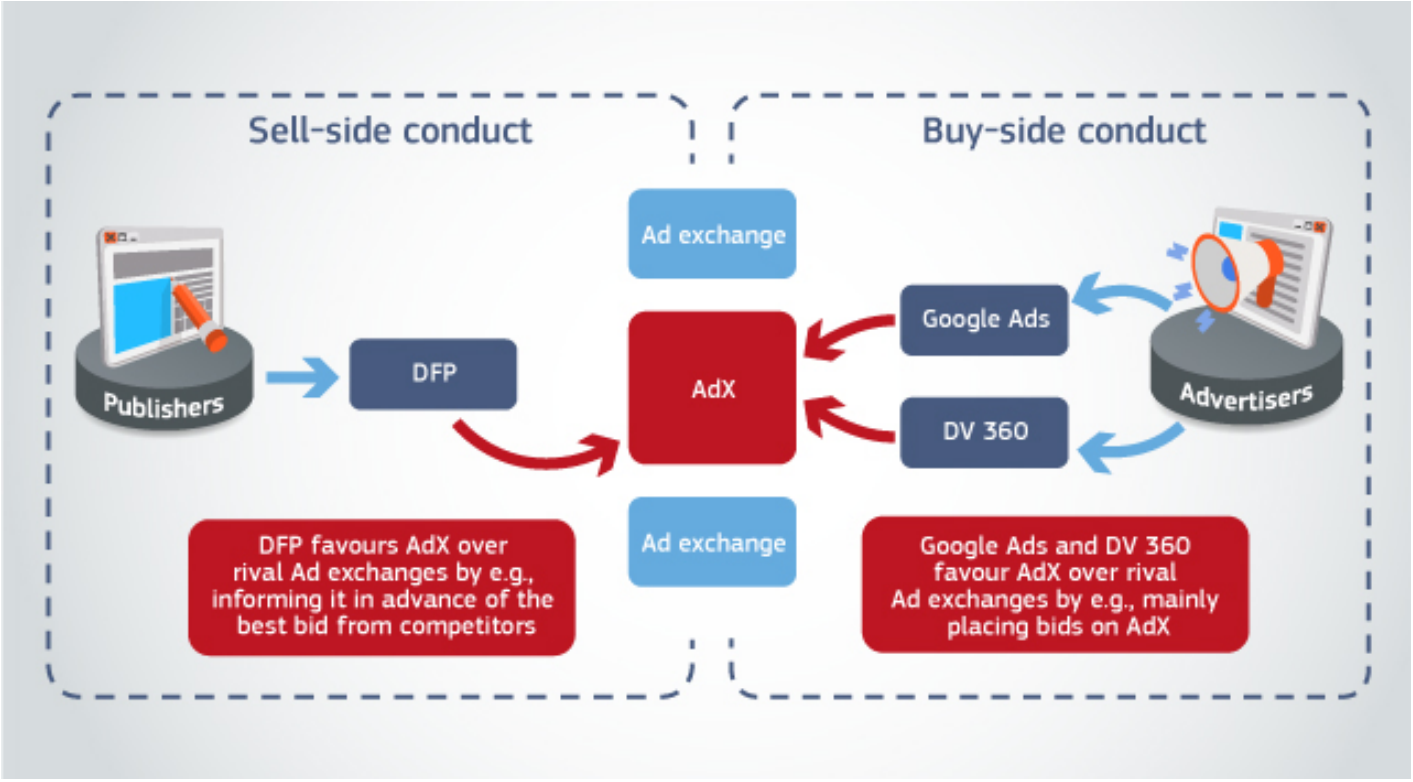
Statement of Objections on Google's practices in adtech

The Commission preliminarily finds that Google is **dominant** in the European Economic Area-wide markets: (i) for **publisher ad servers** with its service ‘DFP'; and (ii) for **programmatic ad buying**

tools for the open web with its services 'Google Ads' and 'DV360'.

The Commission preliminarily finds that, since at least 2014, Google abused its dominant positions by:

- Favouring its own ad exchange AdX in the ad selection auction run by its dominant publisher ad server DFP by, for example, informing AdX in advance of the value of the best bid from competitors which it had to beat to win the auction.
- Favouring its ad exchange AdX in the way its ad buying tools Google Ads and DV360 place bids on ad exchanges. For example, Google Ads was avoiding competing ad exchanges and mainly placing bids on AdX, thus making it the most attractive ad exchange.

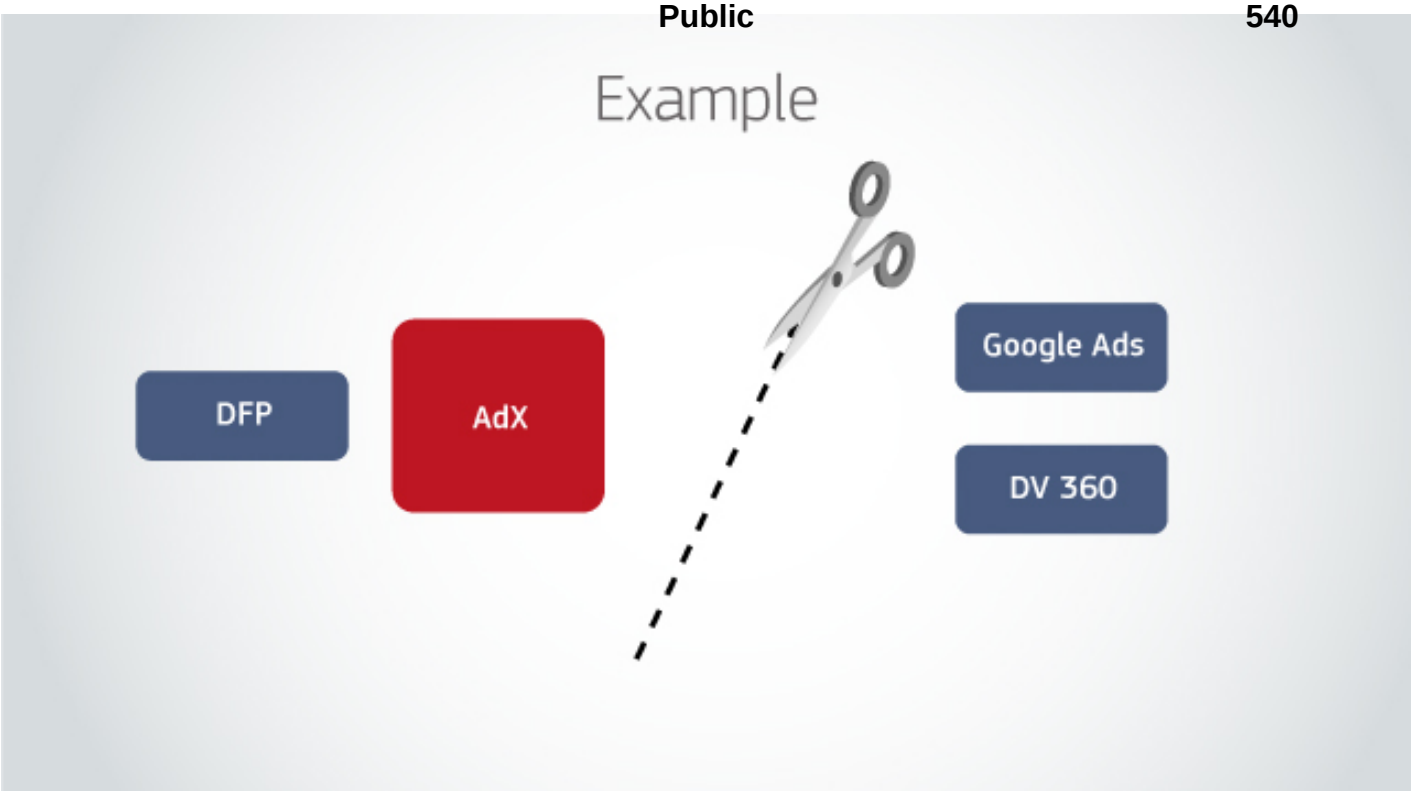


The Commission is concerned that Google's allegedly intentional conducts aimed at giving AdX a competitive advantage and may have foreclosed rival ad exchanges. This would have reinforced Google's AdX central role in the adtech supply chain and Google's ability to charge a high fee for its service.

If confirmed, those conducts would infringe Article 102 of the Treaty on the Functioning of the European Union ('TFEU') that prohibits the abuse of a dominant market position.

The Commission preliminarily finds that, in this particular case, a behavioural remedy is likely to be ineffective to prevent the risk that Google continues such self-preferencing conducts or engages in new ones. Google is active on both sides of the market with its publisher ad server and with its ad buying tools and holds a dominant position on both ends. Furthermore, it operates the largest ad exchange. This leads to a situation of inherent conflicts of interest for Google. The Commission's preliminary view is therefore that only the mandatory divestment by Google of part of its services would address its competition concerns.

The sending of a Statement of Objections does not prejudge the outcome of an investigation.



Background

Article 102 of the TFEU prohibits the abuse of a dominant position. The implementation of these provisions is defined in the Antitrust Regulation (Council Regulation No 1/2003), which can also be applied by the national competition authorities.

On 22 June 2021, the Commission opened formal proceedings into possible anticompetitive conduct by Google in the online advertising technology sector

A Statement of Objections is a formal step in Commission investigations into suspected violations of EU antitrust rules. The Commission informs the parties concerned in writing of the objections raised against them. The addressees can examine the documents in the Commission's investigation file, reply in writing and request an oral hearing to present their comments on the case before representatives of the Commission and national competition authorities. Sending a Statement of Objections and opening of a formal antitrust investigation does not prejudge the outcome of the investigations.

If the Commission concludes, after the company has exercised its rights of defence, that there is sufficient evidence of an infringement, it can adopt a decision prohibiting the conduct and imposing a fine of up to 10% of the company's annual worldwide turnover.

Where the Commission, finds that there is an infringement of Article 101 or of Article 102 of the TFEU, it may by decision require the company concerned to bring such infringement to an end. For this purpose, it may impose on them any behavioural or structural remedies which are proportionate to the infringement committed and necessary to bring the infringement effectively to an end. Structural remedies can only be imposed either where there is no equally effective behavioural remedy or where any equally effective behavioural remedy would be more burdensome for the company concerned than the structural remedy.

There is no legal deadline for bringing an antitrust investigation to an end. The duration of an antitrust investigation depends on a number of factors, including the complexity of the case, the extent to which the undertakings concerned cooperate with the Commission and the exercise of the rights of defence.

For More Information

More information on the investigation is available on the Commission's competition website, in the public case register under case number AT.40670.

IP/23/3207

Quotes:

Google has a very strong market position in the online advertising technology sector. It collects users' data, it sells advertising space, and it acts as an online advertising intermediary. So Google is present at almost all levels of the so-called adtech supply chain. Our preliminary concern is that Google may have used its market position to favour its own intermediation services. Not only did this possibly harm Google's competitors but also publishers' interests, while also increasing advertisers' costs. If confirmed, Google's practices would be illegal under our competition rules.
Margrethe Vestager, Executive Vice-President in charge of competition policy - 14/06/2023

Press contacts:

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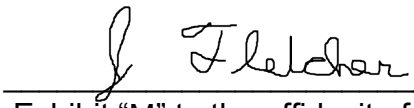
Sara SIMONINI (+32 2 298 33 67)

General public inquiries: Europe Direct by phone 00 800 67 89 10 11 or by email



P20709

This is Exhibit “M” to the affidavit of **Mallory Kelly,** affirmed
remotely and stated as being located
in the city of Gatineau, in the province of Quebec,
before me at the city of Ottawa in the province of Ontario,on
July 4, 2025, in accordance with
O. Reg 431/20, Administering Oath or Declaration Remotely.

Competition Act 1998

1998 CHAPTER 41

An Act to make provision about competition and the abuse of a dominant position in the market; to confer powers in relation to investigations conducted in connection with **[**[F1]Article 81 or 82**]** of the treaty establishing the European Community; to amend the Fair Trading Act 1973 in relation to information which may be required in connection with investigations under that Act; to make provision with respect to the meaning of "supply of services" in the Fair Trading Act 1973; and for connected purposes. [9th November 1998]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Textual Amendments

F1 Words in long title substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), **Sch. 1 para. 1**

Modifications etc. (not altering text)

C1 Act: power to modify conferred (20.6.2003) by Enterprise Act 2002 (c. 40), **ss. 209(1)**, 279; S.I. 2003/1397, art. 2(1), Sch.

PART I

COMPETITION

Modifications etc. (not altering text)

C2 Pt. 1: certain functions made exercisable concurrently (26.11.1998 for certain purposes and *prosp.* otherwise) by 1984 c. 12, **s. 50(3)** (as substituted by 1998 c. 41, s. 66(5), **Sch. 10 Pt. II para. 2(6)** (with s. 73); S.I. 1998/2750, **art. 2**)

C3 Pt. 1 (except ss. 38(1)-(6), 51) amended (1.2.2001) by 2000 c. 38, **ss. 86(1)(3)**, 89 (with ss. 105(2)(d)(5), 106); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. 1**

C4 Pt. 1 (except ss. 38(1)-(6), 51, 52(6) and (8) and 54) amended (1.2.2001) by 2000 c. 38, **s. 86(4)(b)(5)** (with ss. 105(2)(d)(5), 106); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. 1**
Pt. 1 (except ss. 38(1)-(6), 51) amended (1.2.2001) by 2000 c. 38, **s. 86(7)(b)** (with ss. 105(2)(d)(5), 106); S.I. 2001/57, art. 3(1), **Sch. 2 Pt. 1**

C5 Pt. 1 modified (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), **ss. 371(3)**, 411(2) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

C6 Pt. 1 certain functions made exercisable concurrently by 1998 c. 41, s. 67(3) (as substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 2 para. 6(2)(a)**)

C7 Pt. 1 certain functions made exercisable concurrently by 1991 c. 56, s. 31(3) (as substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 2 para. 4(2)(a)**)

C8 Pt. 1 certain functions made exercisable concurrently by S.I. 1992/231 (N.I. 1) art. 46(3) (as substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 2 para. 5(2)(a)**)

C9 Pt. 1 certain functions made exercisable concurrently by 1986 c. 44, s. 36A(3) (as substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 2 para. 1(2)(a)**)

C10 Pt. 1 restricted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), regs. 1(a), **9(2)**

C11 Pt. 1 certain functions made exercisable concurrently by 1989 c. 29, s. 43(3) (as substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 2 para. 3(2)(a)**)

C12 Pt. 1 certain functions made exercisable concurrently by S.I. 1996/275 (N.I. 2), art. 23(3) (as substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 2 para. 9(2)(a)**)

C13 Pt. 1 certain functions made exercisable concurrently (1.4.2007) by The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336), arts. 1(2), **29(3)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, art. 2(2), Sch. Pt. 2 (with Sch. 2)

C14 Pt. 1 modified (1.4.2007) by The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336), arts. 1(2), **29(5)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, art. 2(2), Sch. Pt. 2 (with Sch. 2)

C15 Pt. 1 modified (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 72(3)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

C16 Pt. 1 functions made exercisable concurrently (6.4.2013) by Civil Aviation Act 2012 (c. 19), **ss. 62(1)-(3)**, 110(1) (with s. 77(1)-(3), Sch. 10 paras. 12, 17); S.I. 2013/589, art. 2(1)-(3)

C17 Pt. 1 modified in part (6.4.2013) by Civil Aviation Act 2012 (c. 19), **ss. 62(4)**, 110(1) (with ss. 62(5), 77(1)-(3), Sch. 10 paras. 12, 17); S.I. 2013/589, art. 2(1)-(3)

C18 Pt. 1 certain functions made exercisable concurrently by 2000 c. 8, s. 234J (as inserted (1.11.2014 for specified purposes, 1.4.2015 so far as not already in force) by Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), **Sch. 8 para. 3**; S.I. 2014/2458, arts. 2(b)(aa)(i), 3(b)(v))

C19 Pt. 1 certain functions made exercisable concurrently (1.11.2014 for specified purposes, 1.4.2015 so far as not already in force) by Financial Services (Banking Reform) Act 2013 (c. 33), **ss. 61(2)**, 148(5); S.I. 2014/2458, arts. 2(a)(i), 3(b)(ii)

C20 Pt. 1: certain functions made exercisable concurrently (26.12.2023) by Energy Act 2023 (c. 52), **ss. 37**, 334(3)(a) (with s. 38)

CHAPTER I

AGREEMENTS

Modifications etc. (not altering text)

C21 Pt. I Ch. I excluded (temp.) (11.1.2021) by The Competition Act 1998 (Groceries) (Public Policy Exclusion) Order 2020 (S.I. 2020/1568), arts. 1, **4** (with art. 7)

Introduction

1 Enactments replaced.

The following shall cease to have effect—

(a) the Restrictive Practices Court Act 1976 (c. 33),

(b) the Restrictive Trade Practices Act 1976 (c. 34),

(c) the Resale Prices Act 1976 (c. 53), and

(d) the Restrictive Trade Practices Act 1977 (c. 19).

Commencement Information

I1 S. 1 partly in force; s. 1 was not in force at Royal Assent, see. s. 76(2)(3); s. 1(b) to (d) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

I2 S. 1(a) in force at 10.3.2013 by S.I. 2013/284, **art. 2(a)**

The prohibition

2 Agreements etc. preventing, restricting or distorting competition.

[F2(1) Subject to section 3, agreements between undertakings, decisions by associations of undertakings or concerted practices which have as their object or effect the prevention, restriction or distortion of competition within the United Kingdom and which—

(a) in the case of agreements, decisions or practices implemented, or intended to be implemented in the United Kingdom, may affect trade in the United Kingdom, or

(b) in any other case, are likely to have an immediate, substantial and foreseeable effect on trade within the United Kingdom,

are prohibited unless they are exempt in accordance with the provisions of this Part.**]**

(2) Subsection (1) applies, in particular, to agreements, decisions or practices which—

(a) directly or indirectly fix purchase or selling prices or any other trading conditions;

(b) limit or control production, markets, technical development or investment;

(c) share markets or sources of supply;

(d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

(e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

F3(3) . . . . . .

(4) Any agreement or decision which is prohibited by subsection (1) is void.

(5) A provision of this Part which is expressed to apply to, or in relation to, an agreement is to be read as applying equally to, or in relation to, a decision by an association of undertakings or a concerted practice (but with any necessary modifications).

(6) Subsection (5) does not apply where the context otherwise requires.

(7) In this section "the United Kingdom" means, in relation to an agreement which operates or is intended to operate only in a part of the United Kingdom, that part.

(8) The prohibition imposed by subsection (1) is referred to in this Act as "the Chapter I prohibition".

Textual Amendments

F2 S. 2(1) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 119(2)**, 339(1) (with s. 119(4)); S.I. 2024/1226, regs. 1(2), 2(1)(2)

F3 S. 2(3) omitted (1.1.2025) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 119(3)**, 339(1) (with s. 119(4)); S.I. 2024/1226, regs. 1(2), 2(1)(2)

Modifications etc. (not altering text)

C22 S. 2 restricted (31.12.2020) by S.I. 2019/93, Sch. 4 para. 17A(1) (as inserted by The Competition (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1343), regs. 1(1), **40(2)**)

C23 S. 2(1) excluded (18.6.2001) by 2000 c. 8, **ss. 164(1)(2)(4)**; S.I. 2001/1820, art. 2, **Sch.**
S. 2(1) excluded (3.9.2001) by 2000 c. 8, **s. 311(9)**; S.I. 2001/2632, art. 2(2), **Sch. Pt. 2**

C24 S. 2(1) excluded (28.3.2012) by The Competition Act 1998 (Public Policy Exclusion) Order 2012 (S.I. 2012/710), arts. 1, **4**

C25 S. 2(1) excluded (E.) (28.3.2020) by The Competition Act 1998 (Health Services for Patients in England) (Coronavirus) (Public Policy Exclusion) Order 2020 (S.I. 2020/368), arts. 1(1), **4** (with art. 1(2))

C26 S. 2(1) excluded (28.3.2020) by The Competition Act 1998 (Groceries) (Coronavirus) (Public Policy Exclusion) Order 2020 (S.I. 2020/369), arts. 1, **6**

C27 S. 2(1) excluded (28.3.2020) by The Competition Act 1998 (Groceries) (Coronavirus) (Public Policy Exclusion) Order 2020 (S.I. 2020/369), arts. 1, **5**

C28 S. 2(1) excluded (28.3.2020) by The Competition Act 1998 (Solent Maritime Crossings) (Coronavirus) (Public Policy Exclusion) Order 2020 (S.I. 2020/370), arts. 1, **4**

C29 S. 2(1) excluded (21.4.2020) by The Competition Act 1998 (Health Services for Patients in Wales) (Coronavirus) (Public Policy Exclusion) Order 2020 (S.I. 2020/435), arts. 1(1), **4** (with art. 1(2))

C30 S. 2(1) excluded (temp.) (2.5.2020) by The Competition Act 1998 (Dairy Produce) (Coronavirus) (Public Policy Exclusion) Order 2020 (S.I. 2020/481), arts. 1, **5**, 6 (with art. 10)

C31 S. 2(1) excluded (7.11.2021) by The Competition Act 1998 (Football Broadcasting Rights) (Public Policy Exclusion) Order 2021 (S.I. 2021/1148), arts. 1(1), **3** (with art. 5)

C32 S. 2(1) excluded (7.11.2021) by The Competition Act 1998 (Football Broadcasting Rights) (Public Policy Exclusion) Order 2021 (S.I. 2021/1148), arts. 1(1), **4** (with art. 5)

C33 S. 2(1) excluded (temp.) (15.11.2021) by The Competition Act 1998 (Carbon Dioxide) (Public Policy Exclusion) Order 2021 (S.I. 2021/1169), arts. 1(1), **4** (with art. 7)

C34 S. 2(5) applied (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), regs. 1(a), **7(3)**

C35 S. 2(5) applied (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 119(5)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2)

Excluded agreements

3 Excluded agreements.

(1) The Chapter I prohibition does not apply in any of the cases in which it is excluded by or as a result of—

(a) Schedule 1 (mergers and concentrations);

(b) Schedule 2 (competition scrutiny under other enactments);

(c) Schedule 3 (planning obligations and other general exclusions). [F4]...

[F5](d) . . . . . .

(2) The Secretary of State may at any time by order amend Schedule 1, with respect to the Chapter I prohibition, by—

(a) providing for one or more additional exclusions; or

(b) amending or removing any provision (whether or not it has been added by an order under this subsection).

(3) The Secretary of State may at any time by order amend Schedule 3, with respect to the Chapter I prohibition, by—

(a) providing for one or more additional exclusions; or

(b) amending or removing any provision—

(i) added by an order under this subsection; or

(ii) included in paragraph 1 [F6]... or 9 of Schedule 3.

(4) The power under subsection (3) to provide for an additional exclusion may be exercised only if it appears to the Secretary of State that agreements which fall within the additional exclusion—

(a) do not in general have an adverse effect on competition, or

(b) are, in general, best considered under Chapter II or **[**[F7]the [M1]Fair Trading Act 1973**][**[F7]the Enterprise Act 2002**]**.

(5) An order under subsection (2)(a) or (3)(a) may include provision (similar to that made with respect to any other exclusion provided by the relevant Schedule) for the exclusion concerned to cease to apply to a particular agreement.

(6) Schedule 3 also gives the Secretary of State power to exclude agreements from the Chapter I prohibition in certain circumstances.

Textual Amendments

F4 Word in s. 3(1) repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/766, art. 2, **Sch.** (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), **Sch.**)

F5 S. 3(1)(d) repealed (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 207, 279, **Sch. 26** (with Sch. 24 paras. 20, 22); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F6 Words in s. 3(3)(b)(ii) omitted (1.1.2025) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 120(3)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2)

F7 Words in s. 3(4)(b) substituted (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(2)**; S.I. 2003/1397, art. 2(1), Sch. (with art. 3(1)); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

Modifications etc. (not altering text)

C36 S. 3 applied (31.10.2023) by The Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023 (S.I. 2023/80), arts. 1(3), **22**

Commencement Information

I3 S. 3 wholly in force; s. 3 not in force at Royal Assent see s. 76(3); s. 3(1)(b) in force for certain purposes at 11.1.1999 and s. 3(1)(a)(c)(d)(2)-(6) in force at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; s. 3(1)(b) fully in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Marginal Citations

M1 1973 c. 41.

Exemptions

4 Individual exemptions.

[F8(1) The **[**F9OFT**]** may grant an exemption from the Chapter I prohibition with respect to a particular agreement if—

(a) a request for an exemption has been made to **[**F9it**]** under section 14 by a party to the agreement; and

(b) the agreement is one to which section 9 applies.

(2) An exemption granted under this section is referred to in this Part as an individual exemption.

(3) The exemption—

(a) may be granted subject to such conditions or obligations as the **[**F9OFT**]** considers it appropriate to impose; and

(b) has effect for such period as the **[**F9OFT**]** considers appropriate.

(4) That period must be specified in the grant of the exemption.

(5) An individual exemption may be granted so as to have effect from a date earlier than that on which it is granted.

(6) On an application made in such way as may be specified by rules under section 51, the **[**F9OFT**]** may extend the period for which an exemption has effect; but, if the rules so provide, **[**F9it**]** may do so only in specified circumstances.**]**

Textual Amendments

F8 S. 4 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 2** (with reg. 6(2))

F9 Words in s. 4 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(3)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

5 Cancellation etc. of individual exemptions.

[F10(1) If the **[**F11OFT**]** has reasonable grounds for believing that there has been a material change of circumstance since **[**F11it**]** granted an individual exemption, **[**F11it**]** may by notice in writing—

(a) cancel the exemption;

(b) vary or remove any condition or obligation; or

(c) impose one or more additional conditions or obligations.

(2) If the **[**F11OFT**]** has a reasonable suspicion that the information on which **[**F11it**]** based **[**F11its**]** decision to grant an individual exemption was incomplete, false or misleading in a material particular, **[**F11it**]** may by notice in writing take any of the steps mentioned in subsection (1).

(3) Breach of a condition has the effect of cancelling the exemption.

(4) Failure to comply with an obligation allows the **[**F11OFT**]**, by notice in writing, to take any of the steps mentioned in subsection (1).

(5) Any step taken by the **[**F11OFT**]** under subsection (1), (2) or (4) has effect from such time as may be specified in the notice.

(6) If an exemption is cancelled under subsection (2) or (4), the date specified in the notice cancelling it may be earlier than the date on which the notice is given.

(7) The **[**F11OFT**]** may act under subsection (1), (2) or (4) on **[**F11its**]** own initiative or on a complaint made by any person.**]**

Textual Amendments

F10 S. 5 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 3** (with reg. 6(2)(3))

F11 Words in s. 5 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(4)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

6 Block exemptions.

(1) If agreements which fall within a particular category of agreement are, in the opinion of the **[**F12CMA**]**, likely to be **[**F13exempt agreements**]**, the **[**F12CMA**]** may recommend that the Secretary of State make an order specifying that category for the purposes of this section.

(2) The Secretary of State may make an order ("a block exemption order") giving effect to such a recommendation—

(a) in the form in which the recommendation is made; or

(b) subject to such modifications as he considers appropriate.

(3) An agreement which falls within a category specified in a block exemption order is exempt from the Chapter I prohibition.

(4) An exemption under this section is referred to in this Part as a block exemption.

(5) A block exemption order may impose conditions or obligations subject to which a block exemption is to have effect.

(6) A block exemption order may provide—

(a) that breach of a condition imposed by the order has the effect of cancelling the block exemption in respect of an agreement;

(b) that if there is a failure to comply with an obligation imposed by the order, the **[**F12CMA**]** may, by notice in writing, cancel the block exemption in respect of the agreement;

(c) that if the **[**F12CMA**]** considers that a particular agreement is not **[**F14an exempt agreement**]**, **[**F15it**]** may cancel the block exemption in respect of that agreement.

(7) A block exemption order may provide that the order is to cease to have effect at the end of a specified period.

[F16(8) In this section—

"exempt agreement" means an agreement which is exempt from the Chapter I prohibition as a result of section 9; and

"specified" means specified in a block exemption order.**]**

Textual Amendments

F12 Word in s. 6(1)(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 2** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F13 Words in s. 6(1) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 4(2)**

F14 Words in s. 6(6)(c) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 4(3)**

F15 Word in s. 6(6)(c) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(5)(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F16 S. 6(8) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 4(4)**

Modifications etc. (not altering text)

C37 S. 6 applied (31.10.2023) by The Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023 (S.I. 2023/80), arts. 1(3), **22**

7 Block exemptions: opposition.

[F17(1) A block exemption order may provide that a party to an agreement which—

(a) does not qualify for the block exemption created by the order, but

(b) satisfies specified criteria,

may notify the **[**F18OFT**]** of the agreement for the purposes of subsection (2).

(2) An agreement which is notified under any provision included in a block exemption order by virtue of subsection (1) is to be treated, as from the end of the notice period, as falling within a category specified in a block exemption order unless the **[**F18OFT**]**—

(a) is opposed to its being so treated; and

(b) gives notice in writing to the party concerned of **[**F18its**]** opposition before the end of that period.

(3) If the **[**F18OFT**]** gives notice of **[**F18its**]** opposition under subsection (2), the notification under subsection (1) is to be treated as both notification under section 14 and as a request for an individual exemption made under subsection (3) of that section.

(4) In this section "notice period" means such period as may be specified with a view to giving the **[**F18OFT**]** sufficient time to consider whether to oppose under subsection (2).**]**

Textual Amendments

F17 S. 7 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 5** (with reg. 6(2))

F18 Words in s. 7 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(6)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

8 Block exemptions: procedure.

(1) Before making a recommendation under section 6(1), the **[**F19CMA**]** must—

(a) publish details of **[**F20its**]** proposed recommendation in such a way as **[**F20it**]** thinks most suitable for bringing it to the attention of those likely to be affected; and

(b) consider any representations about it which are made to **[**F20it**]**.

(2) If the Secretary of State proposes to give effect to such a recommendation subject to modifications, he must inform the **[**F19CMA**]** of the proposed modifications and take into account any comments made by the **[**F19CMA**]** .

(3) If, in the opinion of the **[**F19CMA**]** , it is appropriate to vary or revoke a block exemption order **[**F21it**]** may make a recommendation to that effect to the Secretary of State.

(4) Subsection (1) also applies to any proposed recommendation under subsection (3).

(5) Before exercising **[**F20its**]** power to vary or revoke a block exemption order (in a case where there has been no recommendation under subsection (3)), the Secretary of State must—

(a) inform the **[**F22CMA**]** of the proposed variation or revocation; and

(b) take into account any comments made by the **[**F22CMA**]** .

(6) A block exemption order may provide for a block exemption to have effect from a date earlier than that on which the order is made.

Textual Amendments

F19 Word in s. 8(1)-(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 3** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F20 Word in s. 8(1) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(7)(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F21 Word in s. 8(3) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(7)(c)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F22 Word in s. 8(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 3** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Modifications etc. (not altering text)

C38 S. 8 applied (31.10.2023) by The Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023 (S.I. 2023/80), arts. 1(3), **22**

9 [F23Exempt agreements].

[F24(1)] [F25An agreement is exempt from the Chapter I prohibition if it]—

(a) contributes to—

(i) improving production or distribution, or

(ii) promoting technical or economic progress,

while allowing consumers a fair share of the resulting benefit; [F26and]

(b) does not—

(i) impose on the undertakings concerned restrictions which are not indispensable to the attainment of those objectives; or

(ii) afford the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the products in question.

[F27(2) In any proceedings in which it is alleged that the Chapter I prohibition is being or has been infringed by an agreement, any undertaking or association of undertakings claiming the benefit of subsection (1) shall bear the burden of proving that the conditions of that subsection are satisfied.]

Textual Amendments

F23 Words in s. 9 sidenote substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 6(5)**

F24 S. 9(1): s. 9 renumbered as s. 9(1) (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 6(1)**

F25 Words in s. 9(1) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 6(2)**

F26 Word in s. 9(1)(a) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 6(3)**

F27 S. 9(2) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 6(4)**

10 [F28[F29Assimilated] exemptions].

[F30(A1) An agreement is exempt from the Chapter I prohibition if it falls within a category of agreements specified as exempt in [F31an assimilated] block exemption regulation.]

F32(1) . . . . . .

F33(2) . . . . . .

(3) An exemption from the Chapter I prohibition under this section is referred to in this Part as [F34an assimilated][F35exemption].

(4) [F36An assimilated][F37exemption]—

F38(a) . . . . . .

(b) ceases to have effect—

(i) if the relevant **[**F39**[**F40assimilated**]** block exemption regulation**]** ceases to have effect; or

(ii) on being cancelled by virtue of subsection (5) or (7).

(5) In such circumstances and manner as may be specified in rules made under section 51, the **[**F41CMA**]** may—

(a) impose conditions or obligations subject to which **[**F42an assimilated**][**F43exemption**]** is to have effect **[**F44in respect of an agreement**]**;

(b) vary or remove any such condition or obligation;

(c) impose one or more additional conditions or obligations;

(d) cancel the exemption **[**F45in respect of an agreement**]**.

(6) In such circumstances as may be specified in rules made under section 51, the date from which cancellation of an exemption is to take effect may be earlier than the date on which notice of cancellation is given.

(7) Breach of a condition imposed by the **[**F46CMA**]** has the effect of cancelling the exemption.

(8) In exercising **[**F47its**]** powers under this section, the **[**F48CMA**]** may require any person who is a party to the agreement in question to give **[**F47it**]** such information as **[**F47it**]** may require.

F49(9) . . . . . .

F49(10) . . . . . .

F49(11) . . . . . .

[F50(12) In this Part, "**[**F51assimilated**]** block exemption regulation" means the following regulations as amended from time to time—

(a) Council Regulation (EC) 169/2009 applying rules of competition to transport by rail, road and inland waterway;

(b) Commission Regulation (EC) 906/2009 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia);

(c) Commission Regulation (EU) 330/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices;

(d) Commission Regulation (EU) 461/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices in the motor vehicle sector;

(e) Commission Regulation (EU) 1217/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of research and development agreements;

(f) Commission Regulation (EU) 1218/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of specialisation agreements;

(g) Commission Regulation (EU) 316/2014 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of technology transfer agreements.**]**

Textual Amendments

F28 Words in s. 10 heading substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **3(2)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F29 Word in s. 10 heading substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 41(2)(a)**

F30 S. 10(A1) inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **3(3)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F31 Words in s. 10(A1) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 41(3)(a)**

F32 S. 10(1) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **3(4)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F33 S. 10(2) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **3(4)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F34 Words in s. 10(3) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 41(3)(a)**

F35 Words in s. 10(3) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **3(5)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F36 Words in s. 10(4) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 41(3)(a)**

F37 Words in s. 10(4) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **3(6)(a)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F38 S. 10(4)(a) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **3(6)(b)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F39 Words in s. 10(4)(b) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **3(6)(c)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F40 Word in s. 10(4)(b)(i) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 41(2)(a)**

F41 Word in s. 10(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 4** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F42 Words in s. 10(5)(a) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 41(3)(a)**

F43 Words in s. 10(5)(a) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **3(7)(a)(i)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F44 Words in s. 10(5)(a) inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **3(7)(a)(ii)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F45 Words in s. 10(5)(d) inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **3(7)(b)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F46 Word in s. 10(7) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 4** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F47 Words in s. 10(8) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(8)(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F48 Word in s. 10(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 4** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F49 S. 10(9)-(11) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **3(8)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F50 S. 10(12) inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **3(9)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F51 Word in s. 10(12) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 41(2)(a)**

Modifications etc. (not altering text)

C39 S. 10 applied (31.10.2023) by The Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023 (S.I. 2023/80), arts. 1(3), **22**

[F52 10A Power to vary etc [F53 assimilated] block exemption regulations

(1) The Secretary of State may by regulations vary or revoke **[**F54 an assimilated**]** block exemption regulation.

(2) In exercising the power under subsection (1), the Secretary of State must have regard to the conditions specified in section 9(1) for exemption from the Chapter 1 prohibition.

(3) If, in the opinion of the CMA, it is appropriate to vary or revoke **[**F55 an assimilated**]** block exemption regulation, the CMA may make a recommendation to that effect to the Secretary of State.

(4) Before making a recommendation under subsection (3), the CMA must—

(a) publish details of its proposed recommendation in such a way as it thinks most suitable for bringing it to the attention of those likely to be affected; and

(b) consider any representations about it which are made to it.

(5) Before exercising the power to vary or revoke **[**F56 an assimilated**]** block exemption regulation (in a case where there has been no recommendation under subsection (3)), the Secretary of State must—

(a) inform the CMA of the proposed variation or revocation; and

(b) take into account any comments made by the CMA.**]**

Textual Amendments

F52 S. 10A inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **4** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F53 Word in s. 10A heading substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 41(2)(b)**

F54 Words in s. 10A(1) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 41(3)(b)**

F55 Words in s. 10A(3) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 41(3)(b)**

F56 Words in s. 10A(5) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 41(3)(b)**

Modifications etc. (not altering text)

C40 S. 10A applied (31.10.2023) by The Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023 (S.I. 2023/80), arts. 1(3), **22**

[F57]11 Exemption for certain other agreements.

. . . . . .

Textual Amendments

F57 S. 11 omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **5** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

Notification

12 Requests for [F58]OFT] to examine agreements.

[F59(1) Sections 13 and 14 provide for an agreement to be examined by the **[**F58OFT**]** on the application of a party to the agreement who thinks that it may infringe the Chapter I prohibition.

(2) Schedule 5 provides for the procedure to be followed—

(a) by any person making such an application; and

(b) by the **[**F58OFT**]**, in considering such an application.

(3) The Secretary of State may by regulations make provision as to the application of sections 13 to 16 and Schedule 5, with such modifications (if any) as may be prescribed, in cases where the **[**F58OFT**]**—

(a) has given a direction withdrawing an exclusion; or

(b) is considering whether to give such a direction.**]**

Textual Amendments

F58 Words in s. 12 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(9)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F59 Ss. 12-16 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 9** (with reg. 6(2))

Commencement Information

I4 S. 12 wholly in force; s. 12 not in force at Royal Assent see s. 76(3); s. 12(3) in force at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; s. 12(1)(2) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

13 Notification for guidance.

[F59(1) A party to an agreement who applies for the agreement to be examined under this section must—

(a) notify the **[**F60OFT**]** of the agreement; and

(b) apply to **[**F60the OFT**]** for guidance.

(2) On an application under this section, the **[**F60OFT**]** may give the applicant guidance as to whether or not, in **[**F60its**]** view, the agreement is likely to infringe the Chapter I prohibition.

(3) If the **[**F60OFT**]** considers that the agreement is likely to infringe the prohibition if it is not exempt, **[**F60its**]** guidance may indicate—

(a) whether the agreement is likely to be exempt from the prohibition under—

(i) a block exemption;

(ii) a parallel exemption; or

(iii) a section 11 exemption; or

(b) whether **[**F60it**]** would be likely to grant the agreement an individual exemption if asked to do so.

(4) If an agreement to which the prohibition applies has been notified to the **[**F60OFT**]** under this section, no penalty is to be imposed under this Part in respect of any infringement of the prohibition by the agreement which occurs during the period—

(a) beginning with the date on which notification was given; and

(b) ending with such date as may be specified in a notice in writing given to the applicant by the **[**F60OFT**]** when the application has been determined.

(5) The date specified in a notice under subsection (4)(b) may not be earlier than the date on which the notice is given.**]**

Textual Amendments

F59 Ss. 12-16 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 9** (with reg. 6(2))

F60 Words in s. 13 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(10)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Modifications etc. (not altering text)

C41 S. 13 applied (with modifications) (1.3.2000) by S.I. 2000/263, **art. 4**

14 Notification for a decision.

[F59(1) A party to an agreement who applies for the agreement to be examined under this section must—

(a) notify the **[**F61OFT**]** of the agreement; and

(b) apply to **[**F61the OFT**]** for a decision.

(2) On an application under this section, the **[**F61OFT**]** may make a decision as to—

(a) whether the Chapter I prohibition has been infringed; and

(b) if it has not been infringed, whether that is because of the effect of an exclusion or because the agreement is exempt from the prohibition.

(3) If an agreement is notified to the **[**F61OFT**]** under this section, the application may include a request for the agreement to which it relates to be granted an individual exemption.

(4) If an agreement to which the prohibition applies has been notified to the **[**F61OFT**]** under this section, no penalty is to be imposed under this Part in respect of any infringement of the prohibition by the agreement which occurs during the period—

(a) beginning with the date on which notification was given; and

(b) ending with such date as may be specified in a notice in writing given to the applicant by the **[**F61OFT**]** when the application has been determined.

(5) The date specified in a notice under subsection (4)(b) may not be earlier than the date on which the notice is given.**]**

Textual Amendments

F59 Ss. 12-16 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 9** (with reg. 6(2))

F61 Words in s. 14 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(11)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Modifications etc. (not altering text)

C42 S. 14 applied (with modifications) (1.3.2000) by S.I. 2000/263, **art. 5**

15 Effect of guidance.

[F59(1) This section applies to an agreement if the **[**F62OFT**]** has determined an application under section 13 by giving guidance that—

(a) the agreement is unlikely to infringe the Chapter I prohibition, regardless of whether or not it is exempt;

(b) the agreement is likely to be exempt under—

(i) a block exemption;

(ii) a parallel exemption; or

(iii) a section 11 exemption; or

(c) **[**F62it**]** would be likely to grant the agreement an individual exemption if asked to do so.

(2) The **[**F62OFT**]** is to take no further action under this Part with respect to an agreement to which this section applies, unless—

(a) **[**F62it**]** has reasonable grounds for believing that there has been a material change of circumstance since **[**F62it**]** gave **[**F62its**]** guidance;

(b) **[**F62it**]** has a reasonable suspicion that the information on which **[**F62it**]** based **[**F62its**]** guidance was incomplete, false or misleading in a material particular;

(c) one of the parties to the agreement applies to **[**F62it**]** for a decision under section 14 with respect to the agreement; or

(d) a complaint about the agreement has been made to **[**F62it**]** by a person who is not a party to the agreement.

(3) No penalty may be imposed under this Part in respect of any infringement of the Chapter I prohibition by an agreement to which this section applies.

(4) But the **[**F62OFT**]** may remove the immunity given by subsection (3) if—

(a) **[**F62it**]** takes action under this Part with respect to the agreement in one of the circumstances mentioned in subsection (2);

(b) **[**F62it**]** considers it likely that the agreement will infringe the prohibition; and

(c) **[**F62it**]** gives notice in writing to the party on whose application the guidance was given that **[**F62it**]** is removing the immunity as from the date specified in **[**F62its**]** notice.

(5) If the **[**F62OFT**]** has a reasonable suspicion that information—

(a) on which **[**F62it**]** based **[**F62its**]** guidance, and

(b) which was provided to **[**F62it**]** by a party to the agreement,

was incomplete, false or misleading in a material particular, the date specified in a notice under subsection (4)(c) may be earlier than the date on which the notice is given.**]**

Textual Amendments

F59 Ss. 12-16 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 9** (with reg. 6(2))

F62 Words in s. 15 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(12)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Modifications etc. (not altering text)

C43 S. 15 applied (with modifications) (1.3.2000) by S.I. 2000/263, **art. 6**

16 Effect of a decision that the Chapter I prohibition has not been infringed.

[F59(1) This section applies to an agreement if the **[**F63OFT**]** has determined an application under section 14 by making a decision that the agreement has not infringed the Chapter I prohibition.

(2) The **[**F63OFT**]** is to take no further action under this Part with respect to the agreement unless—

(a) **[**F63it**]** has reasonable grounds for believing that there has been a material change of circumstance since **[**F63it**]** gave **[**F63its**]** decision; or

(b) **[**F63it**]** has a reasonable suspicion that the information on which **[**F63it**]** based **[**F63its**]** decision was incomplete, false or misleading in a material particular.

(3) No penalty may be imposed under this Part in respect of any infringement of the Chapter I prohibition by an agreement to which this section applies.

(4) But the **[**F63OFT**]** may remove the immunity given by subsection (3) if—

(a) **[**F63it**]** takes action under this Part with respect to the agreement in one of the circumstances mentioned in subsection (2);

(b) **[**F63it**]** considers that it is likely that the agreement will infringe the prohibition; and

(c) **[**F63it**]** gives notice in writing to the party on whose application the decision was made that **[**F63it**]** is removing the immunity as from the date specified in **[**F63its**]** notice.

(5) If the **[**F63OFT**]** has a reasonable suspicion that information—

(a) on which **[**F63it**]** based **[**F63its**]** decision, and

(b) which was provided to **[**F63it**]** by a party to the agreement,

was incomplete, false or misleading in a material particular, the date specified in a notice under subsection (4)(c) may be earlier than the date on which the notice is given.**]**

Textual Amendments

F59 Ss. 12-16 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 9** (with reg. 6(2))

F63 Words in s. 16 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(13)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Modifications etc. (not altering text)

C44 S. 16 applied (with modifications) (1.3.2000) by S.I. 2000/263, **art. 7**

CHAPTER II

ABUSE OF DOMINANT POSITION

Introduction

17 Enactments replaced.

Sections 2 to 10 of the **M2**Competition Act 1980 (control of anti-competitive practices) shall cease to have effect.

Marginal Citations

M2 1980 c. 21.

The prohibition

18 Abuse of dominant position.

(1) Subject to section 19, any conduct on the part of one or more undertakings which amounts to the abuse of a dominant position in a market is prohibited if it may affect trade within the United Kingdom.

(2) Conduct may, in particular, constitute such an abuse if it consists in—

(a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;

(b) limiting production, markets or technical development to the prejudice of consumers;

(c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

(d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of the contracts.

(3) In this section—

"dominant position" means a dominant position within the United Kingdom; and

"the United Kingdom" means the United Kingdom or any part of it.

(4) The prohibition imposed by subsection (1) is referred to in this Act as "the Chapter II prohibition".

Modifications etc. (not altering text)

C45 S. 18 restricted (31.12.2020) by S.I. 2019/93, Sch. 4 para. 17A(2) (as inserted by The Competition (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1343), regs. 1(1), **40(2)**)

C46 S. 18(1) excluded (18.6.2001) by 2000 c. 8, **s. 164(3)(5)**; S.I. 2001/1820, art. 2, **Sch.**
s. 18(1) excluded (3.9.2001) by 2000 c. 8, **s. 312(2)**; S.I. 2001/2632, art. 2(2), **Sch. Pt. 2**

Excluded cases

19 Excluded cases.

(1) The Chapter II prohibition does not apply in any of the cases in which it is excluded by or as a result of—

(a) Schedule 1 (mergers and concentrations); or

(b) Schedule 3 (general exclusions).

(2) The Secretary of State may at any time by order amend Schedule 1, with respect to the Chapter II prohibition, by—

(a) providing for one or more additional exclusions; or

(b) amending or removing any provision (whether or not it has been added by an order under this subsection).

F64(3) . . . . . .

(4) Schedule 3 also gives the Secretary of State power to provide that the Chapter II prohibition is not to apply in certain circumstances.

Textual Amendments

F64 S. 19(3) omitted (1.1.2025) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 120(4)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2)

Notification

20 Requests for [F65OFT] to consider conduct.

[F66(1) Sections 21 and 22 provide for conduct of a person which that person thinks may infringe the Chapter II prohibition to be considered by the [F65OFT] on the application of that person.

(2) Schedule 6 provides for the procedure to be followed—

(a) by any person making an application, and

(b) by the [F65OFT], in considering an application.]

Textual Amendments

F65 Words in s. 20 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(14)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F66 Ss. 20-24 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 9** (with reg. 6(2))

21 Notification for guidance.

[F66(1) A person who applies for conduct to be considered under this section must—

(a) notify the [F67OFT] of it; and

(b) apply to [F67the OFT] for guidance.

(2) On an application under this section, the [F67OFT] may give the applicant guidance as to whether or not, in [F67its] view, the conduct is likely to infringe the Chapter II prohibition.]

Textual Amendments

F66 Ss. 20-24 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 9** (with reg. 6(2))

F67 Words in s. 21 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(15)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

22 Notification for a decision.

[F66(1) A person who applies for conduct to be considered under this section must—

(a) notify the [F68OFT] of it; and

(b) apply to [F68the OFT] for a decision.

(2) On an application under this section, the [F68OFT] may make a decision as to—

(a) whether the Chapter II prohibition has been infringed; and

(b) if it has not been infringed, whether that is because of the effect of an exclusion.]

Textual Amendments

F66 Ss. 20-24 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 9** (with reg. 6(2))

F68 Words in s. 22 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(16)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

23 Effect of guidance.

[F66(1) This section applies to conduct if the **[**F69OFT**]** has determined an application under section 21 by giving guidance that the conduct is unlikely to infringe the Chapter II prohibition.

(2) The **[**F69OFT**]** is to take no further action under this Part with respect to the conduct to which this section applies, unless—

(a) **[**F69it**]** has reasonable grounds for believing that there has been a material change of circumstance since **[**F69it**]** gave **[**F69its**]** guidance;

(b) **[**F69it **]** has a reasonable suspicion that the information on which **[**F69it**]** based **[**F69its**]** guidance was incomplete, false or misleading in a material particular; or

(c) a complaint about the conduct has been made to **[**F69it**]**.

(3) No penalty may be imposed under this Part in respect of any infringement of the Chapter II prohibition by conduct to which this section applies.

(4) But the **[**F69OFT**]** may remove the immunity given by subsection (3) if—

(a) **[**F69it **]** takes action under this Part with respect to the conduct in one of the circumstances mentioned in subsection (2);

(b) **[**F69it **]** considers that it is likely that the conduct will infringe the prohibition; and

(c) **[**F69it **]** gives notice in writing to the undertaking on whose application the guidance was given that **[**F69it**]** is removing the immunity as from the date specified in **[**F69its**]** notice.

(5) If the **[**F69OFT**]** has a reasonable suspicion that information—

(a) on which **[**F69it**]** based **[**F69its**]** guidance, and

(b) which was provided to **[**F69it**]** by an undertaking engaging in the conduct,

was incomplete, false or misleading in a material particular, the date specified in a notice under subsection (4)(c) may be earlier than the date on which the notice is given.**]**

Textual Amendments

F66 Ss. 20-24 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 9** (with reg. 6(2))

F69 Words in s. 23 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(17)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

24 Effect of a decision that the Chapter II prohibition has not been infringed.

[F66(1) This section applies to conduct if the **[**F70OFT**]** has determined an application under section 22 by making a decision that the conduct has not infringed the Chapter II prohibition.

(2) The **[**F70OFT**]** is to take no further action under this Part with respect to the conduct unless—

(a) **[**F70it**]** has reasonable grounds for believing that there has been a material change of circumstance since **[**F70it**]** gave **[**F70its**]** decision; or

(b) **[**F70it**]** has a reasonable suspicion that the information on which **[**F70it**]** based **[**F70its**]** decision was incomplete, false or misleading in a material particular.

(3) No penalty may be imposed under this Part in respect of any infringement of the Chapter II prohibition by conduct to which this section applies.

(4) But the **[**F70OFT**]** may remove the immunity given by subsection (3) if—

(a) **[**F70it**]** takes action under this Part with respect to the conduct in one of the circumstances mentioned in subsection (2);

(b) **[**F70it**]** considers that it is likely that the conduct will infringe the prohibition; and

(c) **[**F70it**]** gives notice in writing to the undertaking on whose application the decision was made that **[**F70it**]** is removing the immunity as from the date specified in **[**F70its**]** notice.

(5) If the **[**F70OFT**]** has a reasonable suspicion that information—

(a) on which **[**F70it**]** based **[**F70its**]** decision, and

(b) which was provided to **[**F70it**]** by an undertaking engaging in the conduct,

was incomplete, false or misleading in a material particular, the date specified in a notice under subsection (4)(c) may be earlier than the date on which the notice is given.**]**

Textual Amendments

F66 Ss. 20-24 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 9** (with reg. 6(2))

F70 Words in s. 24 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(18)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

CHAPTER III

INVESTIGATION AND ENFORCEMENT

Modifications etc. (not altering text)

C47 Pt. 1 Ch. 3 applied in part (31.10.2023) by The Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023 (S.I. 2023/80), arts. 1(3), **22**

Investigations

[F71 25 Power of [F72 CMA] to investigate

(1) In any of the following cases, the **[**F73 CMA**]** may conduct an investigation.

(2) The first case is where there are reasonable grounds for suspecting that there is an agreement which—

(a) may affect trade within the United Kingdom; and

(b) has as its object or effect the prevention, restriction or distortion of competition within the United Kingdom.

F74 (3) . . . . . .

(4) The third case is where there are reasonable grounds for suspecting that the Chapter II prohibition has been infringed.

F75 (5) . . . . . .

(6) The fifth case is where there are reasonable grounds for suspecting that, at some time in the past, there was an agreement which at that time—

(a) may have affected trade within the United Kingdom; and

(b) had as its object or effect the prevention, restriction or distortion of competition within the United Kingdom.

F76 (7) . . . . . .

(8) Subsection (2) does not permit an investigation to be conducted in relation to an agreement if the **[**F77 CMA**]** —

(a) considers that the agreement is exempt from the Chapter I prohibition as a result of a block exemption or **[**F78 an assimilated**][**F79 exemption**]**; and

(b) does not have reasonable grounds for suspecting that the circumstances may be such that it could exercise its power to cancel the exemption.

F80 (9) . . . . . .

(10) Subsection (6) does not permit an investigation to be conducted in relation to any agreement if the **[**F77 CMA**]** considers that, at the time in question, the agreement was exempt from the Chapter I prohibition as a result of a block exemption or **[**F81 an assimilated**][**F82 exemption**]**.

F83 (11) . . . . . .

(12) It is immaterial for the purposes of subsection (6) F84 ... whether the agreement in question remains in existence.**]**

Textual Amendments

F71 S. 25 substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 10**

F72 Word in s. 25 heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 5(3)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F73 Word in s. 25(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 5(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F74 S. 25(3) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **6(2)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F75 S. 25(5) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **6(2)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F76 S. 25(7) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **6(2)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F77 Word in s. 25(8)-(11) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 5(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F78 Words in s. 25(8)(a) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 41(3)(c)**

F79 Words in s. 25(8)(a) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **6(3)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F80 S. 25(9) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **6(4)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F81 Words in s. 25(10) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 41(3)(c)**

F82 Words in s. 25(10) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **6(5)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F83 S. 25(11) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **6(6)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F84 Words in s. 25(12) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **6(7)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

[F85 25A Power of CMA to publish notice of investigation [F86 etc]

(1) Where the CMA decides to conduct an investigation it may publish a notice which may, in particular—

(a) state its decision to do so;

(b) indicate which of **[**F87 subsections (2), (4) and (6)**]** of section 25 the investigation falls under;

(c) summarise the matter being investigated;

(d) identify any undertaking whose activities are being investigated as part of the investigation;

(e) identify the market which is or was affected by the matter being investigated.

F88 **[** (1A) Where the CMA assists an overseas regulator in carrying out any of its functions which correspond or are similar to the functions of the CMA under this Part (see Chapter 2 of Part 5 of the Digital Markets, Competition and Consumers Act 2024), the CMA may publish a notice which may, in particular—

(a) state its decision to do so;

(b) identify the overseas regulator concerned;

(c) summarise the matter in respect of which the assistance is to be provided;

(d) identify any undertaking in respect of which the assistance is to be provided;

(e) identify the market which is or was affected by the matter in respect of which the assistance is to be provided.**]**

(2) Section 57 does not apply to a notice under subsection (1) **[**F89or (1A)**]** to the extent that it includes information other than information mentioned in **[**F90the subsection concerned**]**.

(3) Subsection (4) applies if—

(a) the CMA has published a notice under subsection (1) which identifies an undertaking whose activities are being investigated, and

(b) the CMA subsequently decides (without making a decision within the meaning given by section 31(2)) to terminate the investigation of the activities of the undertaking so identified.

(4) The CMA must publish a notice stating that the activities of the undertaking in question are no longer being investigated.**]**

Textual Amendments

F85 S. 25A inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 42(2)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

F86 Word in s. 25A heading inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 28 para. 9(2)**; S.I. 2024/1226, regs. 1(2), 2(1)(20)

F87 Words in s. 25A(1)(b) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **7** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F88 S. 25A(1A) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 28 para. 9(3)**; S.I. 2024/1226, regs. 1(2), 2(1)(20)

F89 Words in s. 25A(2) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 28 para. 9(4)(a)**; S.I. 2024/1226, regs. 1(2), 2(1)(20)

F90 Words in s. 25A(2) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 28 para. 9(4)(b)**; S.I. 2024/1226, regs. 1(2), 2(1)(20)

[F91**25B Duty to preserve documents relevant to investigations**

(1) Subsection (2) applies where a person knows or suspects that—

[F92(a)**]** an investigation by the CMA under section 25 is being or is likely to be carried out **[**F93, or

(b) the CMA is assisting, or is likely to assist, an overseas regulator in carrying out any of its functions which correspond or are similar to the functions of the CMA under this Part (see Chapter 2 of Part 5 of the Digital Markets, Competition and Consumers Act 2024).**]**

(2) The person must not—

(a) falsify, conceal, destroy or otherwise dispose of, or

(b) cause or permit the falsification, concealment, destruction or disposal of,

a document which the person knows or suspects is or would be relevant to the investigation **[**F94or to the provision of such assistance**]**.

(3) In this section, the reference to concealing a document includes a reference to destroying the means of reproducing information recorded otherwise than in legible form.**]**

Textual Amendments

F91 S. 25B inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 121(2)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2)

F92 Words in s. 25B(1) renumbered as s. 25B(1)(a) (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 28 para. 10(2)(a)**; S.I. 2024/1226, regs. 1(2), 2(1)(20)

F93 S. 25B(1)(b) and word inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 28 para. 10(2)(b)**; S.I. 2024/1226, regs. 1(2), 2(1)(20)

F94 Words in s. 25B(2) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 28 para. 10(3)**; S.I. 2024/1226, regs. 1(2), 2(1)(20)

26 [F95Investigations: powers to require documents and information]

(1) For the purposes of an investigation [F96under section 25], the [F97CMA] may require any person to produce to [F98it] a specified document, or to provide [F98it] with specified information, which [F98it] considers relates to any matter relevant to the investigation.

(2) The power conferred by subsection (1) is to be exercised by a notice in writing.

(3) A notice under subsection (2) must F99...—

(a) [F100indicate] the subject matter and purpose of the investigation; and

[F101(b) include information about the possible consequences of failing to comply with the notice.]

(4) In subsection (1) "specified" means—

(a) specified, or described, in the notice; or

(b) falling within a category which is specified, or described, in the notice.

(5) The [F102CMA] may also specify in the notice—

(a) the time and place at which any document is to be produced or any information is to be provided;

(b) the manner and form in which it is to be produced or provided.

(6) The power under this section to require a person to produce a document includes power—

(a) if the document is produced—

(i) to take copies of it or extracts from it;

(ii) to require him, or any person who is a present or past officer of his, or is or was at any time employed by him, to provide an explanation of the document;

(b) if the document is not produced, to require him to state, to the best of his knowledge and belief, where it is.

Textual Amendments

F95 S. 26 heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 39(3)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

F96 Words in s. 26(1) cease to have effect (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 11** (with reg. 6(2))

F97 Word in s. 26(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 6** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F98 Words in s. 26(1) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(20)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F99 Word in s. 26(3) omitted (1.1.2025) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 2(2)**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

F100 Word in s. 26(3)(a) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 2(3)**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

F101 S. 26(3)(b) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 2(4)**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

F102 Word in s. 26(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 6** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Modifications etc. (not altering text)

C48 Ss. 26-30 applied by 1986 c. 46, **s. 9C(2)** (as inserted (20.6.2003) by Enterprise Act 2002 (c. 40), **ss. 204(2)**, 279; S.I. 2003/1397, art. 2(1), **Sch.**)

C49 Ss. 26-30 applied by S.I. 2002/3150 (N.I. 4), **art. 13C(2)** (as inserted (19.12.2005) by The Company Directors Disqualification (Amendment) (Northern Ireland) Order 2005 (S.I. 2005/1454), arts. 1(3), **3**; S.R. 2005/514, **art. 2**)

C50 Ss. 26-29 powers extended (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 319**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(4)

[F103 26A Investigations: power to ask questions

(1) For the purposes of an investigation, the CMA may give notice to an individual F104... requiring the individual to answer questions with respect to any matter relevant to the investigation—

(a) at a place [F105 or in a manner (which may be remote)] specified in the notice, and

(b) either at a time so specified or on receipt of the notice.

(2) The CMA must give a copy of the notice under subsection (1) to [F106 any] relevant undertaking with which the individual has a current connection at the time the notice is given to the individual.

(3) The CMA must take such steps as are reasonable in all the circumstances to comply with the requirement under subsection (2) before the time at which the individual is required to answer questions.

(4) Where the CMA does not comply with the requirement under subsection (2) before the time mentioned in subsection (3), it must comply with that requirement as soon as practicable after that time.

(5) A notice under subsection (1) must be in writing and must F107...—

(a) [F108 indicate] the subject matter and purpose of the investigation, and

[F109 (b) include information about the possible consequences of failing to comply with the notice.]

[F110 (6) For the purposes of this section, an individual has a current connection with an undertaking if, at the time in question, the individual is—

(a) concerned in the management or control of the undertaking, or

(b) employed by, or otherwise working for, the undertaking.]

(7) In this section, a "relevant undertaking" means an undertaking whose activities are being investigated as part of the investigation in question.]

Textual Amendments

F103 S. 26A inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 39(2)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

F104 Words in s. 26A(1) omitted (1.1.2025) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 142(2)(a)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2)

F105 Words in s. 26A(1)(a) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 142(2)(b)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2)

F106 Word in s. 26A(2) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 142(3)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2)

F107 Word in s. 26A(5) omitted (1.1.2025) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 3(2)**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

F108 Word in s. 26A(5)(a) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 3(3)**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

F109 S. 26A(5)(b) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 3(4)**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

F110 S. 26A(6) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 142(4)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2)

Modifications etc. (not altering text)

C50 Ss. 26-29 powers extended (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 319**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(4)

27 [F111Power to enter business premises without a warrant]

(1) Any officer of the [F112CMA] who is authorised in writing by the [F112CMA] to do so ("an investigating officer") may enter [F113any business premises] in connection with an investigation [F114under section 25].

(2) No investigating officer is to enter any premises in the exercise of his powers under this section unless he has given to the occupier of the premises a written notice which—

(a) gives at least two working days' notice of the intended entry;

(b) indicates the subject matter and purpose of the investigation; and

[F115(c) includes information about the possible consequences of failing to comply with the notice.]

(3) Subsection (2) does not apply—

(a) if the [F116CMA] has a reasonable suspicion that the premises are, or have been, occupied by—

(i) a party to an agreement which [F117it] is investigating [F118section 25]; or

(ii) an undertaking the conduct of which [F117it] is investigating under [F119section 25]; or

(b) if the investigating officer has taken all such steps as are reasonably practicable to give notice but has not been able to do so.

(4) In a case falling within subsection (3), the power of entry conferred by subsection (1) is to be exercised by the investigating officer on production of—

(a) evidence of his authorisation; and

(b) a document containing the information referred to in subsection (2)(b) and (c).

(5) An investigating officer entering any premises under this section may—

(a) take with him such equipment as appears to him to be necessary;

(b) require any person on the premises—

(i) to produce any document which he considers relates to any matter relevant to the investigation; and

(ii) if the document is produced, to provide an explanation of it;

(c) require any person to state, to the best of his knowledge and belief, where any such document is to be found;

(d) take copies of, or extracts from, any document which is produced;

(e) require any information which is **[**F120stored in any electronic form**]** and is accessible from the premises and which the investigating officer considers relates to any matter relevant to the investigation, to be produced in a form—

(i) in which it can be taken away, and

(ii) in which it is visible and legible **[**F121or from which it can readily be produced in a visible and legible form**]**.

[F122(f) take any steps which appear to be necessary for the purpose of preserving or preventing interference with any document which he considers relates to any matter relevant to the investigation.**]**

[F123(6) In this section "business premises" means premises (or any part of premises) not used as a dwelling.**]**

Textual Amendments

F111 Words in s. 27 sidenote substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 12(6)**

F112 Word in s. 27(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 7** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F113 Words in s. 27(1) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 12(2)(a)**

F114 Words in s. 27(1) cease to have effect (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 12(2)(b)** (with reg. 6(2))

F115 S. 27(2)(c) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 4**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

F116 Word in s. 27(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 7** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F117 Word in s. 27(3) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(21)(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F118 Words in s. 27(3)(a)(i) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 12(3)(a)**

F119 Words in s. 27(3)(a)(ii) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 12(3)(b)**

F120 Words in s. 27(5)(e) substituted (1.4.2003) by Criminal Justice and Police Act 2001 (c. 16), s. 138(2), **Sch. 2 para. 21(a)**; S.I. 2003/708, art. 2(k)

F121 Words in s. 27(5)(e) inserted (1.4.2003) by Criminal Justice and Police Act 2001 (c. 16), s. 138(2), **Sch. 2 para. 21(b)**; S.I. 2003/708, art. 2(k)

F122 S. 27(5)(f) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 12(4)**

F123 S. 27(6) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 12(5)**

Modifications etc. (not altering text)

C48 Ss. 26-30 applied by 1986 c. 46, **s. 9C(2)** (as inserted (20.6.2003) by Enterprise Act 2002 (c. 40), **ss. 204(2)**, 279; S.I. 2003/1397, art. 2(1), **Sch.**)

C49 Ss. 26-30 applied by S.I. 2002/3150 (N.I. 4), **art. 13C(2)** (as inserted (19.12.2005) by The Company Directors Disqualification (Amendment) (Northern Ireland) Order 2005 (S.I. 2005/1454), arts. 1(3), **3**; S.R. 2005/514, **art. 2**)

C50 Ss. 26-29 powers extended (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 319**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(4)

28 [F124Power to enter business premises under a warrant].

(1) [F125On an application made to it by the CMA, the court or the Tribunal may issue a warrant if it is satisfied that—]

(a) there are reasonable grounds for suspecting that there are on [F126or accessible from][F127any business premises] documents—

(i) the production of which has been required under section 26 or 27; and

(ii) which have not been produced as required;

(b) there are reasonable grounds for suspecting that—

(i) there are on [F128or accessible from][F129any business premises] documents which the [F130CMA] has power under section 26 to require to be produced; and

(ii) if the documents were required to be produced, they would not be produced but would be concealed, removed, tampered with or destroyed; or

(c) an investigating officer has attempted to enter premises in the exercise of his powers under section 27 but has been unable to do so and that there are reasonable grounds for suspecting that there are on [F131or accessible from] the premises documents the production of which could have been required under that section.

(2) A warrant under this section shall authorise a named officer of the [F132CMA] , and any other of [F133the [F134"CMA's] officers whom the [F132CMA]] has authorised in writing to accompany the named officer—

(a) to enter the premises specified in the warrant, using such force as is reasonably necessary for the purpose;

(b) to search the premises and take copies of, or extracts from, any document appearing to be of a kind in respect of which the application under subsection (1) was granted ("the relevant kind");

(c) to take possession of any documents appearing to be of the relevant kind if—

(i) such action appears to be necessary for preserving the documents or preventing interference with them; or

(ii) it is not reasonably practicable to take copies of the documents on the premises;

(d) to take any other steps which appear to be necessary for the purpose mentioned in paragraph (c)(i);

(e) to require any person to provide an explanation of any document appearing to be of the relevant kind or to state, to the best of his knowledge and belief, where it may be found;

(f) to require any information which is **[**F135stored in any electronic form**]** and is accessible from the premises F136... to be produced in a form—

(i) in which it can be taken away, and

(ii) in which it is visible and legible **[**F137or from which it can readily be produced in a visible and legible form**]**;

[F138(g) to operate any equipment found on the premises for the purposes of producing such information in such a form;

(h) to require any person on the premises to give the named officer any assistance the named officer may reasonably require (including for the purposes of paragraphs (f) and (g));

(i) to take copies of, or take possession of, anything produced in accordance with paragraph (f) or (g) which the named officer considers relates to any matter relevant to the investigation.**]**

(3) If, in the case of a warrant under subsection (1)(b), **[**F139the court or (as the case may be) the Tribunal**]** is satisfied that it is reasonable to suspect that there are also on the premises other documents relating to the investigation concerned, the warrant shall also authorise action mentioned in subsection (2) to be taken in relation to any such document.

[F140(3A) A warrant under this section may authorise persons specified in the warrant to accompany the named officer who is executing it.**]**

(4) Any person entering premises by virtue of a warrant under this section may take with him such equipment as appears to him to be necessary.

(5) On leaving any premises which he has entered by virtue of a warrant under this section, the named officer must, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured as he found them.

(6) A warrant under this section continues in force until the end of the period of one month beginning with the day on which it is issued.

(7) Any document of which possession is taken under subsection (2)(c) may be retained for a period of three months.

[F141(7A) An application for a warrant under this section must be made—

(a) in the case of an application to the court, in accordance with rules of court;

(b) in the case of an application to the Tribunal, in accordance with Tribunal rules.**]**

[F142(8) In this section "business premises" has the same meaning as in section 27.**]**

Textual Amendments

F124 Words in s. 28 sidenote substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 13(4)**

F125 Words in s. 28(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 13 para. 2(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F126 Words in s. 28(1)(a) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 122(2)(a)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2) (with Sch. para. 1, 20)

F127 Words in s. 28(1)(a) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 13(2)(a)**

F128 Words in s. 28(1)(b)(i) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 122(2)(b)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2) (with Sch. para. 1, 20)

F129 Words in s. 28(1)(b)(i) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 13(2)(b)**

F130 Word in s. 28(1)(b)(i) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 8(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F131 Words in s. 28(1)(c) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 122(2)(c)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2) (with Sch. para. 1, 20)

F132 Word in s. 28(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 8(3)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F133 Words in s. 28(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(22)(b)(ii)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F134 Word in s. 28(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 8(3)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F135 Words in s. 28(2)(f) substituted (1.4.2003) by Criminal Justice and Police Act 2001 (c. 16), s. 138(2), **Sch. 2 para. 21(a)**; S.I. 2003/708, art. 2(k)

F136 Words in s. 28(2)(f) omitted (1.1.2025) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 122(3)(a)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2) (with Sch. para. 1, 20)

F137 Words in s. 28(2)(f) inserted (1.4.2003) by Criminal Justice and Police Act 2001 (c. 16), s. 138(2), **Sch. 2 para. 21(b)**; S.I. 2003/708, art. 2(k)

F138 S. 28(2)(g)-(i) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 122(3)(b)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2) (with Sch. para. 1, 20)

F139 Words in s. 28(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 13 para. 2(3)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F140 S. 28(3A) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), **ss. 203(2)**, 279; S.I. 2003/1397, art. 2(1), Sch.

F141 S. 28(7A) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 13 para. 2(4)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F142 S. 28(8) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 13(3)**

Modifications etc. (not altering text)

C48 Ss. 26-30 applied by 1986 c. 46, **s. 9C(2)** (as inserted (20.6.2003) by Enterprise Act 2002 (c. 40), **ss. 204(2)**, 279; S.I. 2003/1397, art. 2(1), **Sch.**)

C49 Ss. 26-30 applied by S.I. 2002/3150 (N.I. 4), **art. 13C(2)** (as inserted (19.12.2005) by The Company Directors Disqualification (Amendment) (Northern Ireland) Order 2005 (S.I. 2005/1454), arts. 1(3), **3**; S.R. 2005/514, **art. 2**)

C50 Ss. 26-29 powers extended (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 319**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(4)

C51 S. 28(2): powers of seizure extended (*prosp.*) by 2001 c. 16, ss. 50, 52-54, 68, 138(2), **Sch. 1 Pt. 1 para. 67**

C52 S. 28(2) powers of seizure extended (1.6.2004) by Criminal Justice and Police Act 2001 (c. 16), ss. 50, 138(2), **Sch. 1 para. 67** (with ss. 52-54, 68); S.I. 2004/1376, art. 2(b)

C53 S. 28(2)(f) modified (*prosp.*) by 2001 c. 16, **ss. 63(2)(h)**, 138(2)

C54 S. 28(2)(f) modified (1.4.2003) by Criminal Justice and Police Act 2001 (c. 16), **ss. 63**, 138(2); S.I. 2003/708, art. 2(a)

C55 S. 28(7) applied (*prosp.*) by 2001 c. 16, **ss. 57(1)(n)(2)(4)**, 138(2)

C56 S. 28(7) applied (1.4.2003) by Criminal Justice and Police Act 2001 (c. 16), **ss. 57(1)(n)**, 138(2) (with s. 57(4)); S.I. 2003/708, art. 2(a)

[F143 28A Power to enter domestic premises under a warrant

(1) [F144 On an application made to it by the CMA, the court or the Tribunal may issue a warrant if it is satisfied that—]

(a) there are reasonable grounds for suspecting that there are on [F145 or accessible from] any domestic premises documents—

(i) the production of which has been required under section 26; and

(ii) which have not been produced as required; or

(b) there are reasonable grounds for suspecting that—

(i) there are on [F146 or accessible from] any domestic premises documents which the [F147 CMA] has power under section 26 to require to be produced; and

(ii) if the documents were required to be produced, they would not be produced but would be concealed, removed, tampered with or destroyed.

(2) A warrant under this section shall authorise a named officer of the [F147 CMA], and any other of its officers whom the [F147 CMA] has authorised in writing to accompany the named officer—

(a) to enter the premises specified in the warrant, using such force as is reasonably necessary for the purpose;

(b) to search the premises and take copies of, or extracts from, any document appearing to be of a kind in respect of which the application under subsection (1) was granted ("the relevant kind");

(c) to take possession of any documents appearing to be of the relevant kind if—

(i) such action appears to be necessary for preserving the documents or preventing interference with them; or

(ii) it is not reasonably practicable to take copies of the documents on the premises;

(d) to take any other steps which appear to be necessary for the purpose mentioned in paragraph (c)(i);

(e) to require any person to provide an explanation of any document appearing to be of the relevant kind or to state, to the best of his knowledge and belief, where it may be found;

(f) to require any information which is stored in any electronic form and is accessible from the premises F148... to be produced in a form—

(i) in which it can be taken away, and

(ii) in which it is visible and legible or from which it can readily be produced in a visible and legible form;

[F149 (g) to operate any equipment found on the premises for the purposes of producing such information in such a form;]

(h) to require any person on the premises to give the named officer any assistance the named officer may reasonably require (including for the purposes of paragraphs (f) and (g));

(i) to take copies of, or take possession of, anything produced in accordance with paragraph (f) or (g) which the named officer considers relates to any matter relevant to the investigation.]

(3) If, in the case of a warrant under subsection (1)(b), [F150 the court or (as the case may be) the Tribunal] is satisfied that it is reasonable to suspect that there are also on the premises other documents relating to the investigation concerned, the warrant shall

also authorise action mentioned in subsection (2) to be taken in relation to any such document.

(4) A warrant under this section may authorise persons specified in the warrant to accompany the named officer who is executing it.

(5) Any person entering premises by virtue of a warrant under this section may take with him such equipment as appears to him to be necessary.

(6) On leaving any premises which he has entered by virtue of a warrant under this section, the named officer must, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured as he found them.

(7) A warrant under this section continues in force until the end of the period of one month beginning with the day on which it is issued.

(8) Any document of which possession is taken under subsection (2)(c) may be retained for a period of three months.

F151(8A) **[** An application for a warrant under this section must be made—

(a) in the case of an application to the court, in accordance with rules of court;

(b) in the case of an application to the Tribunal, in accordance with Tribunal rules.**]**

(9) In this section, "domestic premises" means premises (or any part of premises) that are used as a dwelling and are—

(a) premises also used in connection with the affairs of an undertaking or association of undertakings; or

(b) premises where documents relating to the affairs of an undertaking or association of undertakings are kept.**]**

Textual Amendments

F143 S. 28A inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 14**

F144 Words in s. 28A(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 13 para. 3(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F145 Words in s. 28A(1)(a) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 122(5)(a)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2) (with Sch. para. 1, 20)

F146 Words in s. 28A(1)(b)(i) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 122(5)(b)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2) (with Sch. para. 1, 20)

F147 Word in s. 28A(1)(b)(i)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 9** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F148 Words in s. 28A(2)(f) omitted (1.1.2025) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 122(6)(a)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2) (with Sch. para. 1, 20)

F149 Words in s. 28A(2)(g)-(i) omitted (1.1.2025) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 122(6)(b)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2) (with Sch. para. 1, 20)

F150 Words in s. 28A(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 13 para. 3(3)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

F151 S. 28A(8A) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 13 para. 3(4)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Modifications etc. (not altering text)

C49 Ss. 26-30 applied by S.I. 2002/3150 (N.I. 4), **art. 13C(2)** (as inserted (19.12.2005) by The Company Directors Disqualification (Amendment) (Northern Ireland) Order 2005 (S.I. 2005/1454), arts. 1(3), **3**; S.R. 2005/514, **art. 2**)

C50 Ss. 26-29 powers extended (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 319**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(4)

29 Entry of premises under warrant: supplementary.

(1) A warrant issued under section 28 **[**F152or 28A**]** must F153...—

(a) **[**F154indicate**]** the subject matter and purpose of the investigation;

[F155(b) include information about the possible consequences of failing to comply with the notice.**]**

(2) The powers conferred by section 28 **[**F156or 28A**]** are to be exercised on production of a warrant issued under that section.

(3) If there is no one at the premises when the named officer proposes to execute such a warrant he must, before executing it—

(a) take such steps as are reasonable in all the circumstances to inform the occupier of the intended entry; and

(b) if the occupier is informed, afford him or his legal or other representative a reasonable opportunity to be present when the warrant is executed.

(4) If the named officer is unable to inform the occupier of the intended entry he must, when executing the warrant, leave a copy of it in a prominent place on the premises.

(5) In this section—

"named officer" means the officer named in the warrant; and

"occupier", in relation to any premises, means a person whom the named officer reasonably believes is the occupier of those premises.

Textual Amendments

F152 Words in s. 29(1) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 15(2)**

F153 Word in s. 29(1) omitted (1.1.2025) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 5(2)**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

F154 Word in s. 29(1)(a) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 5(3)**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

F155 S. 29(1)(b) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 5(4)**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

F156 Words in s. 29(2) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 15(3)**

Modifications etc. (not altering text)

C48 Ss. 26-30 applied by 1986 c. 46, **s. 9C(2)** (as inserted (20.6.2003) by Enterprise Act 2002 (c. 40), **ss. 204(2)**, 279; S.I. 2003/1397, art. 2(1), **Sch.**)

C49 Ss. 26-30 applied by S.I. 2002/3150 (N.I. 4), **art. 13C(2)** (as inserted (19.12.2005) by The Company Directors Disqualification (Amendment) (Northern Ireland) Order 2005 (S.I. 2005/1454), arts. 1(3), **3**; S.R. 2005/514, **art. 2**)

C50 Ss. 26-29 powers extended (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 319**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(4)

30 Privileged communications.

(1) A person shall not be required, under any provision of this Part, to produce or disclose a privileged communication.

[F157(1A) Nothing in section 28 or 28A authorises an officer to produce or take possession of, or make copies of or take extracts from, anything which, by virtue of subsection (1), a person could not be required to produce or disclose under this Part.**]**

(2) "Privileged communication" means a communication—

(a) between a professional legal adviser and his client, or

(b) made in connection with, or in contemplation of, legal proceedings and for the purposes of those proceedings,

which in proceedings in the High Court would be protected from disclosure on grounds of legal professional privilege.

(3) In the application of this section to Scotland—

(a) references to the High Court are to be read as references to the Court of Session; and

(b) the reference to legal professional privilege is to be read as a reference to confidentiality of communications.

Textual Amendments

F157 S. 30(1A) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 122(7)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2) (with Sch. para. 1, 20)

Modifications etc. (not altering text)

C48 Ss. 26-30 applied by 1986 c. 46, **s. 9C(2)** (as inserted (20.6.2003) by Enterprise Act 2002 (c. 40), **ss. 204(2)**, 279; S.I. 2003/1397, art. 2(1), **Sch.**)

C49 Ss. 26-30 applied by S.I. 2002/3150 (N.I. 4), **art. 13C(2)** (as inserted (19.12.2005) by The Company Directors Disqualification (Amendment) (Northern Ireland) Order 2005 (S.I. 2005/1454), arts. 1(3), **3**; S.R. 2005/514, **art. 2**)

[F158**30A Use of statements in prosecution**

[A statement made by a person in response to a requirement imposed by virtue of any F159(1)**]** of **[**F160sections 26, 27 to 28A and 40ZD**]** may not be used in evidence against him on a prosecution for an offence under section 188 of the Enterprise Act 2002 unless, in the proceedings—

(a) in giving evidence, he makes a statement inconsistent with it, and

(b) evidence relating to it is adduced, or a question relating to it is asked, by him or on his behalf.**]**

[F161(2) A statement by an individual in response to a requirement imposed by virtue of section 26A (a "section 26A statement") may only be used in evidence against the individual—

(a) on a prosecution for an offence under section 44, or

(b) on a prosecution for some other offence in a case falling within subsection (3).

(3) A prosecution falls within this subsection if, in the proceedings—

(a) in giving evidence, the individual makes a statement inconsistent with the section 26A statement, and

(b) evidence relating to the section 26A statement is adduced, or a question relating to it is asked, by or on behalf of the individual.

(4) A section 26A statement may not be used in evidence against an undertaking with which the individual who gave the statement has a connection on a prosecution for an offence unless the prosecution is for an offence under section 44.

(5) For the purposes of subsection (4), an individual has a connection with an undertaking if he or she is or was—

(a) concerned in the management or control of the undertaking, or

(b) employed by, or otherwise working for, the undertaking.**]**

Textual Amendments

F158 S. 30A inserted (20.6.2003) by Enterprise Act 2002 (c. 40), **ss. 198**, 279; S.I. 2003/1397, art. 2(1), Sch.

F159 S. 30A renumbered as s. 30A(1) (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 39(5)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

F160 Words in s. 30A(1) substituted (31.12.2020) by S.I. 2019/93, reg. 7A (as inserted by The Competition (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1343), regs. 1(1), **3**)

F161 S. 30A(2)-(5) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 39(7)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

[F162**31 Decisions following an investigation.**

(1) If as a result of an investigation the **[**F163CMA**]** proposes to make a decision, the **[**F163CMA**]** must—

(a) give written notice to the person (or persons) likely to be affected by the proposed decision; and

(b) give that person (or those persons) an opportunity to make representations.**]**

[F162(2) For the purposes of this section and sections 31A and 31B "decision" means a decision of the **[**F163CMA**]** —

(a) that the Chapter I prohibition has been infringed; **[**F164or**]**

(b) that the Chapter II prohibition has been infringed;

F165(c) . . . . . .

F166(d) . . . . . .**]**

Textual Amendments

F162 S. 31 substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 17**

F163 Word in s. 31(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 10** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F164 Word in s. 31(2)(a) inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **8(a)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F165 S. 31(2)(c) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **8(b)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F166 S. 31(2)(d) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **8(b)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

[F167 31A Commitments

(1) Subsection (2) applies in a case where the [F168 CMA] has begun an investigation under section 25 but has not made a decision (within the meaning given by section 31(2)).

(2) For the purposes of addressing the competition concerns it has identified, the [F168 CMA] may accept from such person (or persons) concerned as it considers appropriate commitments to take such action (or refrain from taking such action) as it considers appropriate.

F169 [(2A) But the CMA may not accept commitments from a person unless it has provided the person with information about the possible consequences of failing to adhere to the commitments.]

(3) At any time when commitments are in force the [F168 CMA] may accept from the person (or persons) who gave the commitments—

(a) a variation of them if it is satisfied that the commitments as varied will address its current competition concerns;

(b) commitments in substitution for them if it is satisfied that the new commitments will address its current competition concerns.

(4) Commitments under this section—

(a) shall come into force when accepted; and

(b) may be released by the [F168 CMA] where—

(i) it is requested to do so by the person (or persons) who gave the commitments; or

(ii) it has reasonable grounds for believing that the competition concerns referred to in subsection (2) or (3) no longer arise.

(5) The provisions of Schedule 6A to this Act shall have effect with respect to procedural requirements for the acceptance, variation and release of commitments under this section.]

Textual Amendments

F167 Ss. 31A-31E inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 18**

F168 Words in s. 31A(1)-(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 11** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F169 S. 31A(2A) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 11 para. 2**; S.I. 2024/1226, regs. 1(2), 2(1)(15)

[F167 31B Effect of commitments under section 31A

(1) Subsection (2) applies if the [F170 CMA] has accepted commitments under section 31A (and has not released them).

(2) In such a case, the [F170 CMA] shall not—

(a) continue the investigation,

(b) make a decision (within the meaning of section 31(2)), or

(c) give a direction under section 35,

in relation to the agreement or conduct which was the subject of the investigation (but this subsection is subject to subsections (3) and (4)).

(3) Nothing in subsection (2) prevents the [F170 CMA] from taking any action in relation to competition concerns which are not addressed by commitments accepted by it.

(4) Subsection (2) also does not prevent the [F170 CMA] from continuing the investigation, making a decision, or giving a direction where—

(a) it has reasonable grounds for believing that there has been a material change of circumstances since the commitments were accepted;

(b) it has reasonable grounds for suspecting that a person has failed to adhere to one or more of the terms of the commitments; or

(c) it has reasonable grounds for suspecting that information which led it to accept the commitments was incomplete, false or misleading in a material particular.

(5) If, pursuant to subsection (4), the [F170 CMA] makes a decision or gives a direction the commitments are to be treated as released from the date of that decision or direction.]

Textual Amendments

F167 Ss. 31A-31E inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 18**

F170 Words in ss. 31B(1)-(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 12** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

[F167 31C Review of commitments

(1) Where the [F171 CMA] is reviewing or has reviewed the effectiveness of commitments accepted under section 31A it must, if requested to do so by the Secretary of State, prepare a report of its findings.

(2) The [F171 CMA] must—

(a) give any report prepared by it under subsection (1) to the Secretary of State; and

(b) publish the report.]

Textual Amendments

F167 Ss. 31A-31E inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 18**

F171 Word in s. 31C(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 13** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

[F167 31D Guidance

(1) The [F172 CMA] must prepare and publish guidance as to the circumstances in which it may be appropriate to accept commitments under section 31A.

(2) The [F172 CMA] may at any time alter the guidance.

(3) If the guidance is altered, the [F172 CMA] must publish it as altered.

(4) No guidance is to be published under this section without the approval of the Secretary of State.

(5) The [F173 CMA] may, after consulting the Secretary of State, choose how it publishes its guidance.

(6) If the [F173 CMA] is preparing or altering guidance under this section it must consult such persons as it considers appropriate.

(7) If the proposed guidance or alteration relates to a matter in respect of which a regulator exercises concurrent jurisdiction, those consulted must include that regulator.

(8) When exercising its discretion to accept commitments under section 31A, the [F174 CMA] must have regard to the guidance for the time being in force under this section.]

Textual Amendments

F167 Ss. 31A-31E inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 18**

F172 Word in s. 31D(1)-(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 14** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F173 Word in s. 31D(5)(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 14** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F174 Word in s. 31D(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 14** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

[F167 31E Enforcement of commitments

(1) If a person from whom the [F175 CMA] has accepted commitments fails without reasonable excuse to adhere to the commitments (and has not been released from them), the [F175 CMA] may apply to the court for an order—

(a) requiring the defaulter to make good his default within a time specified in the order; or

(b) if the commitments relate to anything to be done in the management or administration of an undertaking, requiring the undertaking or any of its officers to do it.

(2) An order of the court under subsection (1) may provide for all the costs of, or incidental to, the application for the order to be borne by—

(a) the person in default; or

(b) any officer of an undertaking who is responsible for the default.

(3) In the application of subsection (2) to Scotland, the reference to "costs" is to be read as a reference to "expenses".

[In deciding whether and, if so, how to proceed under this section, the CMA must [F176](4) have regard to the statement of policy which was most recently published by it under section 35C at the time of the failure to adhere to the commitments.**]]**

Textual Amendments

F167 Ss. 31A-31E inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 18**

F175 Word in s. 31E(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 15** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F176 S. 31E(4) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 11 para. 3**; S.I. 2024/1226, regs. 1(2), 2(1)(15) (with Sch. paras. 16(1), 20)

[F177 31F Power for Secretary of State to impose time-limits on investigations etc.

(1) The Secretary of State may by order impose time-limits in relation to—

(a) the conduct by the CMA of investigations or investigations of a description specified in the order;

(b) the making by the CMA of decisions (within the meaning given by section 31(2)) as a result of investigations or investigations of such a description.

(2) Before making an order under subsection (1), the Secretary of State must consult the CMA and such other persons as the Secretary of State considers appropriate.**]**

Textual Amendments

F177 S. 31F inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 45**, 103(1)(i)(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

*Enforcement **[**F178: directions and interim measures**]***

Textual Amendments

F178 Words in s. 32 cross-heading inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 11 para. 4**; S.I. 2024/1226, regs. 1(2), 2(1)(15) (with Sch. paras. 16(1), 20)

32 Directions in relation to agreements.

(1) If the **[**F179CMA**]** has made a decision that an agreement infringes the Chapter I prohibition F180... , **[**F181it**]** may give to such person or persons as **[**F181it**]** considers appropriate such directions as **[**F181it**]** considers appropriate to bring the infringement to an end.

(2) **[**F182Subsection (1) applies whether the **[**F183OFT's**]** decision is made on **[**F183its**]** own initiative or on an application made to **[**F183it**]** under this Part.**]**

(3) A direction under this section may, in particular, include provision—

(a) requiring the parties to the agreement to modify the agreement; or

(b) requiring them to terminate the agreement.

(4) A direction under this section must be given in writing.

Textual Amendments

F179 Word in s. 32(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 16** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F180 Words in s. 32(1) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **9** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F181 Words in s. 32(1) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(24)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F182 S. 32(2) ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 19(3)** (with reg. 6(2))

F183 Words in s. 32(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(24)(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Modifications etc. (not altering text)

C57 S. 32 modified by 1991 c. 56, s. 110B(5)(a) (as substituted (1.11.2016) by Water Act 2014 (c. 21), **ss. 9(1)**, 94(3) (with s. 9(2)(3)); S.I. 2016/1007, art. 2(c)(i); S.I. 2018/397, art. 2(b))

C58 S. 32 modified by 1991 c. 56, s. 110A(7)(a) (as substituted (1.11.2016) by Water Act 2014 (c. 21), **ss. 9(1)**, 94(3) (with s. 9(2)(3)); S.I. 2016/1007, art. 2(c)(i); S.I. 2018/397, art. 2(b))

C59 S. 32 modified by 1991 c. 56, s. 117E(7)(a) (as inserted (1.4.2017 for specified purposes) by Water Act 2014 (c. 21), s. 94(3), **Sch. 4**; S.I. 2017/462, art. 3(j))

C60 S. 32 modified by 1991 c. 56, s. 66D(7)(a) (as substituted (1.4.2017) by Water Act 2014 (c. 21), s. 94(3), **Sch. 2 para. 3**; S.I. 2017/462, art. 3(i)(iii) (with arts. 6-9))

C61 S. 32 modified by 1991 c. 56, s. 105ZA(9)(a) (as inserted (1.10.2017 for E., 1.4.2019 for W.) by Water Act 2014 (c. 21), **ss. 11(3)**, 94(3); S.I. 2017/462, art. 4(b); S.I. 2017/1288, art. 3(d))

C62 S. 32 modified by 1991 c. 56, s. 51B(9)(a) (as substituted (1.10.2017 for E., 1.4.2019 for W.) by Water Act 2014 (c. 21), **ss. 10(3)**, 94(3); S.I. 2017/462, art. 4(a) (with art. 15); S.I. 2017/1288, art. 3(c))

C63 S. 32 modified by 1991 c. 56, s. 51C(4)(a) (as substituted (1.10.2017 for E., 1.4.2019 for W.) by Water Act 2014 (c. 21), **ss. 10(3)**, 94(3); S.I. 2017/462, art. 4(a) (with art. 15); S.I. 2017/1288, art. 3(c))

C64 S. 32 modified by 1991 c. 56, s. 105ZB(4)(a) (as inserted (1.10.2017 for E., 1.4.2019 for W.) by Water Act 2014 (c. 21), **ss. 11(3)**, 94(3); S.I. 2017/462, art. 4(b); S.I. 2017/1288, art. 3(d))

C65 S. 32 modified by 1991 c. 56, s. 40(7)(a) (as substituted (1.4.2018 for E. for specified purposes, 1.4.2019 for W.) by Water Act 2014 (c. 21), **ss. 8(1)**, 94(3) (with s. 8(2)); S.I. 2017/1288, art. 3(a); S.I. 2018/397, art. 2(a))

C66 S. 32 modified by 1991 c. 56, s. 40A(5)(a) (as substituted (1.4.2018 for E. for specified purposes, 1.4.2019 for W.) by Water Act 2014 (c. 21), **ss. 8(1)**, 94(3) (with s. 8(2)); S.I. 2017/1288, art. 3(a); S.I. 2018/397, art. 2(a))

33 Directions in relation to conduct.

(1) If the **[**F184CMA**]** has made a decision that conduct infringes the Chapter II prohibition F185... , **[**F186it**]** may give to such person or persons as **[**F186it**]** considers appropriate such directions as **[**F186it**]** considers appropriate to bring the infringement to an end.

(2) **[**F187Subsection (1) applies whether the **[**F188OFT's**]** decision is made on **[**F188its**]** own initiative or on an application made to **[**F188it**]** under this Part.**]**

(3) A direction under this section may, in particular, include provision—

(a) requiring the person concerned to modify the conduct in question; or

(b) requiring him to cease that conduct.

(4) A direction under this section must be given in writing.

Textual Amendments

F184 Word in s. 33(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 17** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F185 Words in s. 33(1) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **10** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F186 Words in s. 33(1) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(25)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F187 S. 33(2) ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 20(3)** (with reg. 6(2))

F188 Words in s. 33(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(25)(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

34 Enforcement of directions.

(1) If a person fails, without reasonable excuse, to comply with a direction under section 32 or 33, the **[**F189CMA**]** may apply to the court for an order—

(a) requiring the defaulter to make good his default within a time specified in the order; or

(b) if the direction related to anything to be done in the management or administration of an undertaking, requiring the undertaking or any of its officers to do it.

(2) An order of the court under subsection (1) may provide for all of the costs of, or incidental to, the application for the order to be borne by—

(a) the person in default; or

(b) any officer of an undertaking who is responsible for the default.

(3) In the application of subsection (2) to Scotland, the reference to "costs" is to be read as a reference to "expenses".

[F190(4) In deciding whether and, if so, how to proceed under this section, the CMA must have regard to the statement of policy which was most recently published by it under section 35C at the time of the failure to comply with the direction.**]**

Textual Amendments

F189 Word in s. 34(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 18** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F190 S. 34(4) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 11 para. 5**; S.I. 2024/1226, regs. 1(2), 2(1)(15) (with Sch. paras. 16(1), 20)

35 Interim measures.

[F191(1) Subject to **[**F192subsection (8)**]**, this section applies if the **[**F193CMA**]** has begun an investigation under section 25 and not completed it (but only applies so long as the **[**F193CMA**]** has power under section 25 to conduct that investigation).**]**

(2) If the **[**F193CMA**]** considers that it is necessary for **[**F194it**]** to act under this section as a matter of urgency for the purpose—

(a) of preventing **[**F195significant damage**]** to a particular person or category of person, or

(b) of protecting the public interest,

[F194it**]** may give such directions as **[**F194it**]** considers appropriate for that purpose.

(3) Before giving a direction under this section, the **[**F193CMA**]** must—

(a) give written notice to the person (or persons) to whom **[**F194it**]** proposes to give the direction; and

(b) give that person (or each of them) an opportunity to make representations.

(4) A notice under subsection (3) must indicate the nature of the direction which the **[**F193CMA**]** is proposing to give and **[**F194its**]** reasons for wishing to give it.

[F196(5) A direction given under this section may if the circumstances permit be replaced by—

(a) a direction under section 32 or (as appropriate) section 33, or

(b) commitments accepted under section 31A,

but, subject to that, has effect while this section applies.**]**

(6) In the **[**F197cases mentioned in **[**F198section 25(2) and (6)**]]**, sections 32(3) and 34 also apply to directions given under this section.

(7) In the **[**F199cases mentioned in **[**F200section 25(4)**]]**, sections 33(3) and 34 also apply to directions given under this section.

[F201(8) In the case of an investigation conducted by virtue of section 25(2) or (6), this section does not apply if a person has produced evidence to the **[**F202CMA**]** in connection with the investigation that satisfies it on the balance of probabilities that, in the event of it reaching the basic infringement conclusion, it would also reach the conclusion that the suspected agreement is exempt from the Chapter I prohibition as a result of section 9(1); and in this subsection "the basic infringement conclusion" is the conclusion that there is an agreement which—

(a) may affect trade within the United Kingdom, and

(b) has as its object or effect the prevention, restriction or distortion of competition within the United Kingdom.

F203(9) . . . . . .**]**

Textual Amendments

F191 S. 35(1) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 21(2)**

F192 Words in s. 35(1) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **11(a)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F193 Words in s. 35(1)-(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 19** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F194 Words in s. 35 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(27)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F195 Words in s. 35(2)(a) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 43**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

F196 S. 35(5) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 21(3)**

F197 Words in s. 35(6) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 21(4)**

F198 Words in s. 35(6) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **11(b)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F199 Words in s. 35(7) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 21(5)**

F200 Words in s. 35(7) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **11(c)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F201 S. 35(8)(9) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 21(6)**

F202 Word in s. 35(8)(9) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 19** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F203 S. 35(9) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **11(d)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C67 S. 35(2) modified by 1991 c. 56, s. 110A(7)(b)(8) (as substituted (1.11.2016) by Water Act 2014 (c. 21), **ss. 9(1)**, 94(3) (with s. 9(2)(3)); S.I. 2016/1007, art. 2(c)(i))

C68 S. 35(2) modified by 1991 c. 56, s. 110B(5)(b) (as substituted (1.11.2016) by Water Act 2014 (c. 21), **ss. 9(1)**, 94(3) (with s. 9(2)(3)); S.I. 2016/1007, art. 2(c)(i))

C69 S. 35(2) modified by 1991 c. 56, s. 117E(7)(b)(8) (as inserted (1.4.2017 for specified purposes) by Water Act 2014 (c. 21), s. 94(3), **Sch. 4**; S.I. 2017/462, art. 3(j))

C70 S. 35(2) modified by 1991 c. 56, s. 66D(7)(b)(8) (as substituted (1.4.2017) by Water Act 2014 (c. 21), s. 94(3), **Sch. 2 para. 3**; S.I. 2017/462, art. 3(i)(iii) (with arts. 6-9))

C71 S. 35(2) modified by 1991 c. 56, s. 105ZA(9)(b)(10) (as inserted (1.10.2017 for E., 1.4.2019 for W.) by Water Act 2014 (c. 21), **ss. 11(3)**, 94(3); S.I. 2017/462, art. 4(b); S.I. 2017/1288, art. 3(d))

C72 S. 35(2) modified by 1991 c. 56, s. 105ZB(4)(b)(5) (as inserted (1.10.2017 for E., 1.4.2019 for W.) by Water Act 2014 (c. 21), **ss. 11(3)**, 94(3); S.I. 2017/462, art. 4(b); S.I. 2017/1288, art. 3(d))

C73 S. 35(2) modified by 1991 c. 56, s. 51B(9)(b)(10) (as substituted (1.10.2017 for E., 1.4.2019 for W.) by Water Act 2014 (c. 21), **ss. 10(3)**, 94(3); S.I. 2017/462, art. 4(a) (with art. 15); S.I. 2017/1288, art. 3(c))

C74 S. 35(2) modified by 1991 c. 56, s. 51C(4)(b)(5) (as substituted (1.10.2017 for E., 1.4.2019 for W.) by Water Act 2014 (c. 21), **ss. 10(3)**, 94(3); S.I. 2017/462, art. 4(a) (with art. 15); S.I. 2017/1288, art. 3(c))

C75 S. 35(2) modified by 1991 c. 56, s. 40(7)(b)(8) (as substituted (1.4.2018 for E. for specified purposes, 1.4.2019 for W.) by Water Act 2014 (c. 21), **ss. 8(1)**, 94(3) (with s. 8(2)); S.I. 2017/1288, art. 3(a); S.I. 2018/397, art. 2(a))

C76 S. 35(2) modified by 1991 c. 56, s. 40A(5)(b)(6) (as substituted (1.4.2018 for E. for specified purposes, 1.4.2019 for W.) by Water Act 2014 (c. 21), **ss. 8(1)**, 94(3) (with s. 8(2)); S.I. 2017/1288, art. 3(a); S.I. 2018/397, art. 2(a))

[F204 Civil sanctions: breaches of commitments, directions and interim measures

Textual Amendments

F204 Ss. 35A-35C and cross-headings inserted (24.5.2024 for specified purposes; 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 11 para. 6**; S.I. 2024/1226, regs. 1(2), **2(1)(15)** (with Sch. paras. 16(1), 20)

35A Enforcement of powers under sections 31A, 32, 33 and 35: imposition of penalties

(1) The CMA may, in accordance with section 35B, impose a penalty on a person—

(a) from whom the CMA has accepted commitments under section 31A (and who has not been released from those commitments), or

(b) to whom the CMA has given a direction under section 32, 33 or 35,

where the CMA considers that the person has, without reasonable excuse, failed to adhere to the commitments or comply with the direction.

(2) In deciding whether and, if so, how to proceed under subsection (1) the CMA must have regard to the statement of policy which was most recently published under section 35C at the time of the failure to adhere or comply.

35B Penalties under section 35A: amount

(1) A penalty under section 35A(1) is to be such amount as the CMA considers appropriate.

(2) The amount must be—

(a) a fixed amount,

(b) an amount calculated by reference to a daily rate, or

(c) a combination of a fixed amount and an amount calculated by reference to a daily rate.

(3) A penalty imposed under section 35A(1) on a person who is not an undertaking must not—

(a) in the case of a fixed amount, exceed £30,000;

(b) in the case of an amount calculated by reference to a daily rate, exceed £15,000 per day;

(c) in the case of a fixed amount and an amount calculated by reference to a daily rate, exceed such fixed amount and such amount per day.

(4) A penalty imposed under section 35A(1) on a person who is an undertaking must not—

(a) in the case of a fixed amount, exceed 5% of the total value of the turnover of the undertaking;

(b) in the case of an amount calculated by reference to a daily rate, for each day exceed 5% of the total value of the daily turnover of the undertaking;

(c) in the case of a fixed amount and an amount calculated by reference to a daily rate, exceed such fixed amount and such amount per day.

(5) In imposing a penalty by reference to a daily rate—

(a) no account is to be taken of any days before the service on the person concerned of the provisional penalty notice under section 112(A1) of the Enterprise Act 2002 (as applied by subsection (6)), and

(b) unless the CMA determines an earlier date (whether before or after the penalty is imposed), the amount payable ceases to accumulate at the beginning of the day on which the person adheres to the commitments or complies with the direction (as the case may be) referred to in section 35A(1).

(6) Sections 112 to 115 of the Enterprise Act 2002 apply in relation to a penalty imposed under section 35A(1) as they apply in relation to a penalty imposed under section 110(1) or (1A) of that Act, with the following modifications—

(a) any reference in those provisions to the appropriate authority is to be read as a reference to the CMA only;

(b) section 114(5A) is to be read as if the words "In the case of a penalty imposed on a person by the CMA or OFCOM," were omitted;

(c) section 114(12) is to be read as if, for paragraph (b), there were substituted—

"(b) "relevant guidance" means the statement of policy which was most recently published under section 35C at the time when the act or omission concerned occurred."

(7) The Secretary of State may by regulations amend subsection (3)(a) and (b) by substituting for either or both of the sums for the time being specified in those paragraphs such other sum or sums as the Secretary of State considers appropriate.

(8) Before making regulations under subsection (7) the Secretary of State must consult—

(a) the CMA, and

(b) such other persons as the Secretary of State considers appropriate.

(9) The Secretary of State may by regulations make provision for determining the turnover and daily turnover of an undertaking for the purposes of subsection (4).

(10) Regulations under subsection (9) may, in particular, make provision as to—

(a) the amounts which are, or which are not, to be treated as comprising an undertaking's turnover or daily turnover;

(b) the date, or dates, by reference to which an undertaking's turnover, or daily turnover, is to be determined.

(11) Regulations under subsection (9) may, in particular, make provision enabling the CMA to determine matters of a description specified in the regulations (including any of the matters mentioned in paragraphs (a) and (b) of subsection (10)).

Statement of policy in relation to functions under sections 31E, 34 and 35A

35C Statement of policy in relation to functions under sections 31E, 34 and 35A

(1) The CMA must prepare and publish a statement of policy in relation to the exercise of functions under sections 31E, 34 and 35A.

(2) The statement must, in particular, include a statement about the considerations relevant to the determination of the nature and amount of any penalty imposed under section 35A(1).

(3) The CMA may revise its statement of policy and, where it does so, it must publish the revised statement.

(4) The CMA must consult the Secretary of State and such other persons as it considers appropriate when preparing or revising its statement of policy.

(5) If the proposed statement of policy or revision relates to a matter in respect of which a regulator exercises concurrent jurisdiction, those consulted must include that regulator.

(6) A statement or revised statement of policy may not be published under this section without the approval of the Secretary of State.

*Civil sanctions: infringements of the Chapter I or II prohibitions***]**

36 [F205Penalties].

(1) On making a decision that an agreement has infringed the Chapter I prohibition F206..., the **[**F207CMA**]** may require an undertaking which is a party to the agreement to pay the **[**F207CMA**]** a penalty in respect of the infringement.

(2) On making a decision that conduct has infringed the Chapter II prohibition F208..., the **[**F207CMA**]** may require the undertaking concerned to pay the **[**F207CMA**]** a penalty in respect of the infringement.

(3) The **[**F207CMA**]** may impose a penalty on an undertaking under subsection (1) or (2) only if **[**F209the **[**F207CMA**]]** is satisfied that the infringement has been committed intentionally or negligently by the undertaking.

(4) Subsection (1) is subject to section 39 and does not apply **[**F210in relation to a decision that an agreement has infringed the Chapter I prohibition**]** if the **[**F207CMA**]** is satisfied that the undertaking acted on the reasonable assumption that that section gave it immunity in respect of the agreement.

(5) Subsection (2) is subject to section 40 and does not apply **[**F211in relation to a decision that conduct has infringed the Chapter II prohibition**]** if the **[**F207CMA**]** is satisfied that the undertaking acted on the reasonable assumption that that section gave it immunity in respect of the conduct.

(6) Notice of a penalty under this section must—

(a) be in writing; and

(b) specify the date before which the penalty is required to be paid.

(7) The date specified must not be earlier than the end of the period within which an appeal against the notice may be brought under section 46.

[F212(7A) In fixing a penalty under this section the CMA must have regard to—

(a) the seriousness of the infringement concerned, and

(b) the desirability of deterring both the undertaking on whom the penalty is imposed and others from—

(i) entering into agreements which infringe the Chapter 1 prohibition F213..., or

(ii) engaging in conduct which infringes the Chapter 2 prohibition F214....**]**

(8) No penalty fixed by the **[**F215CMA**]** under this section may exceed 10% of the turnover of the undertaking (determined in accordance with such provisions as may be specified in an order made by the Secretary of State).

(9) Any sums received by the **[**F215CMA**]** under this section are to be paid into the Consolidated Fund.

Textual Amendments

F205 Word in s. 36 sidenote substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 22(6)**

F206 Words in s. 36(1) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **12(a)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F207 Word in s. 36(1)-(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 20** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F208 Words in s. 36(2) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **12(b)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F209 Words in s. 36(3) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(28)(c)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F210 Words in s. 36(4) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 22(4)**

F211 Words in s. 36(5) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 22(5)**

F212 S. 36(7A) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 44(2)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

F213 Words in s. 36(7A)(b)(i) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **12(c)(i)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F214 Words in s. 36(7A)(b)(ii) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **12(c)(ii)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F215 Word in s. 36(8)(9) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 20** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

37 Recovery of penalties.

(1) If the specified date in a penalty notice has passed and—

(a) the period during which an appeal against the imposition, or amount, of the penalty may be made has expired without an appeal having been made, or

(b) such an appeal has been made and determined,

the **[**F216CMA**]** may recover from the undertaking, as a civil debt due to the **[**F216CMA**]**, any amount payable under the penalty notice which remains outstanding.

(2) In this section—

"penalty notice" means a notice given under section 36; and

"specified date" means the date specified in the penalty notice.

Textual Amendments

F216 Word in s. 37(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 21** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

38 The appropriate level of a penalty.

(1) The **[**F217CMA**]** must prepare and publish guidance as to the appropriate amount of any penalty under this Part **[**F218 in respect of an infringement of **[**F219the Chapter 1 prohibition or the Chapter 2 prohibition.**]]**

F220**[**F221(1A) . . . . . .**]**

(2) The **[**F217CMA**]** may at any time alter the guidance.

(3) If the guidance is altered, the **[**F217CMA**]** must publish it as altered.

(4) No guidance is to be published under this section without the approval of the Secretary of State.

(5) The **[**F222CMA**]** may, after consulting the Secretary of State, choose how **[**F223it**]** publishes **[**F223its**]** guidance.

(6) If the **[**F222CMA**]** is preparing or altering guidance under this section **[**F223it**]** must consult such persons as **[**F223it**]** considers appropriate.

(7) If the proposed guidance or alteration relates to a matter in respect of which a regulator exercises concurrent jurisdiction, those consulted must include that regulator.

(8) When setting the amount of a penalty under this Part **[**F224 in respect of an infringement of a kind mentioned in subsection (1)**]** , the **[**F225CMA**][**F226and the Tribunal **]** must have regard to the guidance for the time being in force under this section.

F227(9) . . . . . .

F228(10) . . . . . .

Textual Amendments

F217 Word in s. 38(1)-(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 22** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F218 Words in s. 38(1) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 40(4)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

F219 Words in s. 38(1) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **13(a)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F220 S. 38(1A) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **13(b)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F221 S. 38(1A) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 23(2)**

F222 Word in s. 38(5)(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 22** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F223 Words in s. 38 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(30)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F224 Words in s. 38(8) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 40(6)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

F225 Word in s. 38(8)(9) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 22** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F226 Words in s. 38(8) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 44(3)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

F227 S. 38(9) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **13(c)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F228 S. 38(10) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **13(c)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I5 S. 38 wholly in force; s. 38 not in force at Royal Assent see s. 76(3); s. 38(1)-(7) in force at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; s. 38(8)-(10) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

39 [F229Limited immunity in relation to the Chapter I prohibition].

(1) In this section "small agreement" means an agreement—

(a) which falls within a category prescribed for the purposes of this section; but

(b) is not a price fixing agreement.

(2) The criteria by reference to which a category of agreement is prescribed may, in particular, include—

(a) the combined turnover of the parties to the agreement (determined in accordance with prescribed provisions);

(b) the share of the market affected by the agreement (determined in that way).

(3) A party to a small agreement is immune from the effect of section 36(1) **[**F230so far as that provision relates to decisions about infringement of the Chapter I prohibition**]**; but the **[**F231CMA**]** may withdraw that immunity under subsection (4).

(4) If the **[**F231CMA**]** has investigated a small agreement, **[**F232it**]** may make a decision withdrawing the immunity given by subsection (3) if, as a result of **[**F232its**]** investigation, **[**F232it**]** considers that the agreement is likely to infringe the Chapter I prohibition.

(5) The **[**F231CMA**]** must give each of the parties in respect of which immunity is withdrawn written notice of **[**F232its**]** decision to withdraw the immunity.

(6) A decision under subsection (4) takes effect on such date ("the withdrawal date") as may be specified in the decision.

(7) The withdrawal date must be a date after the date on which the decision is made.

(8) In determining the withdrawal date, the **[**F233CMA**]** must have regard to the amount of time which the parties are likely to require in order to secure that there is no further infringement of the Chapter I prohibition with respect to the agreement.

(9) In subsection (1) "price fixing agreement" means an agreement which has as its object or effect, or one of its objects or effects, restricting the freedom of a party to the agreement to determine the price to be charged (otherwise than as between that party

and another party to the agreement) for the product, service or other matter to which the agreement relates.

Textual Amendments

F229 Words in s. 39 sidenote substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 24(3)**

F230 Words in s. 39(3) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 24(2)**

F231 Word in s. 39(3)-(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 23** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F232 Words in s. 39 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(31)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F233 Word in s. 39(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 23** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

40 Limited immunity in relation to the Chapter II prohibition.

(1) In this section "conduct of minor significance" means conduct which falls within a category prescribed for the purposes of this section.

(2) The criteria by reference to which a category is prescribed may, in particular, include—

(a) the turnover of the person whose conduct it is (determined in accordance with prescribed provisions);

(b) the share of the market affected by the conduct (determined in that way).

(3) A person is immune from the effect of section 36(2)**[**F234, so far as that provision relates to decisions about infringement of the Chapter II prohibition,**]** if **[**F235its**]** conduct is conduct of minor significance; but the **[**F236CMA**]** may withdraw that immunity under subsection (4).

(4) If the **[**F236CMA**]** has investigated conduct of minor significance, **[**F237it**]** may make a decision withdrawing the immunity given by subsection (3) if, as a result of **[**F237its**]** investigation, **[**F237it**]** considers that the conduct is likely to infringe the Chapter II prohibition.

(5) The **[**F236CMA**]** must give the person, or persons, whose immunity has been withdrawn written notice of **[**F235its**]** decision to withdraw the immunity.

(6) A decision under subsection (4) takes effect on such date ("the withdrawal date") as may be specified in the decision.

(7) The withdrawal date must be a date after the date on which the decision is made.

(8) In determining the withdrawal date, the **[**F238CMA**]** must have regard to the amount of time which the person or persons affected are likely to require in order to secure that there is no further infringement of the Chapter II prohibition.

Textual Amendments

F234 Words in s. 40(3) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 25(2)**

F235 Word in s. 40(5) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(32)(c)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F236 Word in s. 40(3)-(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 24** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
F237 Words in s. 40(4) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(32)(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
F238 Word in s. 40(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 24** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

[F239 Transferred EU anti-trust commitments and transferred EU anti-trust directions

Textual Amendments
F239 Ss. 40ZA-40ZD inserted by S.I. 2019/93, reg. 13A (as inserted 31.12.2020 by The Competition (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1343), regs. 1(1), **4**)

40ZA Interpretation

(1) In this section and in sections 40ZB and 40ZD "transferred EU anti-trust commitments" means EU anti-trust commitments—

(a) which are the subject of an Article 95(2) commitments transfer decision (and, where those commitments are modified by, or as contemplated by, that decision, or by a later Article 95(2) commitments transfer decision, means those commitments as so modified), and

(b) which have not been wholly waived or substituted by the European Commission.

(2) In this section—

"Article 95(2) commitments transfer decision" means an instrument issued by the European Commission in accordance with Article 95(2) of the EU withdrawal agreement transferring responsibility for the monitoring and enforcement of EU anti-trust commitments to the CMA;

"EU anti-trust commitments" means commitments contained, pursuant to Article 9(1) of Regulation 1/2003, in a decision adopted by the European Commission under that Regulation.

(3) In this section and in sections 40ZC and 40ZD a "transferred EU anti-trust direction" means an EU anti-trust direction—

(a) which is the subject of an Article 95(2) direction transfer decision (and, where that direction is modified by, or as contemplated by, that decision, or by a later Article 95(2) direction transfer decision, means that direction as so modified), and

(b) which has not been wholly revoked by the European Commission.

(4) In this section—

"Article 95(2) direction transfer decision" means an instrument issued by the European Commission in accordance with Article 95(2) of the EU withdrawal agreement transferring responsibility for the monitoring and enforcement of an EU anti-trust direction to the CMA;

"EU anti-trust direction" means a direction given pursuant to Article 7(1) of Regulation 1/2003 in a decision adopted by the European Commission under that Regulation;

"Regulation 1/2003" means Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty.

(5) So far as the context permits or requires, transferred EU anti-trust commitments and transferred EU anti-trust directions are to be treated for the purposes of this section and sections 40ZB to 40ZD as if—

(a) any reference to the area of the European Union or of the European Economic Area included the United Kingdom;

(b) any reference to the internal market included the United Kingdom;

(c) any reference to a member State included the United Kingdom;

(d) any reference to a party to the EEA agreement included the United Kingdom.

(6) Subsection (5) is subject to any different provision made by the Article 95(2) commitments transfer decision or Article 95(2) direction transfer decision in question.

40ZB Transferred EU anti-trust commitments

(1) The CMA has the function of monitoring compliance with transferred EU anti-trust commitments.

(2) If a person who is bound by transferred EU anti-trust commitments fails, without reasonable excuse, to adhere to those commitments, the CMA may apply to the court for an order—

(a) requiring the defaulter to make good the default within a time specified in the order; or

(b) if any of the transferred EU anti-trust commitments relate to anything to be done in the management or administration of an undertaking, requiring the undertaking or any of its officers to do it.

(3) An order of the court under subsection (2) may provide for all of the costs of, or incidental to, the application for the order to be borne by—

(a) the person in default; or

(b) any officer of an undertaking who is responsible for the default.

(4) In the application of subsection (3) to Scotland, the reference to "costs" is to be read as a reference to "expenses".

(5) In this section, "transferred EU anti-trust commitments" has the meaning given by section 40ZA(1).

40ZC Transferred EU anti-trust directions

(1) The CMA has the function of monitoring compliance with transferred EU anti-trust directions.

(2) If a person fails, without reasonable excuse, to comply with a transferred EU anti-trust direction, the CMA may apply to the court for an order—

(a) requiring the defaulter to make good the default within a time specified in the order; or

(b) if the transferred EU anti-trust direction related to anything to be done in the management or administration of an undertaking, requiring the undertaking or any of its officers to do it.

(3) An order of the court under subsection (2) may provide for all of the costs of, or incidental to, the application for the order to be borne by—

(a) the person in default; or

(b) any officer of an undertaking who is responsible for the default.

(4) In the application of subsection (3) to Scotland, the reference to "costs" is to be read as a reference to "expenses".

(5) In this section, "transferred EU anti-trust direction" has the meaning given by section 40ZA(3).

40ZD Information relating to transferred EU anti-trust commitments and transferred EU anti-trust directions

(1) The CMA may require any person to produce to the CMA a specified document, or to provide the CMA with specified information, for the purposes of assisting the CMA—

(a) to monitor compliance with transferred EU anti-trust commitments, or

(b) to decide whether to make an application under section 40ZB(2) in respect of those transferred EU anti-trust commitments.

(2) The CMA may require any person to produce to the CMA a specified document, or to provide the CMA with specified information, for the purposes of assisting the CMA—

(a) to monitor compliance with a transferred EU anti-trust direction, or

(b) to decide whether to make an application under section 40ZC(2) in respect of a transferred EU anti-trust direction.

(3) The powers conferred by subsections (1) and (2) are to be exercised by a notice in writing which

[F240(a)**]** indicates the subject matter and purpose of the demand (including identifying the transferred EU anti-trust commitments or transferred EU anti-trust direction in question) **[**F241, and

(b) includes information about the possible consequences of failing to comply with the notice.**]**

(4) The CMA may also specify in the notice—

(a) the time and place at which any document is to be produced or any information is to be provided;

(b) the manner and form in which it is to be produced or provided.

(5) The power under this section to require a person to produce a document includes power—

(a) if the document is produced—

(i) to take copies of it or extracts from it;

(ii) to require that person, or any person who is a present or past officer of, or is or was at any time employed by, that person, to provide an explanation of the document;

(b) if the document is not produced, to require that person to state, to the best of their knowledge and belief, where it is.

(6) In this section—

"specified" means—

(a) specified, or described, in the notice under subsection (3), or

(b) falling within a category which is specified, or described, in that notice;

"transferred EU anti-trust commitments" has the meaning given by section 40ZA(1);

"transferred EU anti-trust direction" has the meaning given by section 40ZA(3).**]**

Textual Amendments

F240 Words in s. 40ZD(3) renumbered as s. 40ZD(3)(a) (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 6(2)**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

F241 S. 40ZD(3)(b) and word inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 6(3)**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

[F242[F243]Civil sanctions: failure to comply with investigative requirements]

Textual Amendments

F242 Ss. 40A, 40B and cross-heading inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 40(2)**, 103(1)(i)(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

F243 S. 40A cross-heading substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 7**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

[

Enforcement of requirements: imposition of penalties

F244 40ZE

(1) The CMA may impose a penalty on a person in accordance with section 40A where the CMA considers that—

(a) the person has, without reasonable excuse, failed to comply with a requirement imposed on the person **[**F245by section 25B or**]** under section 26, 26A, 27, 28, 28A or 40ZD;

(b) the person has, without reasonable excuse, obstructed an officer acting in the exercise of the officer's powers under section 27 or under a warrant issued under section 28 or 28A;

(c) the person, having been required to produce a document under section 26, 27, 28 or 28A, has, without reasonable excuse—

(i) destroyed or otherwise disposed of, falsified or concealed the document, or

(ii) caused or permitted the document's destruction, disposal, falsification or concealment;

(d) the person has, without reasonable excuse, provided information that was false or misleading in a material particular to the CMA in connection with any function of the CMA under this Part;

(e) the person has, without reasonable excuse, provided information that was false or misleading in a material particular to another person knowing that the information was to be used for the purpose of providing information to the CMA in connection with any function of the CMA under this Part.

(2) But the CMA may not proceed against a person under this section in relation to an act or omission which constitutes an offence under any of sections 42 to 44 if the person has, by reason of that act or omission, been found guilty of that offence.

(3) In deciding whether and, if so, how to proceed under subsection (1) the CMA must have regard to the statement of policy which was most recently published under section 40B at the time when the act or omission concerned occurred.

(4) In this section—

(a) the reference to the production of a document includes a reference to the production of a legible and intelligible copy of information recorded otherwise than in legible form;

(b) the reference to concealing a document includes a reference to destroying the means of reproducing information recorded otherwise than in legible form.

(5) Sections 112 to 115 of the Enterprise Act 2002 (supplementary provisions about penalties) apply in relation to a penalty imposed under subsection (1) as they apply in relation to a penalty imposed under section 110(1) or (1A) of that Act, with the following modifications—

(a) any reference in those provisions to the appropriate authority is to be read as a reference to the CMA only;

(b) section 114(5A) is to be read as if the words "In the case of a penalty imposed on a person by the CMA or OFCOM," were omitted;

(c) section 114(12) is to be read as if, for paragraph (b), there were substituted—

"(b) "relevant guidance" means the statement of policy which was most recently published under section 40B of the 1998 Act at the time when the act or omission concerned occurred."**]**

Textual Amendments

F244 S. 40ZE inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 8**; S.I. 2024/1226, regs. 1(2), 2(1)(14) (with Sch. paras. 13(1)(2), 20)

F245 Words in s. 40ZE(1)(a) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 121(3)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2)

40A Penalties: [F246amount]

[F247(1A) A penalty imposed under section 40ZE(1) is to be of such amount as the CMA considers appropriate.**]**

(2) **[**F248A penalty imposed under section 40ZE(1)(a) may be—**]**

(a) a fixed amount,

(b) an amount calculated by reference to a daily rate, or

(c) a combination of a fixed amount and an amount calculated by reference to a daily rate.

[F249(2A) A penalty imposed under any of section 40ZE(1)(b) to (e) must be a fixed amount.**]**

(3) **[**F250A penalty imposed under section 40ZE(1) on a person who is not an undertaking must not—**]**

(a) in the case of a fixed amount, exceed **[**F251£30,000**]**;

(b) in the case of an amount calculated by reference to a daily rate, exceed **[**F252£15,000 per day**]**;

(c) in the case of a fixed amount and an amount calculated by reference to a daily rate, exceed such fixed amount and such amount per day F253....

[F254(3A) A penalty imposed under section 40ZE(1) on a person who is an undertaking must not—

(a) in the case of a fixed amount, exceed 1% of the turnover of the undertaking;

(b) in the case of an amount calculated by reference to a daily rate, for each day exceed 5% of the daily turnover of the undertaking;

(c) in the case of a fixed amount and an amount calculated by reference to a daily rate, exceed such fixed amount and such amount per day.**]**

F255(4) . . . . . .

F255(5) . . . . . .

(6) In imposing a penalty by reference to a daily rate—

(a) no account is to be taken of any days before the service of the **[**F256provisional penalty notice under section 112(A1)**]** of the Enterprise Act 2002 (as applied by **[**F257section 40ZE(5)**]**) on the person concerned, and

(b) unless the CMA determines an earlier date (whether before or after the penalty is imposed), the amount payable ceases to accumulate at the beginning of the earliest of the days mentioned in subsection (7).

(7) The days are—

(a) the day on which the requirement concerned is satisfied;

(b) the day on which the CMA makes a decision (within the meaning given by section 31(2)) or terminates the investigation in question without making such a decision;

(c) if the Secretary of State has made an order under section 31F(1)(b) imposing a time-limit on the making of such a decision, the latest day on which such a decision may be made as a result of the investigation in question;

[F258(d) in a case where the requirement was imposed in connection with the provision by the CMA of assistance to an overseas regulator (see Chapter 2 of Part 5 of the Digital Markets, Competition and Consumers Act 2024), the day on which the overseas regulator no longer requires that assistance.**]**

[F259(7A) The Secretary of State may by regulations amend subsection (3)(a) and (b) by substituting for either or both of the sums for the time being specified in those paragraphs such other sum or sums as the Secretary of State considers appropriate.**]**

(8) Before making **[**F260regulations under subsection (7A)**]**, the Secretary of State must consult the CMA and such other persons as the Secretary of State considers appropriate.

F261(9) . . . . . .

[F262(10) The Secretary of State may by regulations make provision for determining the turnover and daily turnover of an undertaking for the purposes of this section.

(11) Regulations under subsection (10) may, in particular, make provision as to—

(a) the amounts which are, or which are not, to be treated as an undertaking's turnover or daily turnover;

(b) the date, or dates, by reference to which an undertaking's turnover, or daily turnover, is to be determined.

(12) Regulations under subsection (10) may, in particular, make provision enabling the CMA to determine matters of a description specified in the regulations (including any of the matters mentioned in paragraphs (a) and (b) of subsection (11)).**]**

Textual Amendments

F246 Word in s. 40A heading substituted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 10 para. 9(2)**; S.I. 2024/1226, regs. 1(2), 2(1)(14) (with Sch. paras. 13(3), 20)

F247 S. 40A(1A) substituted for s. 40A(1) (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 10 para. 9(3)**; S.I. 2024/1226, regs. 1(2), 2(1)(14) (with Sch. paras. 13(3), 20)

F248 Words in s. 40A(2) substituted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 10 para. 9(4)**; S.I. 2024/1226, regs. 1(2), 2(1)(14) (with Sch. paras. 13(3), 20)

F249 S. 40A(2A) inserted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 10 para. 9(5)**; S.I. 2024/1226, regs. 1(2), 2(1)(14) (with Sch. paras. 13(3), 20)

F250 Words in s. 40A(3) substituted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 10 para. 9(6)(a)**; S.I. 2024/1226, regs. 1(2), 2(1)(14) (with Sch. paras. 13(3), 20)

F251 Sum in S. 40A(3)(a) substituted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 10 para. 9(6)(b)**; S.I. 2024/1226, regs. 1(2), 2(1)(14) (with Sch. paras. 13(3), 20)

F252 Sum in S. 40A(3)(b) substituted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 10 para. 9(6)(c)**; S.I. 2024/1226, regs. 1(2), 2(1)(14) (with Sch. paras. 13(3), 20)

F253 Words in s. 40A(3)(c) omitted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 10 para. 9(6)(d)**; S.I. 2024/1226, regs. 1(2), 2(1)(14) (with Sch. paras. 13(3), 20)

F254 S. 40A(3A) inserted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 10 para. 9(7)**; S.I. 2024/1226, regs. 1(2), 2(1)(14) (with Sch. paras. 13(3), 20)

F255 S. 40A(4)(5) omitted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 10 para. 9(8)**; S.I. 2024/1226, regs. 1(2), 2(1)(14) (with Sch. paras. 13(3), 20)

F256 Words in s. 40A(6)(a) substituted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 10 para. 9(9)(a)**; S.I. 2024/1226, regs. 1(2), 2(1)(14) (with Sch. paras. 13(3), 20)

F257 Words in s. 40A(6)(a) substituted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 10 para. 9(9)(b)**; S.I. 2024/1226, regs. 1(2), 2(1)(14) (with Sch. paras. 13(3), 20)

F258 S. 40A(7)(d) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 28 para. 11**; S.I. 2024/1226, regs. 1(2), 2(1)(20)

F259 S. 40A(7A) inserted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 10 para. 9(10)**; S.I. 2024/1226, regs. 1(2), 2(1)(14) (with Sch. paras. 13(3), 20)

F260 Words in s. 40A(8) substituted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 10 para. 9(11)**; S.I. 2024/1226, regs. 1(2), 2(1)(14) (with Sch. paras. 13(3), 20)

F261 S. 40A(9) omitted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 10 para. 9(12)**; S.I. 2024/1226, regs. 1(2), 2(1)(14) (with Sch. paras. 13(3), 20)

F262 S. 40A(10)-(12) inserted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 10 para. 9(13)**; S.I. 2024/1226, regs. 1(2), 2(1)(14) (with Sch. paras. 13(3), 20)

40B Statement of policy on penalties

(1) The CMA must prepare and publish a statement of policy in relation to the **[**F263exercise of functions**]** under section **[**F264**]**40ZE**]**.

(2) The CMA must, in particular, include a statement about the considerations relevant to the determination of the nature and amount of any penalty imposed under section **[**F265**]**40ZE**]**.

(3) The CMA may revise its statement of policy and, where it does so, it must publish the revised statement.

(4) The CMA must consult **[**F266the Secretary of State and such other persons**]** as it considers appropriate when preparing or revising its statement of policy.

(5) If the proposed statement of policy or revision relates to a matter in respect of which a regulator exercises concurrent jurisdiction, those consulted must include that regulator.

[F267(5A) A statement or revised statement of policy may not be published under this section without the approval of the Secretary of State.**]**

[F268(6) . . . . . .**]**

Textual Amendments

F263 Words in s. 40B(1) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 10(2)(a)**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

F264 Word in s. 40B(1) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 10(2)(b)**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

F265 Word in s. 40B(2) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 10(3)**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

F266 Words in s. 40B(4) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 10(4)**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

F267 S. 40B(5A) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 10(5)**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

F268 S. 40B(6) omitted (1.1.2025) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 10(6)**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

41 Agreements notified to the Commission.

[F269(1) This section applies if a party to an agreement which may infringe the Chapter I prohibition has notified the agreement to the Commission for a decision as to whether an exemption will be granted under Article 85 with respect to the agreement.

(2) A penalty may not be required to be paid under this Part in respect of any infringement of the Chapter I prohibition after notification but before the Commission determines the matter.

(3) If the Commission withdraws the benefit of provisional immunity from penalties with respect to the agreement, subsection (2) ceases to apply as from the date on which that benefit is withdrawn.

(4) The fact that an agreement has been notified to the Commission does not prevent the **[**F270OFT**]** from investigating it under this Part.

(5) In this section "provisional immunity from penalties" has such meaning as may be prescribed.**]**

Textual Amendments

F269 S. 41 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 26** (with reg. 6(2))

F270 Word in s. 41 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(33)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Offences

42 [F271Obstruction].

F272(1) . . . . . .

F272(2) . . . . . .

F272(3) . . . . . .

F272(4) . . . . . .

(5) A person is guilty of an offence if he intentionally obstructs an officer acting in the exercise of his powers under section 27.

(6) A person guilty of an offence under subsection F273... (5) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(7) A person who intentionally obstructs an officer in the exercise of his powers under a warrant issued under **[**F274section 28 or 28A**]** is guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

[F275(8) A person is not guilty of an offence under subsection (5) or (7) by reason of any act or omission in relation to which the CMA has proceeded against the person under section 40ZE(1).**]**

Textual Amendments

F271 S. 42 heading substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 11(2)**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

F272 S. 42(1)-(4) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 40(8)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

F273 Words in s. 42(6) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 40(9)**, 103(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

F274 Words in s. 42(7) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 27(3)**

F275 S. 42(8) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 11(3)**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

43 Destroying or falsifying documents.

(1) A person is guilty of an offence if, having been required to produce a document under section 26, 27**[**F276, 28 or 28A**]**—

(a) he intentionally or recklessly destroys or otherwise disposes of it, falsifies it or conceals it, or

(b) he causes or permits its destruction, disposal, falsification or concealment.

[F277(1A) A person is not guilty of an offence under subsection (1) by reason of any act or omission in relation to which the CMA has proceeded against the person under section 40ZE(1).**]**

(2) A person guilty of an offence under subsection (1) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

Textual Amendments

F276 Words in s. 43(1) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 28(2)**

F277 S. 43(1A) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 12**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

44 False or misleading information.

(1) If information is provided by a person to the **[**F278CMA**]** in connection with any function of the **[**F278CMA**]** under this Part, that person is guilty of an offence if—

(a) the information is false or misleading in a material particular, and

(b) he knows that it is or is reckless as to whether it is.

(2) A person who—

(a) provides any information to another person, knowing the information to be false or misleading in a material particular, or

(b) recklessly provides any information to another person which is false or misleading in a material particular,

knowing that the information is to be used for the purpose of providing information to the **[**[F278]CMA**]** in connection with any of **[**[F279]its**]** functions under this Part, is guilty of an offence.

[[F280](2A) A person is not guilty of an offence under this section by reason of any act or omission in relation to which the CMA has proceeded against the person under section 40ZE(1).**]**

(3) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

Textual Amendments

F278 Word in s. 44(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 25** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F279 Words in s. 44 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(34)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F280 S. 44(2A) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 10 para. 13**; S.I. 2024/1226, regs. 1(2), 2(1)(14)

Modifications etc. (not altering text)

C77 S. 44 applied (18.6.2001) by 2000 c. 8, **s. 399**; S.I. 2001/1820, art. 2, **Sch.**

[**[F281]Supplementary

Textual Amendments

F281 S. 44A and cross-heading inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 13 para. 2**; S.I. 2024/1226, regs. 1(2), 2(1)(17) (with Sch. paras. 17(2), 20)

44A Giving of notices under Chapter 3

Section 126 of the Enterprise Act 2002 (service of documents) applies to the giving of notices under this Chapter as it applies to the service of documents under Part 3 of that Act.**]**

[[F282]44B Extra-territorial application of notices under sections 26 and 40ZD

(1) This section applies to the exercise of the CMA's power to give a person a notice under section 26 or 40ZD.

(2) The power is exercisable so as to—

(a) give the notice to a person who is outside the United Kingdom (subject to subsections (3) and (4));

(b) require the production of a specified document, or the provision of specified information, held outside the United Kingdom.

(3) The CMA's power to give a notice under section 26 to a person outside the United Kingdom by virtue of subsection (2)(a) is exercisable only if—

(a) the person's activities are being investigated as part of an investigation under section 25, or

(b) the person has a UK connection.

(4) The CMA's power to give a notice under section 40ZD to a person outside the United Kingdom by virtue of subsection (2)(a) is exercisable only if—

(a) the person is bound by transferred EU anti-trust commitments (within the meaning of section 40ZA), or

(b) the person is subject to a transferred EU anti-trust direction (within the meaning of that section).

(5) For the purposes of subsection (3)(b), a person has a UK connection if the person—

(a) is a United Kingdom national;

(b) is an individual who is habitually resident in the United Kingdom;

(c) is a body incorporated under the law of any part of the United Kingdom;

(d) carries on business in the United Kingdom.

(6) In subsection (5)(a) "United Kingdom national" means—

(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;

(b) a person who is a British subject under the British Nationality Act 1981;

(c) a British protected person within the meaning of that Act.

(7) Nothing in this section is to be taken to limit any other power of the CMA to give a notice under section 26 or 40ZD to a person outside the United Kingdom.**]**

Textual Amendments

F282 S. 44B inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 13 para. 15**; S.I. 2024/1226, regs. 1(2), 2(1)(17)

CHAPTER IV

[F283APPEALS BEFORE THE TRIBUNAL AND PROCEEDINGS AND SETTLEMENTS RELATING TO INFRINGEMENTS OF COMPETITION LAW**]**

Textual Amendments

F283 Pt. 1 Ch. 4 heading substituted (9.3.2017) by The Claims in respect of Loss or Damage arising from Competition Infringements (Competition Act 1998 and Other Enactments (Amendment)) Regulations 2017 (S.I. 2017/385), reg. 1(2), **Sch. 1 para. 2** (with Sch. 1 para. 5)

F284 …

Textual Amendments

F284 S. 45 cross-heading omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 220** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F285 45 The Competition Commission.

. . . . . .

Textual Amendments

F285 S. 45 omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 220** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Modifications etc. (not altering text)

C78 S. 45(4) savings for effect of 2013 c. 24, Sch. 5 para. 220 (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), arts. 1(1), **3(7)** (with art. 3)

[F286 Appeals before the Tribunal]

Textual Amendments

F286 S. 46 cross-heading substituted (9.3.2017) by The Claims in respect of Loss or Damage arising from Competition Infringements (Competition Act 1998 and Other Enactments (Amendment)) Regulations 2017 (S.I. 2017/385), reg. 1(2), **Sch. 2 para. 2**

46 Appealable decisions.

(1) Any party to an agreement in respect of which the **[**F287CMA**]** has made a decision may appeal to **[**F288the Tribunal**]** against, or with respect to, the decision.

(2) Any person in respect of whose conduct the **[**F287CMA**]** has made a decision may appeal to **[**F288the Tribunal**]** against, or with respect to, the decision.

[F289(3) In this section "decision" means a decision of the **[**F287CMA**]** —

(a) as to whether the Chapter I prohibition has been infringed,

F290(b) . . . . . .

(c) as to whether the Chapter II prohibition has been infringed,

F291(d) . . . . . .

(e) cancelling a block or **[**F292**[**F293assimilated**]** exemption**]**,

F294(f) . . . . . .

(g) not releasing commitments pursuant to a request made under section 31A(4)(b)(i),

(h) releasing commitments under section 31A(4)(b)(ii),

[F295(ha) to make directions under section 35,

(hb) not to make directions under section 35,**]**

(i) as to the imposition of any penalty under section 36 or as to the amount of any such penalty,

and includes a direction under section 32 **[**F296or 33**]** and such other decisions under this Part as may be prescribed.**]**

(4) Except in the case of an appeal against the imposition, or the amount, of a penalty, the making of an appeal under this section does not suspend the effect of the decision to which the appeal relates.

(5) Part I of Schedule 8 makes further provision about appeals.

Textual Amendments

F287 Word in s. 46(1)-(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 26** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F288 Words in s. 46(1)(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 5 para. 2(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F289 S. 46(3) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 29(2)** (with reg. 8)

F290 S. 46(3)(b) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **14(a)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F291 S. 46(3)(d) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **14(a)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F292 Words in s. 46(3)(e) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **14(b)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F293 Word in s. 46(3)(e) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 41(2)(c)**

F294 S. 46(3)(f) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **14(c)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F295 S. 46(3)(ha)(hb) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 124(1)(a)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2) (with Sch. para. 3, 20)

F296 Words in s. 46(3)(i) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 124(1)(b)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2) (with Sch. para. 3, 20)

Modifications etc. (not altering text)

C79 Ss. 46-47 modified (1.3.2000) by S.I. 2000/261, **rule 3**
Ss. 46-47 modified (1.3.2000) by S.I. 2000/261, **rule 6**

C80 Ss. 46-49 applied in part (31.10.2023) by The Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023 (S.I. 2023/80), arts. 1(3), **22**

[F297**47 Third party appeals**

[F298**(1) A person who does not fall within section 46(1) or (2) may appeal to the Tribunal with respect to—

(a) a decision falling within **[**F299paragraph (a), (c) or (e)**]** of section 46(3);

(b) a decision falling within paragraph (g) of section 46(3);

(c) a decision of the **[**F300CMA**]** to accept or release commitments under section 31A, or to accept a variation of such commitments other than a variation which is not material in any respect;

(d) a decision of the **[**F300CMA**]** to make directions under section 35;

(e) a decision of the **[**F300CMA**]** not to make directions under section 35; or

(f) such other decision of the **[**F300CMA**]** under this Part as may be prescribed.**]**

(2) A person may make an appeal under subsection (1) only if the Tribunal considers that he has a sufficient interest in the decision with respect to which the appeal is made, or that he represents persons who have such an interest.

(3) The making of an appeal under this section does not suspend the effect of the decision to which the appeal relates.**]**

Textual Amendments

F297 S. 47 substituted (20.6.2003) by Enterprise Act 2002 (c. 40), **ss. 17**, 279; S.I. 2003/1397, art. 2(1), Sch. (with art. 5)

F298 S. 47(1) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 30(2)** (with reg. 8)

F299 Words in s. 47(1)(a) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **15** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F300 Word in s. 47(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 27** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Modifications etc. (not altering text)

C80 Ss. 46-49 applied in part (31.10.2023) by The Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023 (S.I. 2023/80), arts. 1(3), **22**

C81 Ss. 46-47 modified (1.3.2000) by S.I. 2000/261, rule. 3
Ss. 46-47 modified (1.3.2000) by S.I. 2000/261, **rule 6**

[F301Claims for loss or damage [F302, or for declaratory relief]: proceedings before the Tribunal]

Textual Amendments

F301 S. 47A cross-heading inserted (9.3.2017) by The Claims in respect of Loss or Damage arising from Competition Infringements (Competition Act 1998 and Other Enactments (Amendment)) Regulations 2017 (S.I. 2017/385), reg. 1(2), **Sch. 2 para. 3**

F302 Words in s. 47A cross-heading inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 2**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

[F303 47A Proceedings before the Tribunal: claims for damages etc.

(1) A person may make a claim to which this section applies in proceedings before the Tribunal, subject to the provisions of this Act and Tribunal rules.

(2) This section applies to a claim of a kind specified in subsection (3) which a person who has suffered loss or damage may make in civil proceedings brought in any part of

the United Kingdom in respect of an infringement decision or an alleged infringement of—

(a) the Chapter I prohibition, **[**F304or**]**

(b) the Chapter II prohibition,

F305(c) . . . . . .

F306(d) . . . . . .

(3) The claims are—

(a) a claim for damages;

(b) any other claim for a sum of money;

(c) in proceedings in England and Wales or Northern Ireland, a claim for an injunction.

[F307(3A) This section also applies to a claim for a declaration or, in relation to Scotland, for a declarator which a person may make in respect of an infringement decision or an alleged infringement of the Chapter 1 prohibition or the Chapter 2 prohibition.**]**

(4) For the purpose of identifying claims which may be made in civil proceedings, any limitation rules or rules relating to prescription that would apply in such proceedings are to be disregarded.

(5) The right to make a claim in proceedings under this section does not affect the right to bring any other proceedings in respect of the claim.

[F308(6) In this Part (except in section 49C) "infringement decision" means—

(a) a decision of the CMA that the Chapter I prohibition or the Chapter II prohibition has been infringed, or

(b) a decision of the Tribunal on an appeal from the decision of the CMA that the Chapter I prohibition or the Chapter II prohibition has been infringed.**]]**

Textual Amendments

F303 S. 47A substituted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 4(1)** (with Sch. 8 para. 4(2) and The Competition Appeal Tribunal Rules 2015 (S.I. 2015/1648), rules 1, 119(4)); S.I. 2015/1630, art. 3(j)

F304 Word in s. 47A(2)(a) inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **16(2)(a)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F305 S. 47A(2)(c) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **16(2)(b)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F306 S. 47A(2)(d) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **16(2)(b)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F307 S. 47A(3A) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 3**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

F308 S. 47A(6) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **16(3)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C80 Ss. 46-49 applied in part (31.10.2023) by The Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023 (S.I. 2023/80), arts. 1(3), **22**

[F309 47B Collective proceedings before the Tribunal

(1) Subject to the provisions of this Act and Tribunal rules, proceedings may be brought before the Tribunal combining two or more claims to which section 47A applies ("collective proceedings").

(2) Collective proceedings must be commenced by a person who proposes to be the representative in those proceedings.

(3) The following points apply in relation to claims in collective proceedings—

(a) it is not a requirement that all of the claims should be against all of the defendants to the proceedings,

(b) the proceedings may combine claims which have been made in proceedings under section 47A and claims which have not, and

(c) a claim which has been made in proceedings under section 47A may be continued in collective proceedings only with the consent of the person who made that claim.

(4) Collective proceedings may be continued only if the Tribunal makes a collective proceedings order.

(5) The Tribunal may make a collective proceedings order only—

(a) if it considers that the person who brought the proceedings is a person who, if the order were made, the Tribunal could authorise to act as the representative in those proceedings in accordance with subsection (8), and

(b) in respect of claims which are eligible for inclusion in collective proceedings.

(6) Claims are eligible for inclusion in collective proceedings only if the Tribunal considers that they raise the same, similar or related issues of fact or law and are suitable to be brought in collective proceedings.

(7) A collective proceedings order must include the following matters—

(a) authorisation of the person who brought the proceedings to act as the representative in those proceedings,

(b) description of a class of persons whose claims are eligible for inclusion in the proceedings, and

(c) specification of the proceedings as opt-in collective proceedings or opt-out collective proceedings (see subsections (10) and (11)).

(8) The Tribunal may authorise a person to act as the representative in collective proceedings—

(a) whether or not that person is a person falling within the class of persons described in the collective proceedings order for those proceedings (a "class member"), but

(b) only if the Tribunal considers that it is just and reasonable for that person to act as a representative in those proceedings.

(9) The Tribunal may vary or revoke a collective proceedings order at any time.

(10) "Opt-in collective proceedings" are collective proceedings which are brought on behalf of each class member who opts in by notifying the representative, in a manner and by a time specified, that the claim should be included in the collective proceedings.

(11) "Opt-out collective proceedings" are collective proceedings which are brought on behalf of each class member except—

(a) any class member who opts out by notifying the representative, in a manner and by a time specified, that the claim should not be included in the collective proceedings, and

(b) any class member who—

(i) is not domiciled in the United Kingdom at a time specified, and

(ii) does not, in a manner and by a time specified, opt in by notifying the representative that the claim should be included in the collective proceedings.

(12) Where the Tribunal gives a judgment or makes an order in collective proceedings, the judgment or order is binding on all represented persons, except as otherwise specified.

(13) The right to make a claim in collective proceedings does not affect the right to bring any other proceedings in respect of the claim.

(14) In this section and in section 47C, "specified" means specified in a direction made by the Tribunal.

Textual Amendments

F309 S. 47B substituted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 5(1)** (with Sch. 8 para. 5(2)); S.I. 2015/1630, art. 3(j)

Modifications etc. (not altering text)

C80 Ss. 46-49 applied in part (31.10.2023) by The Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023 (S.I. 2023/80), arts. 1(3), **22**

[F310 47C Collective proceedings: damages and costs

F311 (1) **[** The Tribunal may not award exemplary damages in collective proceedings.**]**

(2) The Tribunal may make an award of damages in collective proceedings without undertaking an assessment of the amount of damages recoverable in respect of the claim of each represented person.

(3) Where the Tribunal makes an award of damages in opt-out collective proceedings, the Tribunal must make an order providing for the damages to be paid on behalf of the represented persons to—

(a) the representative, or

(b) such person other than a represented person as the Tribunal thinks fit.

(4) Where the Tribunal makes an award of damages in opt-in collective proceedings, the Tribunal may make an order as described in subsection (3).

(5) Subject to subsection (6), where the Tribunal makes an award of damages in opt-out collective proceedings, any damages not claimed by the represented persons within

a specified period must be paid to the charity for the time being prescribed by order made by the Lord Chancellor under section 194(8) of the Legal Services Act 2007.

(6) In a case within subsection (5) the Tribunal may order that all or part of any damages not claimed by the represented persons within a specified period is instead to be paid to the representative in respect of all or part of the costs or expenses incurred by the representative in connection with the proceedings.

(7) The Secretary of State may by order amend subsection (5) so as to substitute a different charity for the one for the time being specified in that subsection.

(8) A damages-based agreement is unenforceable if it relates to opt-out collective proceedings.

(9) In this section—

(a) "charity" means a body, or the trustees of a trust, established for charitable purposes only;

(b) "damages" (except in the term "exemplary damages") includes any sum of money which may be awarded by the Tribunal in collective proceedings (other than costs or expenses);

(c) "damages-based agreement" has the meaning given in section 58AA(3) of the Courts and Legal Services Act 1990.**]**

Textual Amendments

F309 S. 47B substituted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 5(1)** (with Sch. 8 para. 5(2)); S.I. 2015/1630, art. 3(j)

F310 S. 47C inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 6**; S.I. 2015/1630, art. 3(j)

F311 S. 47C(1) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 126(1)**, 339(1) (with s. 126(3)-(5)); S.I. 2024/1226, regs. 1(2), 2(1)(2)

Modifications etc. (not altering text)

C80 Ss. 46-49 applied in part (31.10.2023) by The Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023 (S.I. 2023/80), arts. 1(3), **22**

[F312 47D Proceedings under section 47A or collective proceedings: injunctions etc.

(1) An injunction granted by the Tribunal in proceedings under section 47A or in collective proceedings—

(a) has the same effect as an injunction granted by the High Court, and

(b) is enforceable as if it were an injunction granted by the High Court.

(2) In deciding whether to grant an injunction in proceedings under section 47A or in collective proceedings, the Tribunal must—

(a) in proceedings in England and Wales, apply the principles which the High Court would apply in deciding whether to grant an injunction under section 37(1) of the Senior Courts Act 1981, and

(b) in proceedings in Northern Ireland, apply the principles that the High Court would apply in deciding whether to grant an injunction.

(3) Subsection (2) is subject to Tribunal rules which make provision of the kind mentioned in paragraph 15A(3) of Schedule 4 to the Enterprise Act 2002 (undertakings as to damages in relation to claims subject to the fast-track procedure).**]**

Textual Amendments

F309 S. 47B substituted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 5(1)** (with Sch. 8 para. 5(2)); S.I. 2015/1630, art. 3(j)

F312 S. 47D inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 7**; S.I. 2015/1630, art. 3(j)

Modifications etc. (not altering text)

C80 Ss. 46-49 applied in part (31.10.2023) by The Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023 (S.I. 2023/80), arts. 1(3), **22**

[F313 47DA Proceedings under section 47A or collective proceedings: declaratory relief

(1) A declaration granted by the Tribunal in proceedings under section 47A or collective proceedings has the same effect as a declaration granted by the High Court.

(2) A declarator granted by the Tribunal in proceedings under section 47A or collective proceedings has the same effect as a declarator granted by the Court of Session.

(3) In deciding whether to grant a declaration in proceedings under section 47A or collective proceedings, the Tribunal must apply the principles that the High Court would apply in deciding whether to grant a declaration.

(4) In deciding whether to grant a declarator in proceedings under section 47A or collective proceedings, the Tribunal must apply the principles that the Court of Session would apply in deciding whether to grant a declarator.

(5) The Tribunal may grant a declaration or declarator in proceedings under section 47A or collective proceedings whether or not any other remedy is claimed.**]**

Textual Amendments

F313 S. 47DA inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 4**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

F314 47E Limitation or prescriptive periods for proceedings under section 47A and collective proceedings

. . . . . .

Textual Amendments

F314 S. 47E omitted (9.3.2017) by virtue of The Claims in respect of Loss or Damage arising from Competition Infringements (Competition Act 1998 and Other Enactments (Amendment)) Regulations 2017 (S.I. 2017/385), reg. 1(2), **Sch. 2 para. 5(1)** (with Sch. 2 paras. 5(2), 10)

[F315Further provision about claims in respect of loss or damage [F316, or for declaratory relief,] before a court or the Tribunal

Textual Amendments

F315 S. 47F and cross-heading inserted (9.3.2017) by The Claims in respect of Loss or Damage arising from Competition Infringements (Competition Act 1998 and Other Enactments (Amendment)) Regulations 2017 (S.I. 2017/385), reg. 1(2), **Sch. 1 para. 3** (with Sch. 1 para. 5)

F316 Words in s. 47F cross-heading inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 5**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

47F Further provision about claims in respect of loss or damage [F317, or for declaratory relief,] before a court or the Tribunal

Schedule 8A makes further provision about claims in respect of loss or damage **[**F318, or for declarations or declarators,**]** before a court or the Tribunal.**]**

Textual Amendments

F317 Words in s. 47F heading inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 6(2)**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

F318 Words in s. 47F inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 6(3)**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

[F319Further appeals from the Tribunal]

Textual Amendments

F319 S. 48 cross-heading inserted (9.3.2017) by The Claims in respect of Loss or Damage arising from Competition Infringements (Competition Act 1998 and Other Enactments (Amendment)) Regulations 2017 (S.I. 2017/385), reg. 1(2), **Sch. 2 para. 6**

F320 48 Appeal tribunals.

. . . . . .

Textual Amendments

F320 S. 48 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 3, **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

[F321 49 Further appeals [F322from the Tribunal]

(1) An appeal lies to the appropriate court—

(a) from a decision of the Tribunal as to the amount of a penalty under section 36; **[**F323and**]**

F324(b) . . . . . .

(c) on a point of law arising from any other decision of the Tribunal on an appeal under section 46 or 47.

[F325(1A) An appeal lies to the appropriate court on a point of law arising from a decision of the Tribunal in proceedings under section 47A or in collective proceedings—

(a) as to the award of damages or other sum (other than a decision on costs or expenses), F326...

(b) as to the grant of an injunction **[**F327, or

(c) as to the grant of a declaration or a declarator.**]**

(1B) An appeal lies to the appropriate court from a decision of the Tribunal in proceedings under section 47A or in collective proceedings as to the amount of an award of damages or other sum (other than the amount of costs or expenses).

(1C) An appeal under subsection (1A) arising from a decision in respect of a stand-alone claim may include consideration of a point of law arising from a finding of the Tribunal as to an infringement of a prohibition listed in section 47A(2).

(1D) In subsection (1C) "a stand-alone claim" is a claim—

(a) in respect of an alleged infringement of a prohibition listed in section 47A(2), and

(b) made in proceedings under section 47A or included in collective proceedings.**]**

(2) An appeal under this section—

(a) **[**F328except as provided by subsection (2A),**]** may be brought by a party to the proceedings before the Tribunal or by a person who has a sufficient interest in the matter; and

(b) requires the permission of the Tribunal or the appropriate court.

[F329(2A) An appeal from a decision of the Tribunal in respect of a claim included in collective proceedings may be brought only by the representative in those proceedings or by a defendant to that claim.**]**

(3) In this section "the appropriate court" means the Court of Appeal or, in the case of an appeal from Tribunal proceedings in Scotland, the Court of Session.**]**

Textual Amendments

F321 S. 49 substituted (1.4.2003 for specified purposes, 18.7.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 5 para. 4**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.); S.I. 2004/1866, art. 2

F322 Words in s. 49 heading inserted (9.3.2017) by The Claims in respect of Loss or Damage arising from Competition Infringements (Competition Act 1998 and Other Enactments (Amendment)) Regulations 2017 (S.I. 2017/385), reg. 1(2), **Sch. 2 para. 7**

F323 Word in s. 49(1)(a) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 9(2)(a)**; S.I. 2015/1630, art. 3(j)

F324 S. 49(1)(b) omitted (1.10.2015) by virtue of Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 9(2)(b)**; S.I. 2015/1630, art. 3(j)

F325 S. 49(1A)-(1D) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 9(3)**; S.I. 2015/1630, art. 3(j)

F326 Word in s. 49(1A)(a) omitted (1.1.2025) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 7(2)**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

F327 S. 49(1A)(c) and word inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 7(3)**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

F328 Words in s. 49(2)(a) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 9(4)**; S.I. 2015/1630, art. 3(j)

F329 S. 49(2A) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 9(5)**; S.I. 2015/1630, art. 3(j)

Modifications etc. (not altering text)

C80 Ss. 46-49 applied in part (31.10.2023) by The Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023 (S.I. 2023/80), arts. 1(3), **22**

Commencement Information

I6 S. 49 wholly in force; s. 49 not in force at Royal Assent see s. 76(3); s. 49(3) in force at 1.4.1999 by S.I. 1999/505, **art. 2 Sch. 2**; s. 49(1)(2) and (4) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

F330 Settlements relating to infringements of competition law

Textual Amendments

F330 S. 49A and cross-heading inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 10(1)** (with Sch. 8 para. 10(2)); S.I. 2015/1630, art. 3(j)

49A Collective settlements: where a collective proceedings order has been made

(1) The Tribunal may, in accordance with this section and Tribunal rules, make an order approving the settlement of claims in collective proceedings (a "collective settlement") where—

(a) a collective proceedings order has been made in respect of the claims, and

(b) the Tribunal has specified that the proceedings are opt-out collective proceedings.

(2) An application for approval of a proposed collective settlement must be made to the Tribunal by the representative and the defendant in the collective proceedings.

(3) The representative and the defendant must provide agreed details of the claims to be settled by the proposed collective settlement and the proposed terms of that settlement.

(4) Where there is more than one defendant in the collective proceedings, "defendant" in subsections (2) and (3) means such of the defendants as wish to be bound by the proposed collective settlement.

(5) The Tribunal may make an order approving a proposed collective settlement only if satisfied that its terms are just and reasonable.

(6) On the date on which the Tribunal approves a collective settlement—

(a) if the period within which persons may opt out of or (in the case of persons not domiciled in the United Kingdom) opt in to the collective proceedings has expired, subsections (8) and (10) apply so as to determine the persons bound by the settlement;

(b) if that period has not yet expired, subsections (9) and (10) apply so as to determine the persons bound by the settlement.

(7) If the period within which persons may opt out of the collective proceedings expires on a different date from the period within which persons not domiciled in the United

Kingdom may opt in to the collective proceedings, the references in subsection (6) to the expiry of a period are to the expiry of whichever of those periods expires later.

(8) Where this subsection applies, a collective settlement approved by the Tribunal is binding on all persons falling within the class of persons described in the collective proceedings order who—

(a) were domiciled in the United Kingdom at the time specified for the purposes of determining domicile in relation to the collective proceedings (see section 47B(11)(b)(i)) and did not opt out of those proceedings, or

(b) opted in to the collective proceedings.

(9) Where this subsection applies, a collective settlement approved by the Tribunal is binding on all persons falling within the class of persons described in the collective proceedings order.

(10) But a collective settlement is not binding on a person who—

(a) opts out by notifying the representative, in a manner and by a time specified, that the claim should not be included in the collective settlement, or

(b) is not domiciled in the United Kingdom at a time specified, and does not, in a manner and by a time specified, opt in by notifying the representative that the claim should be included in the collective settlement.

(11) This section does not affect a person's right to offer to settle opt-in collective proceedings.

(12) In this section and in section 49B, "specified" means specified in a direction made by the Tribunal.**]**

[F331 49B Collective settlements: where a collective proceedings order has not been made

(1) The Tribunal may, in accordance with this section and Tribunal rules, make an order approving the settlement of claims (a "collective settlement") where—

(a) a collective proceedings order has not been made in respect of the claims, but

(b) if collective proceedings were brought, the claims could be made at the commencement of the proceedings (disregarding any limitation or prescriptive period applicable to a claim in collective proceedings).

(2) An application for approval of a proposed collective settlement must be made to the Tribunal by—

(a) a person who proposes to be the settlement representative in relation to the collective settlement, and

(b) the person who, if collective proceedings were brought in respect of the claims, would be a defendant in those proceedings (or, where more than one person would be a defendant in those proceedings, such of those persons as wish to be bound by the proposed collective settlement).

(3) The persons applying to the Tribunal under subsection (2) must provide agreed details of the claims to be settled by the proposed collective settlement and the proposed terms of that settlement.

(4) The Tribunal may make an order approving a proposed collective settlement (see subsection (8)) only if it first makes a collective settlement order.

(5) The Tribunal may make a collective settlement order only—

(a) if it considers that the person described in subsection (2)(a) is a person who, if the order were made, the Tribunal could authorise to act as the settlement representative in relation to the collective settlement in accordance with subsection (7), and

(b) in respect of claims which, if collective proceedings were brought, would be eligible for inclusion in the proceedings (see section 47B(6)).

(6) A collective settlement order must include the following matters—

(a) authorisation of the person described in subsection (2)(a) to act as the settlement representative in relation to the collective settlement, and

(b) description of a class of persons whose claims fall within subsection (5)(b).

(7) The Tribunal may authorise a person to act as the settlement representative in relation to a collective settlement—

(a) whether or not that person is a person falling within the class of persons described in the collective settlement order for that settlement, but

(b) only if the Tribunal considers that it is just and reasonable for that person to act as the settlement representative in relation to that settlement.

(8) Where the Tribunal has made a collective settlement order, it may make an order approving a proposed collective settlement only if satisfied that its terms are just and reasonable.

(9) A collective settlement approved by the Tribunal is binding on all persons falling within the class of persons described in the collective settlement order.

(10) But a collective settlement is not binding on a person who—

(a) opts out by notifying the settlement representative, in a manner and by a time specified, that the claim should not be included in the collective settlement, or

(b) is not domiciled in the United Kingdom at a time specified, and does not, in a manner and by a time specified, opt in by notifying the settlement representative that the claim should be included in the collective settlement.

(11) In this section, "settlement representative" means a person who is authorised by a collective settlement order to act in relation to a collective settlement.**]**

Textual Amendments

F331 S. 49B inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 11(1)** (with Sch. 8 para. 11(2)); S.I. 2015/1630, art. 3(j)

[F332 49C Approval of redress schemes by the CMA

(1) A person may apply to the CMA for approval of a redress scheme.

(2) The CMA may consider an application before the infringement decision to which the redress scheme relates has been made, but may approve the scheme only—

(a) after that decision has been made, or

(b) in the case of a decision of the CMA, at the same time as that decision is made.

(3) In deciding whether to approve a redress scheme, the CMA may take into account the amount or value of compensation offered under the scheme.

(4) The CMA may approve a redress scheme under subsection (2)(b) subject to a condition or conditions requiring the provision of further information about the operation of the scheme (including about the amount or value of compensation to be offered under the scheme or how this will be determined).

(5) If the CMA approves a redress scheme subject to such a condition, it may—

(a) approve the scheme subject to other conditions;

(b) withdraw approval from the scheme if any conditions imposed under subsection (4) or paragraph (a) are not met;

(c) approve a redress scheme as a replacement for the original scheme (but may not approve that scheme subject to conditions).

(6) An approved scheme may not be varied by the CMA or the compensating party.

(7) But, where the CMA approves a redress scheme subject to a condition of the kind mentioned in subsection (4), subsection (6) does not prevent further information provided in accordance with the condition from forming part of the terms of the scheme.

(8) The Secretary of State may make regulations relating to the approval of redress schemes, and the regulations may in particular—

(a) make provision as to the procedure governing an application for approval of a redress scheme, including the information to be provided with the application;

(b) provide that the CMA may approve a redress scheme only if it has been devised according to a process specified in the regulations;

(c) provide that the CMA may approve a redress scheme only if it is in a form, or contains terms, specified in the regulations (which may include terms requiring a settlement agreement under the scheme to be in a form, or contain terms, specified in the regulations);

(d) provide that the CMA may approve a redress scheme only if (so far as the CMA can judge from facts known to it) the scheme is intended to be administered in a manner specified in the regulations;

(e) describe factors which the CMA may or must take into account, or may not take into account, in deciding whether to approve a redress scheme.

(9) The CMA must publish guidance with regard to—

(a) applications for approval of redress schemes,

(b) the approval of redress schemes, and

(c) the enforcement of approved schemes, and in particular as to the criteria which the CMA intends to adopt in deciding whether to bring proceedings under section 49E(4).

(10) Guidance under subsection (9) must be approved by the Secretary of State before it is published.

(11) In this section and sections 49D and 49E—

"approved scheme" means a redress scheme approved by the CMA,

"compensating party" means a person offering compensation under an approved scheme,

[[F333]"infringement decision" means a decision of the CMA that the Chapter I prohibition or the Chapter II prohibition has been infringed,**]** and

"redress scheme" means a scheme under which a person offers compensation in consequence of an infringement decision made in respect of that person.

(12) For the purposes of this section and section 49E, "compensation"—

(a) may be monetary or non-monetary, and

(b) may be offered to persons who have not suffered a loss as a result of the infringement decision to which the redress scheme relates.

Textual Amendments

F332 Ss. 49C-49E inserted (3.8.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 12**; S.I. 2015/1584, art. 3(a); S.I. 2015/1630, art. 3(j)

F333 Words in s. 49C(11) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **17** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

49D Redress schemes: recovery of costs

(1) The CMA may require a person making an application for approval of a redress scheme to pay some or all of the CMA's reasonable costs relating to the application.

(2) A requirement to pay costs is imposed by giving that person written notice specifying—

(a) the amount to be paid,

(b) how that amount has been calculated, and

(c) by when that amount must be paid.

(3) A person required to pay costs under this section may appeal to the Tribunal against the amount.

(4) Where costs required to be paid under this section relate to an approved scheme, the CMA may withdraw approval from that scheme if the costs have not been paid by the date specified in accordance with subsection (2)(c).

(5) Costs required to be paid under this section are recoverable by the CMA as a debt.

Textual Amendments

F332 Ss. 49C-49E inserted (3.8.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 12**; S.I. 2015/1584, art. 3(a); S.I. 2015/1630, art. 3(j)

49E Enforcement of approved schemes

(1) A compensating party is under a duty to comply with the terms of an approved scheme ("the duty").

(2) The duty is owed to any person entitled to compensation under the terms of the approved scheme.

(3) Where such a person suffers loss or damage as a result of a breach of the duty, the person may bring civil proceedings before the court for damages, an injunction or interdict or any other appropriate relief or remedy.

(4) Where the CMA considers that the compensating party is in breach of the duty, the CMA may bring civil proceedings before the court for an injunction or interdict or any other appropriate relief or remedy.

(5) Subsection (4) is without prejudice to any right that a person has to bring proceedings under subsection (3).

(6) In any proceedings brought under subsection (3) or (4), it is a defence for the compensating party to show that it took all reasonable steps to comply with the duty.

(7) Where the CMA considers that it is no longer appropriate for the compensating party to be subject to the duty, the CMA may give notice in writing to that party stating that it is released from the duty.

(8) Where a person has entered into a settlement agreement with the compensating party, that agreement remains enforceable notwithstanding the release of the compensating party under subsection (7) from the duty.

(9) In this section "the court" means—

(a) in England and Wales, the High Court or the county court,

(b) in Northern Ireland, the High Court or a county court,

(c) in Scotland, the Court of Session or the sheriff.**]]**

Textual Amendments

F332 Ss. 49C-49E inserted (3.8.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 12**; S.I. 2015/1584, art. 3(a); S.I. 2015/1630, art. 3(j)

CHAPTER V

MISCELLANEOUS

Modifications etc. (not altering text)

C82 Pt. 1 Ch. 5 applied in part (31.10.2023) by The Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023 (S.I. 2023/80), arts. 1(3), **22**

Vertical agreements and land agreements

50 Vertical agreements and land agreements.

(1) The Secretary of State may by order provide for any provision of this Part to apply in relation to—

(a) vertical agreements, or

(b) land agreements,

with such modifications as may be prescribed.

(2) An order may, in particular, provide for exclusions or exemptions, or otherwise provide for prescribed provisions not to apply, in relation to—

(a) vertical agreements, or land agreements, in general; or

(b) vertical agreements, or land agreements, of any prescribed description.

(3) An order may empower the **[**F334CMA**]** to give directions to the effect that in prescribed circumstances an exclusion, exemption or modification is not to apply (or is to apply in a particular way) in relation to an individual agreement.

(4) Subsections (2) and (3) are not to be read as limiting the powers conferred by section 71.

(5) In this section—

"land agreement" and "vertical agreement" have such meaning as may be prescribed; and

"prescribed" means prescribed by an order.

Textual Amendments

F334 Word in s. 50(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 29** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

[F335CMA's] rules, guidance and fees

Textual Amendments

F335 Word in s. 51 cross-heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 30** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

51 Rules.

(1) The **[**F336CMA**]** may make such rules about procedural and other matters in connection with the carrying into effect of the provisions of this Part as **[**F337it**]** considers appropriate.

(2) Schedule 9 makes further provision about rules made under this section but is not to be taken as restricting the **[**F338CMA**]** powers under this section.

(3) If the **[**F339CMA**]** is preparing rules under this section **[**F340it**]** must consult such persons as he considers appropriate.

(4) If the proposed rules relate to a matter in respect of which a regulator exercises concurrent jurisdiction, those consulted must include that regulator.

(5) No rule made by the **[**F341CMA**]** is to come into operation until it has been approved by an order made by the Secretary of State.

(6) The Secretary of State may approve any rule made by the **[**F341CMA**]** —

(a) in the form in which it is submitted; or

(b) subject to such modifications as he considers appropriate.

(7) If the Secretary of State proposes to approve a rule subject to modifications he must inform the **[**F341CMA**]** of the proposed modifications and take into account any comments made by the **[**F341CMA**]** .

(8) Subsections (5) to (7) apply also to any alteration of the rules made by the **[**F341CMA**]** .

(9) The Secretary of State may, after consulting the **[**F341CMA**]** , by order vary or revoke any rules made under this section.

(10) If the Secretary of State considers that rules should be made under this section with respect to a particular matter he may direct the **[**F341CMA**]** to exercise **[**F342its**]** powers under this section and make rules about that matter.

Textual Amendments

F336 Word in s. 51(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 31(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F337 Words in s. 51(1) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(38)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F338 Word in s. 51(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 31(3)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F339 Word in s. 51(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 31(4)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F340 Words in s. 51(3) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(38)(c)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F341 Word in s. 51(5)-(10) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 31(4)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F342 Words in s. 51(10) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(38)(e)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

52 Advice and information.

(1) **[**F343The CMA**]** must prepare and publish general advice and information about—

(a) the application of the Chapter I prohibition and the Chapter II prohibition, and

(b) the enforcement of those prohibitions.

F344(1A) . . . . . .

(2) The **[**F345CMA**]** may at any time publish revised, or new, advice or information.

(3) Advice and information published under this section must be prepared with a view to—

(a) explaining provisions of this Part to persons who are likely to be affected by them; and

(b) indicating how the **[**F345CMA**]** expects such provisions to operate.

(4) Advice (or information) published by virtue of subsection (3)(b) may include advice (or information) about the factors which the **[**F345CMA**]** may take into account in considering whether, and if so how, to exercise a power conferred on **[**F346it**]** by Chapter I, II or III.

(5) Any advice or information published by the **[**F345CMA**]** under this section is to be published in such form and in such manner as **[**F347it**]** considers appropriate.

(6) If the **[**F345CMA**]** is preparing any advice or information under this section **[**F348it**]** must consult such persons as he considers appropriate.

(7) If the proposed advice or information relates to a matter in respect of which a regulator exercises concurrent jurisdiction, those consulted must include that regulator.

(8) In preparing any advice or information under this section about a matter in respect of which he may exercise functions under this Part, a regulator must consult—

(a) the **[**F349CMA**]** ;

(b) the other regulators; and

(c) such other persons as he considers appropriate.

Textual Amendments

F343 Words in s. 52(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 32(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F344 S. 52(1A) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **18** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F345 Word in s. 52(2)-(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 32(4)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F346 Words in s. 52(4) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(39)(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F347 Words in s. 52(5) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(39)(c)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F348 Words in s. 52(6) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(39)(d)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F349 Word in s. 52(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 32(4)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

53 Fees.

[F350(1) The **[**F351OFT**]** may charge fees, of specified amounts, in connection with the exercise by **[**F351it**]** of specified functions under this Part.

(2) Rules may, in particular, provide—

(a) for the amount of any fee to be calculated by reference to matters which may include—

(i) the turnover of any party to an agreement (determined in such manner as may be specified);

(ii) the turnover of a person whose conduct the **[**F351OFT**]** is to consider (determined in that way);

(b) for different amounts to be specified in connection with different functions;

(c) for the repayment by the **[**F351OFT**]** of the whole or part of a fee in specified circumstances;

(d) that an application or notice is not to be regarded as duly made or given unless the appropriate fee is paid.

(3) In this section—

(a) "rules" means rules made by the **[**F351OFT**]** under section 51; and

(b) "specified" means specified in rules.**]**

Textual Amendments

F350 S. 53 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 32** (with reg. 6(2))

F351 Words in s. 53 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(40)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Regulators

54 Regulators.

(1) In this Part "regulator" means **[**F352—

[F353(a) the Office of Communications;**]**

(b) the Gas and Electricity Markets Authority;

F354(c) . . . . . .

(d) **[**F355the Water Services Regulation Authority;**]**

(e) the **[**F356Office of Rail and Road**]**;

(f) **[**F357the Northern Ireland Authority for Utility Regulation;**]**

(g) the Civil Aviation Authority**][**F358; **[**F359and**]]**

F360(h) . . . . . .

[F361(i) the Payment Systems Regulator established under section 40 of the Financial Services (Banking Reform) Act 2013.**]**

[F362(j) the Financial Conduct Authority.**]**

(2) Parts II and III of Schedule 10 provide for functions of the **[**F363CMA**]** under this Part to be exercisable concurrently by regulators.

(3) Parts IV and V of Schedule 10 make minor and consequential amendments in connection with the regulators' competition functions.

(4) The Secretary of State may make regulations for the purpose of co-ordinating the performance of functions under this Part ("Part I functions") which are exercisable concurrently by two or more competent persons as a result of **[**F364any enactment (including any subordinate legislation) whenever passed or made**]**.

(5) The regulations may, in particular, make provision—

(a) as to the procedure to be followed by competent persons when determining who is to exercise Part I functions in a particular case;

(b) as to the steps which must be taken before a competent person exercises, in a particular case, such Part I functions as may be prescribed;

(c) as to the procedure for determining, in a particular case, questions arising as to which competent person is to exercise Part I functions in respect of the case;

(d) for Part I functions in a particular case to be exercised jointly—

(i) by the **[**F365CMA**]** and one or more regulators, or

(ii) by two or more regulators,

and as to the procedure to be followed in such cases;

(e) as to the circumstances in which the exercise by a competent person of such Part I functions as may be prescribed is to preclude the exercise of such functions by another such person;

(f) for cases in respect of which Part I functions are being, or have been, exercised by a competent person to be transferred to another such person;

(g) for the person ("A") exercising Part I functions in a particular case—

(i) to appoint another competent person ("B") to exercise Part I functions on A's behalf in relation to the case; or

(ii) to appoint officers of B (with B's consent) to act as officers of A in relation to the case;

(h) for notification as to who is exercising Part I functions in respect of a particular case.

F366(6) Provision made by virtue of subsection (5)(c) may provide for questions to be referred to and determined by the Secretary of State **[**F367, the CMA**]** or by such other person as may **[**F368—

(a) prescribe circumstances in which the CMA may decide that, in a particular case, it is to exercise Part 1 functions in respect of the case rather than a regulator;

(b) be prescribed.

F369(6A) **[** Where the regulations make provision as mentioned in subsection (6)(a), they must—

(a) include provision requiring the CMA to consult the regulator concerned before making a decision that the CMA is to exercise Part 1 functions in respect of a particular case, and

(b) provide that, in a case where a regulator has given notice under section 31(1) that it proposes to make a decision (within the meaning given by section 31(2)), the CMA may only decide that it is to exercise Part 1 functions in respect of the case rather than the regulator if the regulator consents.**]**

F370(6B) **[** The Secretary of State may by regulations make provision requiring arrangements to be made for the sharing of information between competent persons in connection with concurrent cases.**]**

F370(6C) **[** For the purposes of subsection (6B), "a concurrent case" is a case in respect of which—

(a) the CMA considers that Part 1 functions are, or (but for provision made under subsection (5)(e)) would be, exercisable by both it and any regulator;

(b) any regulator considers that Part 1 functions are, or (but for provision made under subsection (5)(e)) would be, exercisable by it.**]**

(7) "Competent person" means the **[**F371CMA**]** or any of the regulators.

F372(8) **[** In this section, "subordinate legislation" has the same meaning as in section 21(1) of the Interpretation Act 1978 (c 30) and includes an instrument made under—

(a) an Act of the Scottish Parliament;

(b) Northern Ireland legislation.**]]**

Textual Amendments

F352 Words in s. 54(1) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(41)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F353 S. 54(1)(a) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), **ss. 371(5)(a)**, 411(2) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

F354 S. 54(1)(c) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 15 para. 11(a)**; S.I. 2014/416, art. 2(1)(f) (with Sch.)

F355 S. 54(1)(d) substituted (1.4.2006) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 32(2)**; S.I. 2005/2714, art. 4(f)

F356 Words in s. 54(1)(e) substituted (16.10.2015) by The Office of Rail Regulation (Change of Name) Regulations 2015 (S.I. 2015/1682), reg. 1(2), **Sch. para. 4(m)**

F357 S. 54(1)(f) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 15 para. 11(b)**; S.I. 2014/416, art. 2(1)(f) (with Sch.)

F358 S. 54(1)(h) and word inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 74(5)(b)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

F359 Word in s. 54(1)(g) omitted (1.11.2014 for specified purposes, 1.4.2015 so far as not already in force) by virtue of Financial Services (Banking Reform) Act 2013 (c. 33), **ss. 67(2)**, 148(5); S.I. 2014/2458, arts. 2(a)(ii), 3(b)(iii)

F360 S. 54(1)(h) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 12 para. 2**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

F361 S. 54(1)(i) inserted (1.11.2014 for specified purposes, 1.4.2015 so far as not already in force) by Financial Services (Banking Reform) Act 2013 (c. 33), **ss. 67(2)**, 148(5); S.I. 2014/2458, arts. 2(a)(ii), 3(b)(iii)

F362 S. 54(1)(j) inserted (1.11.2014 for specified purposes, 1.4.2015 so far as not already in force) by Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), **Sch. 8 para. 9**; S.I. 2014/2458, arts. 2(b)(bb)(i), 3(b)(v)

F363 Word in s. 54(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 33** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F364 Words in s. 54(4) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 33(2)**

F365 Word in s. 54(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 33** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F366 Words in s. 54(6) inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 51(2)(b)**, 103(1)(i)(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

F367 Words in s. 54(6) inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), ss. 51(2)(b), 103(1)(i)(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

F368 Words in s. 54(6) inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 51(2)(a)**, 103(1)(i)(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

F369 S. 54(6A) inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 51(3)**, 103(1)(i)(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

F370 S. 54(6B)(6C) inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 51(4)**, 103(1)(i)(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

F371 Word in s. 54(7) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 33** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F372 S. 54(8) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 33(3)**

Modifications etc. (not altering text)

C83 S. 54(5)-(7) applied by 1986 c. 46, s. 9D(2) (as inserted (20.6.2003) by Enterprise Act 2002 (c. 40), **ss. 204(2)**, 279; S.I. 2003/1397, art. 2(1), Sch.)

C84 S. 54(5)-(7) applied by S.I. 2002/3150 (N.I. 4), art. 13D(2) (as inserted (19.12.2005) by The Company Directors Disqualification (Amendment) (Northern Ireland) Order 2005 (S.I. 2005/1454), arts. 1(3), **3**; S.R. 2005/514, art. 2)

Commencement Information

I7 S. 54 wholly in force; s. 54 not in force at Royal Assent see s. 76(3); s. 54(2) in force for certain purposes at 26.11.1998 by S.I. 1998/2750, **art. 2**; s. 54(3) in force for certain purposes at 11.1.1999 and s. 54(4)-(7) in force at the same date by S.I. 1998/3166, art. 2, **Sch.**; s. 54(3) in force for certain purposes at 1.4.1999 by S.I. 1999/505, art. 2, **Sch. 2**; s. 54(1)(2) and (3) wholly in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Confidentiality and immunity from defamation

F373 55 General restrictions on disclosure of information.

. . . . . .

Textual Amendments

F373 S. 56 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 247(j), 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 6)

Modifications etc. (not altering text)

C85 S. 55 restricted (31.10.2003) by Railways and Transport Safety Act 2003 (c. 20), **s. 115**; S.I. 2003/2681, art. 2(b)

F373 56 Director and Secretary of State to have regard to certain matters in relation to the disclosure of information.

. . . . . .

Textual Amendments

F373 S. 56 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 247(j), 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 6)

57 Defamation.

For the purposes of the law relating to defamation, absolute privilege attaches to any advice, guidance, notice or direction given, or decision made, by the **[**F374CMA**]** in the exercise of any of **[**F375its**]** functions under this Part.

Textual Amendments

F374 Word in s. 57 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 34** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F375 Words in s. 57 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(42)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Findings of fact by [F376CMA]

Textual Amendments

F376 Word in s. 58 cross-heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 35** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

58 Findings of fact by [F377CMA].

(1) Unless the court [F378or the Tribunal] directs otherwise [F379or the [F380OFT] has decided to take further action in accordance with section 16(2) or 24(2)], [F381CMA's] finding which is relevant to an issue arising in Part I proceedings is binding on the parties if—

(a) the time for bringing an appeal [F382under section 46 or 47] in respect of the finding has expired and the relevant party has not brought such an appeal; or

(b) the decision of [F383the Tribunal] on such an appeal has confirmed the finding.

(2) In this section—

[F384"[F385a CMA's] finding" means a finding of fact made by the [F386CMA] in the course of conducting an investigation;]

[F387"Part 1 proceedings" means proceedings brought otherwise than by the [F386CMA]—

(za) [F388in respect of an infringement decision;][F389or]

(a) in respect of an alleged infringement of the Chapter I prohibition or of the Chapter II prohibition; F390...

(b) F390...]

"relevant party" means—

(a) in relation to the Chapter I prohibition F391..., a party to the agreement which [F392has been found to have infringed the prohibition or is alleged to have infringed the prohibition (as the case may be)]; and

(b) in relation to the Chapter II prohibition F393..., the undertaking whose conduct [F392has been found to have infringed the prohibition or is alleged to have infringed the prohibition (as the case may be)].

(3) Rules of court [F394or Tribunal rules] may make provision in respect of assistance to be given by the [F395CMA] to the court [F396or the Tribunal] in Part I proceedings.

[F397(4) In this section "the court" means—

(a) in England and Wales or Northern Ireland, the High Court,

(b) in Scotland, the Court of Session or the sheriff.]

Textual Amendments

F377 Word in s. 58 heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 36(5)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F378 Words in s. 58(1) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 13(2)**; S.I. 2015/1630, art. 3(j)

F379 Words in s. 58(1) cease to have effect (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 34(2)** (with reg. 6(2))

F380 Word in s. 58 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(43)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F381 Words in s. 58(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 36(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
F382 Words in s. 58(1)(a) inserted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 5 para. 5(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
F383 Words in s. 58(1)(b) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 5 para. 5(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
F384 Words in s. 58(2) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 34(3)(a)**
F385 Words in s. 58(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 36(3)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
F386 Word in s. 58(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 36(3)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
F387 Words in s. 58(2) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 34(3)(b)**
F388 Words in s. 58(2) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 13(3)(a)**; S.I. 2015/1630, art. 3(j)
F389 Word in s. 58(2) inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **19(2)(a)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
F390 Words in s. 58(2) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **19(2)(b)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
F391 Words in s. 58(2) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **19(3)(a)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
F392 Words in s. 58(2) substituted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 13(3)(b)**; S.I. 2015/1630, art. 3(j)
F393 Words in s. 58(2) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **19(3)(b)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)
F394 Words in s. 58(3) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 13(4)(a)**; S.I. 2015/1630, art. 3(j)
F395 Word in s. 58(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 36(4)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)
F396 Words in s. 58(3) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 13(4)(b)**; S.I. 2015/1630, art. 3(j)
F397 S. 58(4) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 13(5)**; S.I. 2015/1630, art. 3(j)

[F398 Findings of infringements]

Textual Amendments

F398 S. 58A and cross-heading inserted (20.6.2003) by Enterprise Act 2002 (c. 40), **s. 20(1)**(2), 279 (with s. 20(2)); S.I. 2003/1397, art. 2(1), Sch.

[F399 58A Infringement decisions

(1) This section applies to a claim in respect of an infringement decision which is brought in proceedings—

(a) before the court, or

(b) before the Tribunal under section 47A or 47B.

(2) The court or the Tribunal is bound by the infringement decision once it has become final.

(3) An infringement decision specified in section 47A(6)(a) or (b) becomes final—

(a) when the time for appealing against that decision expires without an appeal having been brought; **[**F400 or

(b) where an appeal has been brought against the decision, when—

(i) the appeal and any further appeal in relation to the decision has been decided or has otherwise ended, and

(ii) the time for appealing against the result of the appeal or further appeal has expired without another appeal having been brought.**]**

F401(4) . . . . . .

(5) This section applies to the extent that the court or the Tribunal would not otherwise be bound by the infringement decision in question.

(6) In this section "the court" means—

(a) in England and Wales or Northern Ireland, the High Court,

(b) in Scotland, the Court of Session or the sheriff.**]**

Textual Amendments

F399 S. 58A substituted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 14(1)** (with Sch. 8 para. 14(2)); S.I. 2015/1630, art. 3(j)

F400 S. 58A(3)(b) and word substituted for s. 58A(3)(b)-(d) (9.3.2017) by The Claims in respect of Loss or Damage arising from Competition Infringements (Competition Act 1998 and Other Enactments (Amendment)) Regulations 2017 (S.I. 2017/385), reg. 1(2), **Sch. 2 para. 8(2)** (with Sch. 2 para. 8(4))

F401 S. 58A(4) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **20** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

Interpretation and governing principles

59 **[**F402**Interpretation of Part 1].**

(1) In this Part—

[F403**"**agreement**"** is to be read with section 2(5) and (6);**]**

F404 …

F405 …

F406 …

F407 …

"block exemption" has the meaning given in section 6(4);

"block exemption order" has the meaning given in section 6(2);

"the Chapter I prohibition" has the meaning given in section 2(8);

"the Chapter II prohibition" has the meaning given in section 18(4);

[F408"class member" has the meaning given in section 47B(8)(a);**]**

[F409"the CMA" means the Competition and Markets Authority;**]**

[F408“collective proceedings” has the meaning given in section 47B(1);**]**

[F408“collective proceedings order” means an order made by the Tribunal authorising the continuance of collective proceedings;**]**

F410…

F411…

“the court”, except in sections **[**F412 49E,**]** 58**[**F413, 58A**]** and **[**F414 60A**][**F415 and Schedule 8A**]** and the expression “European Court”, means—

(a) in England and Wales, the High Court;

(b) in Scotland, the Court of Session; and

(c) in Northern Ireland, the High Court;

F416…

“document” includes information recorded in any form;

F417…

F418…

F419…

[F420“individual exemption” has the meaning given in section 4(2);**]**

“information” includes estimates and forecasts;

[F408“infringement decision”, except in section 49C, has the meaning given in section 47A(6);**]**

[F408“injunction” includes an interim injunction;**]**

“investigating officer” has the meaning given in section 27(1);

[F421“investigation” means an investigation under section 25;**]**

“Minister of the Crown” has the same meaning as in the Ministers of the M3 Crown Act 1975;

[F422“OFCOM” means the Office of Communications;**]**

“officer”, in relation to a body corporate, includes a director, manager or secretary and, in relation to a partnership in Scotland, includes a partner;

[F408“opt-in collective proceedings” has the meaning given in section 47B(10);**]**

[F408“opt-out collective proceedings” has the meaning given in section 47B(11);**]**

F423…

F424…

“person”, in addition to the meaning given by the M4 Interpretation Act 1978, includes any undertaking;

[F425“premises” includes any land or means of transport;**]**

“prescribed” means prescribed by regulations made by the Secretary of State;

“regulator” has the meaning given by section 54;

[F408“representative” means a person who is authorised by a collective proceedings order to bring collective proceedings;**]**

[F408“represented person” means a class member who—

(a) has opted in to opt-in collective proceedings,

(b) was domiciled in the United Kingdom at the time specified for the purposes of determining domicile (see section 47B(11)(b)(i)) and has not opted out of opt-out collective proceedings, or

(c) has opted in to opt-out collective proceedings;**]**

[F426“**[**F427assimilated**]** block exemption regulation” has the meaning given in section 10(12);**]**

[F426“**[**F427assimilated**]** exemption” has the meaning given in section 10(3);**]**

F428…

F429…

[F430“ the Tribunal” means the Competition Appeal Tribunal;

“Tribunal rules” means rules under section 15 of the Enterprise Act 2002.**]**

[F431“working day” means a day which is not—

(a) Saturday,

(b) Sunday,

(c) Christmas Day,

(d) Good Friday, or

(e) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (c. 80) in any part of the United Kingdom.**]**

[F432(1A) In this Part, in respect of proceedings in Scotland, **[**F433“claimant” is to be read as “pursuer” and**]** “defendant” is to be read as “defender”.

(1B) Sections 41, 42, 45 and 46 of the Civil Jurisdiction and Judgments Act 1982 apply for the purpose of determining whether a person is regarded as “domiciled in the United Kingdom” for the purposes of this Part.**]**

(2) The fact that to a limited extent the Chapter I prohibition does not apply to an agreement, because of an exclusion provided by or under this Part or any other enactment, does not require those provisions of the agreement to which the exclusion relates to be disregarded when considering whether the agreement infringes the prohibition for other reasons.

(3) For the purposes of this Part, the power to require information, in relation to information recorded otherwise than in a legible form, includes power to require a copy of it in a legible form.

(4) Any power conferred on the **[**F434CMA**]** by this Part to require information includes power to require any document which **[**F435it**]** believes may contain that information.

Textual Amendments

F402 Words in s. 59 sidenote substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 35(3)**

F403 Words in s. 59(1) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 35(2)(a)**

F404 Words in s. 59(1) repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 6(a), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F405 Words in s. 59(1) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **21(2)(a)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F406 Words in s. 59(1) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **21(2)(b)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F407 Words in s. 59(1) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **21(2)(c)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F408 Words in s. 59(1) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 15(2)**; S.I. 2015/1630, art. 3(j)

F409 Words in s. 59(1) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 38(2)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F410 Words in s. 59(1) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **21(2)(d)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F411 Words in s. 59(1) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **21(2)(e)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F412 Word in s. 59(1) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 15(3)**; S.I. 2015/1630, art. 3(j)

F413 Word in s. 59(1) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), **ss. 20(3)**, 279; S.I. 2003/1397, art. 2(1), Sch.

F414 Word in s. 59(1) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **21(3)**; 2020 c. 1, Sch. 5 para. 1(1)

F415 Words in s. 59(1) inserted (9.3.2017) by The Claims in respect of Loss or Damage arising from Competition Infringements (Competition Act 1998 and Other Enactments (Amendment)) Regulations 2017 (S.I. 2017/385), reg. 1(2), **Sch. 2 para. 9(2)**

F416 Words in s. 59(1) repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(44)(a), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F417 Words in s. 59(1) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **21(2)(f)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F418 Words in s. 59(1) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **21(2)(g)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F419 Words in s. 59(1) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **21(2)(h)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F420 Words in s. 59(1) cease to have effect (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 35(2)(e)** (with reg. 6(2))

F421 Words in s. 59(1) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 35(2)(f)**

F422 Words in s. 59(1) inserted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), **ss. 371(7)**, 411(2) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

F423 Words in s. 59(1) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 38(2)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F424 Words in s. 59(1) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **21(2)(i)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F425 Words in s. 59(1) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 35(2)(g)**

F426 Words in s. 59(1) inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **21(4)** (with Sch. 4 paras. 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F427 Word in s. 59(1) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 41(2)(d)**

F428 Words in s. 59(1) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **21(2)(j)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F429 Words in s. 59(1) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **21(2)(k)** (with Sch. 4 paras. 2, 7, 13) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F430 Words in s. 59(1) inserted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 6(b), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F431 Words in s. 59(1) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 35(2)(h)**

F432 S. 59(1A)(1B) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 15(4)**; S.I. 2015/1630, art. 3(j)

F433 Words in s. 59(1A) inserted (9.3.2017) by The Claims in respect of Loss or Damage arising from Competition Infringements (Competition Act 1998 and Other Enactments (Amendment)) Regulations 2017 (S.I. 2017/385), reg. 1(2), **Sch. 2 para. 9(3)**

F434 Word in s. 59(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 38(3)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F435 Words in s. 59(4) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(44)(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Commencement Information

I8 S. 59 wholly in force at 11.1.1999; s. 59 not in force at Royal Assent see s. 76(3); s. 59 in force for certain purposes at 26.11.1998 by S.I. 1998/2750, **art. 2**; s. 59 in force in so far as not already in force by S.I. 1998/3166, art. 2, **Sch.**

Marginal Citations

M3 1975 c. 26.

M4 1978 c. 30.

F436 60 Principles to be applied in determining questions.

. . . . . .

Textual Amendments

F436 S. 60 omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **22**; 2020 c. 1, Sch. 5 para. 1(1)

[F437 60A Certain principles etc to be considered or applied from IP completion day

(1) This section applies when one of the following persons determines a question arising under this Part in relation to competition within the United Kingdom—

(a) a court or tribunal;

(b) the CMA;

(c) a person acting on behalf of the CMA in connection with a matter arising under this Part.

(2) The person must act (so far as is compatible with the provisions of this Part) with a view to securing that there is no inconsistency between—

(a) the principles that it applies, and the decision that it reaches, in determining the question, and

(b) the principles laid down by the Treaty on the Functioning of the European Union and the European Court before IP completion day, and any relevant decision made by that Court before IP completion day, so far as applicable immediately before IP completion day in determining any corresponding question arising in EU law,

subject to subsections (4) to (7).

(3) The person must, in addition, have regard to any relevant decision or statement of the European Commission made before IP completion day and not withdrawn.

(4) Subsection (2) does not require the person to secure that there is no inconsistency with a principle or decision referred to in subsection (2)(b) so far as the principle or decision is excluded from the law of England and Wales, Scotland and Northern Ireland on or after IP completion day.

(5) For the purposes of subsection (4), a principle or decision is to be treated as not excluded from the law of England and Wales, Scotland and Northern Ireland if it is excluded only by virtue of an exclusion or revocation in the Competition (Amendment etc.) (EU Exit) Regulations 2019.

(6) Subsection (2) does not apply so far as the person is bound by a principle laid down by, or a decision of, a court or tribunal in England and Wales, Scotland or Northern Ireland that requires the person to act otherwise.

(7) Subsection (2) does not apply if the person thinks that it is appropriate to act otherwise in the light of one or more of the following—

(a) differences between the provisions of this Part under consideration and the corresponding provisions of EU law as those provisions of EU law had effect immediately before IP completion day;

(b) differences between markets in the United Kingdom and markets in the European Union;

(c) developments in forms of economic activity since the time when the principle or decision referred to in subsection (2)(b) was laid down or made;

(d) generally accepted principles of competition analysis or the generally accepted application of such principles;

(e) a principle laid down, or decision made, by the European Court on or after IP completion day;

(f) the particular circumstances under consideration.

(8) In subsection (2)(b), the reference to principles laid down before IP completion day is a reference to such principles as they have effect in EU law immediately before IP completion day, disregarding the effect of principles laid down, and decisions made, by the European Court on or after IP completion day.

(9) In this section, references to a decision of the European Court or the European Commission include a decision as to—

(a) the interpretation of a provision of EU law;

(b) the civil liability of an undertaking for harm caused by its infringement of EU law.**]**

Textual Amendments

F437 S. 60A inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **23** (as amended by S.I. 2020/1343, **reg. 5**); 2020 c. 1, **Sch. 5 para. 1(1)**

F438 PART II

INSPECTIONS UNDER ARTICLES 20, 21 AND 22(2)

Textual Amendments

F438 Pt. II omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **24** (with Sch. 4 paras. 8C-12) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

F438 61 Interpretation of Part 2

. . . . . .

F438 62 Power to enter business premises under a warrant: Article 20 inspections

. . . . . .

F438 62A Power to enter non-business premises under a warrant: Article 21 inspections

. . . . . .

F438 62B Powers when conducting an Article 22(2) inspection

. . . . . .

F438 63 Power to enter business premises under a warrant: Article 22(2) inspections

. . . . . .

F438 64 Entry of premises under sections 62, 60, 62A and 63: supplementary.

. . . . . .

F438 65 Offences.

. . . . . .

F438 65A Privileged communications: Article 22(2) inspections

. . . . . .

[F438]65B Use of statements in prosecution: Article 22(2) inspections

. . . . . .

[F439]PART 2A

ARTICLE 22(1) INVESTIGATIONS

Textual Amendments

F439 Pt. 2A omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **24** (with Sch. 4 paras. 9-12) (as amended by S.I. 2020/1343, regs. 35-59); 2020 c. 1, Sch. 5 para. 1(1)

[F439]65C Interpretation of Part 2A

. . . . . .

[F439]65D Power to conduct an Article 22(1) investigation

. . . . . .

[F439]65E Powers when conducting Article 22(1) investigations

. . . . . .

[F439]65F Power to enter business premises without a warrant

. . . . . .

[F439]65G Power to enter business premises under a warrant

. . . . . .

[F439]65H Power to enter domestic premises under a warrant

. . . . . .

[F439]65I Entry of premises under a warrant: supplementary

. . . . . .

[F439]65J Privileged communications

. . . . . .

[F439]65K Use of statements in prosecution

. . . . . .

[F439]65L Offences

. . . . . .

[F439]65M Destroying or falsifying documents

. . . . . .

[F439]65N False or misleading information

. . . . . .

PART III

MONOPOLIES

[F440]66 Monopoly investigations: general.

. . . . . .

Textual Amendments

F440 S. 67 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

[F440]67 Offences.

. . . . . .

Textual Amendments

F440 S. 67 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

68 Services relating to use of land.

In section 137 of the Fair Trading Act 1973, after subsection (3) insert—

"(3A) The Secretary of State may by order made by statutory instrument—

(a) provide that "the supply of services" in the provisions of this Act is to include, or to cease to include, any activity specified in the order which consists in, or in making arrangements in connection with, permitting the use of land; and

(b) for that purpose, amend or repeal any of paragraphs (c), (d), (e) or (g) of subsection (3) above.

(3B) No order under subsection (3A) above is to be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

(3C) The provisions of Schedule 9 to this Act apply in the case of a draft of any such order as they apply in the case of a draft of an order to which section 91(1) above applies."

69 Reports: monopoly references.

In section 83 of the [M5]Fair Trading Act 1973—

(a) in subsection (1), omit "Subject to subsection (1A) below"; and

(b) omit subsection (1A) (reports on monopoly references to be transmitted to certain persons at least twenty-four hours before laying before Parliament).

Marginal Citations

M5 1973 c. 41.

PART IV

SUPPLEMENTAL AND TRANSITIONAL

Modifications etc. (not altering text)

C86 Pt. IV modified (31.12.2020) by S.I. 2019/93, Sch. 4 para. 8C(3) (as inserted by The Competition (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1343), regs. 1(1), **37(2)**)

70 Contracts as to patented products etc.

Sections 44 and 45 of the [M6]Patents Act 1977 shall cease to have effect.

Marginal Citations

M6 1977 c. 37.

71 Regulations, orders and rules.

(1) Any power to make regulations or orders which is conferred by this Act is exercisable by statutory instrument.

(2) The power to make rules which is conferred by section 48 is exercisable by statutory instrument.

(3) Any statutory instrument made under this Act may—

(a) contain such incidental, supplemental, consequential and transitional provision as the Secretary of State considers appropriate; and

(b) make different provision for different cases.

(4) **[**[F441]An order made**]** under—

(a) section 3,

(b) section 19,

(c) section 36(8),

[[F442](ca) section 45(8),**]**

[[F443](cb) section 47C(7),**]**

(d) section 50, or

(e) paragraph 6(3) of Schedule 4,

[[F444]is subject to the affirmative procedure**]**.

[[F445](4A) Regulations made under section 35B(7) or 40A(7A) are subject to the affirmative procedure.**]**

(5) Any statutory instrument made under this Act, apart from one made—

(a) under any of the provisions mentioned in subsection (4) **[**[F446]or (4A)**]**, or

(b) under section 76(3),

[[F447]is subject to the negative procedure**]**.

[[F448](6) Any provision that may be made by order or regulations under this Act subject to the negative procedure may instead be made by order or regulations subject to the affirmative procedure.

(7) Where orders or regulations under this Act are subject to "the affirmative procedure", the orders or regulations may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.

(8) Where orders or regulations under this Act are subject to "the negative procedure", the statutory instrument containing them is subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments

F441 Words in s. 71(4) substituted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 14 para. 1(2)(a)** (with Sch. 19); S.I. 2024/1226, regs. 1(2), 2(1)(18)

F442 S. 71(4)(ca) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(49)**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

F443 S. 71(4)(cb) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 16**; S.I. 2015/1630, art. 3(j)

F444 Words in s. 71(4) substituted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 14 para. 1(2)(b)** (with Sch. 19); S.I. 2024/1226, regs. 1(2), 2(1)(18)

F445 S. 71(4A) inserted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 14 para. 1(3)** (with Sch. 19); S.I. 2024/1226, regs. 1(2), 2(1)(18)

F446 Words in s. 71(5)(a) inserted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 14 para. 1(4)(a)** (with Sch. 19); S.I. 2024/1226, regs. 1(2), 2(1)(18)

F447 Words in s. 71(5) substituted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 14 para. 1(4)(b)** (with Sch. 19); S.I. 2024/1226, regs. 1(2), 2(1)(18)

F448 S. 71(6)-(8) inserted (24.5.2024 for specified purposes, 1.1.2025 in so far as not already in force) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(2)(c), **Sch. 14 para. 1(5)** (with Sch. 19); S.I. 2024/1226, regs. 1(2), 2(1)(18)

72 Offences by bodies corporate etc.

(1) This section applies to an offence under any of sections 42 to 44 [F449]....

(2) If an offence committed by a body corporate is proved—

(a) to have been committed with the consent or connivance of an officer, or

(b) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(3) In subsection (2) "officer", in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(4) If the affairs of a body corporate are managed by its members, subsection (2) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(5) If an offence committed by a partnership in Scotland is proved—

(a) to have been committed with the consent or connivance of a partner, or

(b) to be attributable to any neglect on his part,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(6) In subsection (5) "partner" includes a person purporting to act as a partner.

Textual Amendments

F449 Words in s. 72(1) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **25**; 2020 c. 1, Sch. 5 para. 1(1)

73 Crown application.

(1) Any provision made by or under this Act binds the Crown except that—

(a) the Crown is not criminally liable as a result of any such provision;

(b) the Crown is not liable for any penalty under any such provision; and

(c) nothing in this Act affects Her Majesty in her private capacity.

(2) Subsection (1)(a) does not affect the application of any provision of this Act in relation to persons in the public service of the Crown.

(3) Subsection (1)(c) is to be interpreted as if section 38(3) of the [M7]Crown Proceedings Act 1947 (interpretation of references in that Act to Her Majesty in her private capacity) were contained in this Act.

[[F450](4) If an investigation is conducted under section 25 [F451]... in respect of an agreement where none of the parties is the Crown or a person in the public service of the Crown, or in respect of conduct otherwise than by the Crown or such a person—

(a) the power conferred by section 27 [F452]... may not be exercised in relation to land which is occupied by a government department, or otherwise for purposes of the Crown, without the written consent of the appropriate person; and

(b) **[**[F453]sections 28 and 28A do not apply**]** in relation to land so occupied.**]**

(5) In any case in which consent is required under subsection (4), the person who is the appropriate person in relation to that case is to be determined in accordance with regulations made by the Secretary of State.

F454(6) . . . . . .

[F455(6A) In **[**F456subsection (4)**]** "agreement" includes a suspected agreement and is to be read as applying equally to, or in relation to, a decision by an association of undertakings or a concerted practice; and "conduct" includes suspected conduct.**]**

(7) **[**F457In subsection (6) "infringement" means an infringement of **[**F458EU**]** law relating to Article 85 or 86 of the Treaty establishing the European Community.**]**

(8) If the Secretary of State certifies that it appears to him to be in the interests of national security that the powers of entry—

(a) conferred by section 27 F459..., or

(b) that may be conferred by a warrant under **[**F460section 28 or 28A**]**,

should not be exercisable in relation to premises held or used by or on behalf of the Crown and which are specified in the certificate, those powers are not exercisable in relation to those premises.

(9) Any amendment, repeal or revocation made by this Act binds the Crown to the extent that the enactment amended, repealed or revoked binds the Crown.

Textual Amendments

F450 S. 73(4) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 46(2)**

F451 Words in s. 73(4) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **26(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F452 Words in s. 73(4)(a) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **26(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F453 Words in s. 73(4)(b) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **26(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F454 S. 73(6) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **26(3)**; 2020 c. 1, Sch. 5 para. 1(1)

F455 S. 73(6A) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 46(4)**

F456 Words in s. 73(6A) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **26(4)**; 2020 c. 1, Sch. 5 para. 1(1)

F457 S. 73(7) ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 46(5)** (with reg. 6(2))

F458 Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, **3**, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

F459 Words in s. 73(8)(a) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **26(5)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F460 Words in s. 73(8)(b) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **26(5)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M7 1947 c. 44.

74 Amendments, transitional provisions, savings and repeals.

(1) The minor and consequential amendments set out in Schedule 12 are to have effect.

(2) The transitional provisions and savings set out in Schedule 13 are to have effect.

(3) The enactments set out in Schedule 14 are repealed.

Commencement Information

I9 S. 74 partly in force; s. 74 not in force at Royal Assent see s. 76(3); s. 74 in force for certain purposes at 1.11.1999 by S.I. 1998/3166, art. 2, **Sch.**; s. 74(1)(3) in force for certain purposes at 1.4.1999 by S.I. 1999/505, art. 2, **Sch. 2**; s. 74 in force for certain purposes at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

I10 S. 74(3) in force at 10.3.2013 in so far as not already in force by S.I. 2013/284, **art. 2(b)**

75 Consequential and supplementary provision.

(1) The Secretary of State may by order make such incidental, consequential, transitional or supplemental provision as he thinks necessary or expedient for the general purposes, or any particular purpose, of this Act or in consequence of any of its provisions or for giving full effect to it.

(2) An order under subsection (1) may, in particular, make provision—

(a) for enabling any person by whom any powers will become exercisable, on a date specified by or under this Act, by virtue of any provision made by or under this Act to take before that date any steps which are necessary as a preliminary to the exercise of those powers;

(b) for making savings, or additional savings, from the effect of any repeal made by or under this Act.

(3) Amendments made under this section shall be in addition, and without prejudice, to those made by or under any other provision of this Act.

(4) No other provision of this Act restricts the powers conferred by this section.

[F461]75A Rules in relation to Part 2 and Part 2A

. . . . . .

Textual Amendments

F461 S. 75A omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **27**; 2020 c. 1, Sch. 5 para. 1(1)

76 Short title, commencement and extent.

(1) This Act may be cited as the Competition Act 1998.

(2) Sections 71 and 75 and this section and paragraphs 1 to 7 and 35 of Schedule 13 come into force on the passing of this Act.

(3) The other provisions of this Act come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes.

(4) This Act extends to Northern Ireland.

Subordinate Legislation Made

P1 S. 76 power partly exercised (9.11.1998): 26.11.1998 appointed for specified provisions by S.I. 1998/2750, **art. 2**

P2 S. 76 power partly exercised (16.12.1998): 11.1.1999 appointed for specified provisions by S.I. 1998/3166, art. 2, **Sch.**

P3 S. 76 power partly exercised (2.3.1999): 1.4.1999 appointed for specified provisions by S.I. 1999/505, art. 2, **Sch. 2**

P4 S. 76 power partly exercised (19.10.1999): 10.11.1999 appointed for specified provisions by S.I. 1999/2859, **art. 2**

SCHEDULES

SCHEDULE 1

Sections 3(1)(a) and 19(1)(a).

EXCLUSIONS: MERGERS AND CONCENTRATIONS

PART I

MERGERS

Enterprises ceasing to be distinct: the Chapter I prohibition

1 (1) To the extent to which an agreement (either on its own or when taken together with another agreement) results, or if carried out would result, in any two enterprises ceasing to be distinct enterprises for the purposes of **[**F462Part V of the M8Fair Trading Act 1973 ("the 1973 Act")**][**F462Part 3 of the Enterprise Act 2002 ("the 2002 Act")**]**, the Chapter I prohibition does not apply to the agreement.

(2) The exclusion provided by sub-paragraph (1) extends to any provision directly related and necessary to the implementation of the merger provisions.

(3) In sub-paragraph (2) "merger provisions" means the provisions of the agreement which cause, or if carried out would cause, the agreement to have the result mentioned in sub-paragraph (1).

(4) **[**F463Section 65 of the 1973 Act**][**F463Section 26 of the 2002 Act**]** applies for the purposes of this paragraph as if—

(a) in subsection (3) (circumstances in which a person or group of persons may be treated as having control of an enterprise), and

(b) in subsection (4) (circumstances in which a person or group of persons may be treated as bringing an enterprise under their control),

for "may" there were substituted " must ".

Textual Amendments

F462 Words in Sch. 1 para. 1(1) substituted (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(50)(a)(i)**; S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F463 Words in Sch. 1 para. 1(4) substituted (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(50)(a)(ii)**; S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

Marginal Citations

M8 1973 c. 41.

Enterprises ceasing to be distinct: the Chapter II prohibition

2 (1) To the extent to which conduct (either on its own or when taken together with other conduct)—

(a) results in any two enterprises ceasing to be distinct enterprises for the purposes of **[**F464Part V of the 1973 Act**][**F464Part 3 of the 2002 Act**]**, or

(b) is directly related and necessary to the attainment of the result mentioned in paragraph (a),

the Chapter II prohibition does not apply to that conduct.

(2) **[**F465Section 65 of the 1973 Act**][**F465Section 26 of the 2002 Act**]** applies for the purposes of this paragraph as it applies for the purposes of paragraph 1.

Textual Amendments

F464 Words in Sch. 1 para. 2(1)(a) substituted (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(50)(b)(i)**; S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

F465 Words in Sch. 1 para. 2(2) substituted (20.6.2003 for specified purposes, 29.12.2004 in so far as not already in force) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(50)(b)(ii)**; S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(1), 8); S.I. 2004/3233, art. 2, Sch. (with arts. 3-5)

Transfer of a newspaper or of newspaper assets

F4663 . . . . . .

Textual Amendments

F466 Sch. 1 para. 3 repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 19(1)** Note 1 (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Withdrawal of the paragraph 1 exclusion

4 (1) The exclusion provided by paragraph 1 does not apply to a particular agreement if the **[**F467CMA**]** gives a direction under this paragraph to that effect.

(2) If the **[**F467CMA**]** is considering whether to give a direction under this paragraph, **[**F468it**]** may by notice in writing require any party to the agreement in question to give **[**F468the **[**F467CMA**]]** such information in connection with the agreement as **[**F468it**]** may require.

(3) The **[**F467CMA**]** may give a direction under this paragraph only as provided in sub-paragraph (4) or (5).

(4) If at the end of such period as may be specified in rules under section 51 a person has failed, without reasonable excuse, to comply with a requirement imposed under sub-paragraph (2), the **[**F467CMA**]** may give a direction under this paragraph.

(5) The **[**F467CMA**]** may also give a direction under this paragraph if—

[F469(a) it considers that the agreement will, if not excluded, infringe the Chapter I prohibition; and**]**

(b) the agreement is not a protected agreement.

(6) **[**F470For the purposes of sub-paragraph (5), an individual exemption is unconditional if no conditions or obligations are imposed in respect of it under section 4(3)(a).**]**

(7) A direction under this paragraph—

(a) must be in writing;

(b) may be made so as to have effect from a date specified in the direction (which may not be earlier than the date on which it is given).

Textual Amendments

F467 Words in Sch. 1 para. 4(1)-(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 53(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F468 Words in Sch. 1 para. 4(2) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(50)(c)(ii)**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

F469 Sch. 1 para. 4(5)(a) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 48(2)(a)**

F470 Sch. 1 para. 4(6) ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 48(2)(b)** (with reg. 6(2))

Modifications etc. (not altering text)

C87 Sch. 1 para. 4 applied (1.3.2000) by S.I. 2000/310, **art. 7**

Protected agreements

5 An agreement is a protected agreement for the purposes of paragraph 4 if—

[F471(a) the **[**F472CMA**]** or (as the case may be) the Secretary of State has published its or his decision not to make a reference F473... under section 22, 33, 45 or 62 of the 2002 Act in connection with the agreement;

(b) the **[**F472CMA**]** or (as the case may be) the Secretary of State has made a reference F473... under section 22, 33, 45 or 62 of the 2002 Act in connection with the agreement and **[**F474the CMA**]** has found that the agreement has given rise to, or would if carried out give rise to, a relevant merger situation or (as the case may be) a special merger situation;

(c) the agreement does not fall within paragraph (a) or (b) but has given rise to, or would if carried out give rise to, enterprises to which it relates being regarded under section 26 of the 2002 Act as ceasing to be distinct enterprises (otherwise than as the result of subsection (3) or (4)(b) of that section); or

(d) the **[**F472CMA**]** has made a reference F473... under section 32 of the Water Industry Act 1991 in connection with the agreement and **[**F474the CMA**]** has found that the agreement has given rise to, or would if carried out give rise to, a merger of any two or more water enterprises of the kind to which that section applies.**]**

Textual Amendments

F471 Sch. 1 para. 5(a)(d) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(50)(d)**; S.I. 2003/1397, art. 2(1), Sch. (with arts. 3(4)8)

F472 Word in Sch. 1 para. 5 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 53(3)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F473 Words in Sch. 1 para. 5 omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 15 para. 12(2)(a)**; S.I. 2014/416, art. 2(1)(f) (with Sch.)

F474 Words in Sch. 1 para. 5 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 15 para. 12(2)(b)**; S.I. 2014/416, art. 2(1)(f) (with Sch.)

Modifications etc. (not altering text)

C88 Sch. 1 para. 5(a)(b) amended (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 1(1), **Sch. 4 para. 15(1)(a)**

C89 Sch. 1 para. 5(b) amended (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 1(1), **Sch. 4 para. 15(1)(b)**

C90 Sch. 1 para. 5 modified (temp.) (7.12.2004) by The Enterprise Act 2002 (Commencement No. 7 and Transitional Provisions and Savings) Order 2004 (S.I. 2004/3233), **art. 5(2)(b)**

F475PART II

CONCENTRATIONS SUBJECT TO EC CONTROLS

Textual Amendments

F475 Sch. 1 Pt. II omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **28**; 2020 c. 1, Sch. 5 para. 1(1)

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SCHEDULE 2

Section 3(1)(b).

EXCLUSIONS: OTHER COMPETITION SCRUTINY

PART I

FINANCIAL SERVICES

F476...

Textual Amendments

F476 Sch. 2 para. 1 and cross-heading repealed (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 19** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

1 (1) The Financial Services Act 1986 is amended as follows.

(2) For section 125 (effect of the [M9]Restrictive Trade Practices Act 1976), substitute—

"**125 The Competition Act 1998: Chapter I prohibition.**

(1) The Chapter I prohibition does not apply to an agreement for the constitution of—

(a) a recognised self-regulating organisation,

(b) a recognised investment exchange, or

(c) a recognised clearing house,

to the extent to which the agreement relates to the regulating provisions of the body concerned.

(2) Subject to subsection (3) below, the Chapter I prohibition does not apply to an agreement for the constitution of—

(a) a self-regulating organisation,

(b) an investment exchange, or

(c) a clearing house,

to the extent to which the agreement relates to the regulating provisions of the body concerned.

(3) The exclusion provided by subsection (2) above applies only if—

(a) the body has applied for a recognition order in accordance with the provisions of this Act; and

(b) the application has not been determined.

(4) The Chapter I prohibition does not apply to a decision made by—

(a) a recognised self-regulating organisation,

(b) a recognised investment exchange, or

(c) a recognised clearing house,

to the extent to which the decision relates to any of that body's regulating provisions or specified practices.

(5) The Chapter I prohibition does not apply to the specified practices of—

(a) a recognised self-regulating organisation, a recognised investment exchange or a recognised clearing house; or

(b) a person who is subject to—

(i) the rules of one of those bodies, or

(ii) the statements of principle, rules, regulations or codes of practice made by a designated agency in the exercise of functions transferred to it by a delegation order.

(6) The Chapter I prohibition does not apply to any agreement the parties to which consist of or include—

(a) a recognised self-regulating organisation, a recognised investment exchange or a recognised clearing house; or

(b) a person who is subject to—

(i) the rules of one of those bodies, or

(ii) the statements of principle, rules, regulations or codes of practice made by a designated agency in the exercise of functions transferred to it by a delegation order,

to the extent to which the agreement consists of provisions the inclusion of which is required or contemplated by any of the body's regulating provisions or specified practices or by the statements of principle, rules, regulations or codes of practice of the agency.

(7) The Chapter I prohibition does not apply to—

(a) any clearing arrangements; or

(b) any agreement between a recognised investment exchange and a recognised clearing house, to the extent to which the agreement consists of provisions the inclusion of which in the agreement is required or contemplated by any clearing arrangements.

(8) If the recognition order in respect of a body of the kind mentioned in subsection (1)(a), (b) or (c) above is revoked, subsections (1) and (4) to (7) above are to have effect as if that body had continued to be recognised until the end of the period of six months beginning with the day on which the revocation took effect.

(9) In this section—

"the Chapter I prohibition" means the prohibition imposed by section 2(1) of the Competition Act 1998;

"regulating provisions" means—

(a) in relation to a self-regulating organisation, any rules made, or guidance issued, by the organisation;

(b) in relation to an investment exchange, any rules made, or guidance issued, by the exchange;

(c) in relation to a clearing house, any rules made, or guidance issued, by the clearing house;

"specified practices" means—

(a) in the case of a recognised self-regulating organisation, the practices mentioned in section 119(2)(a)(ii) and (iii) above (read with section 119(5) and (6)(a));

(b) in the case of a recognised investment exchange, the practices mentioned in section 119(2)(b)(ii) and (iii) above (read with section 119(5) and (6)(b));

(c) in the case of a recognised clearing house, the practices mentioned in section 119(2)(c)(ii) and (iii) above (read with section 119(5) and (6)(b));

(d) in the case of a person who is subject to the statements of principle, rules, regulations or codes of practice issued or made by a designated agency in the exercise of functions transferred to it by a delegation order, the practices mentioned in section 121(2)(c) above (read with section 121(4));

and expressions used in this section which are also used in Part I of the Competition Act 1998 are to be interpreted in the same way as for the purposes of that Part of that Act."

(3) Omit section 126 (certain practices not to constitute anti-competitive practices for the purposes of the [M10]Competition Act 1980).

(4) For section 127 (modification of statutory provisions in relation to recognised professional bodies), substitute—

"**127 Application of Competition Act 1998 in relation to recognised professional bodies: Chapter I prohibition.**

(1) This section applies to—

(a) any agreement for the constitution of a recognised professional body to the extent to which it relates to the rules or guidance of that body relating to the carrying on of investment business by persons certified by it ("investment business rules"); and

(b) any other agreement, the parties to which consist of or include—

(i) a recognised professional body,

(ii) a person certified by such a body, or

(iii) a member of such a body,

and which contains a provision required or contemplated by that body's investment business rules.

(2) If it appears to the Treasury, in relation to some or all of the provisions of an agreement to which this section applies—

(a) that the provisions in question do not have, and are not intended or likely to have, to any significant extent the effect of restricting, distorting or preventing competition; or

(b) that the effect of restricting, distorting or preventing competition which the provisions in question do have, or are intended or are likely to have, is not greater than is necessary for the protection of investors,

the Treasury may make a declaration to that effect.

(3) If the Treasury make a declaration under this section, the Chapter I prohibition does not apply to the agreement to the extent to which the agreement consists of provisions to which the declaration relates.

(4) If the Treasury are satisfied that there has been a material change of circumstances, they may—

(a) revoke a declaration made under this section, if they consider that the grounds on which it was made no longer exist;

(b) vary such a declaration, if they consider that there are grounds for making a different declaration; or

(c) make a declaration even though they have notified the Director of their intention not to do so.

(5) If the Treasury make, vary or revoke a declaration under this section they must notify the Director of their decision.

(6) If the Director proposes to exercise any Chapter III powers in respect of any provisions of an agreement to which this section applies, he must—

(a) notify the Treasury of his intention to do so; and

(b) give the Treasury particulars of the agreement and such other information—

(i) as he considers will assist the Treasury to decide whether to exercise their powers under this section; or

(ii) as the Treasury may request.

(7) The Director may not exercise his Chapter III powers in respect of any provisions of an agreement to which this section applies, unless the Treasury—

(a) have notified him that they have not made a declaration in respect of those provisions under this section and that they do not intend to make such a declaration; or

(b) have revoked a declaration under this section and a period of six months beginning with the date on which the revocation took effect has expired.

(8) A declaration under this section ceases to have effect if the agreement to which it relates ceases to be one to which this section applies.

(9) In this section—

"the Chapter I prohibition" means the prohibition imposed by section 2(1) of the Competition Act 1998,

"Chapter III powers" means the powers given to the Director by Chapter III of Part I of that Act so far as they relate to the Chapter I prohibition, and

expressions used in this section which are also used in Part I of the Competition Act 1998 are to be interpreted in the same way as for the purposes of that Part of that Act.

(10) In this section references to an agreement are to be read as applying equally to, or in relation to, a decision or concerted practice.

(11) In the application of this section to decisions and concerted practices, references to provisions of an agreement are to be read as references to elements of a decision or concerted practice."

Marginal Citations

M9 1976 c. 34.

M10 1980 c. 21.

[F477 PART II

COMPANIES

Textual Amendments

F477 Sch. 2 Pt. 2 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 49(2)** (with reg. 6(2))

The Companies Act 1989 (c.40)

2 (1) The Companies Act 1989 is amended as follows.

(2) In Schedule 14, for paragraph 9 (exclusion of certain agreements from the [M11]Restrictive Trade Practices Act 1976), substitute—

" The Competition Act 1998

9 (1) The Chapter I prohibition does not apply to an agreement for the constitution of a recognised supervisory or qualifying body to the extent to which it relates to—

(a) rules of, or guidance issued by, the body; and

(b) incidental matters connected with the rules or guidance.

(2) The Chapter I prohibition does not apply to an agreement the parties to which consist of or include—

(a) a recognised supervisory or qualifying body, or

(b) any person mentioned in paragraph 3(5) or (6) above,

to the extent to which the agreement consists of provisions the inclusion of which in the agreement is required or contemplated by the rules or guidance of that body.

(3) The Chapter I prohibition does not apply to the practices mentioned in paragraph 3(4)(a) and (b) above.

(4) Where a recognition order is revoked, sub-paragraphs (1) to (3) above are to continue to apply for a period of six months beginning with the day on which the revocation takes effect, as if the order were still in force.

(5) In this paragraph—

(a) "the Chapter I prohibition" means the prohibition imposed by section 2(1) of the Competition Act 1998,

(b) references to an agreement are to be read as applying equally to, or in relation to, a decision or concerted practice,

and expressions used in this paragraph which are also used in Part I of the Competition Act 1998 are to be interpreted in the same way as for the purposes of that Part of that Act.

(6) In the application of this paragraph to decisions and concerted practices, references to provisions of an agreement are to be read as references to elements of a decision or concerted practice."

Marginal Citations

M11 1976 c. 34.

The Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I. 5))

[F478]3 . . . . . .]

Textual Amendments

F478 Sch. 2 para. 3 repealed (1.1.2005) by Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27), s. 65(1), **Sch. 8**; S.I. 2004/3322, art. 2(1), Sch. 1

PART III

BROADCASTING

The Broadcasting Act 1990 (c.42)

4 (1) The Broadcasting Act 1990 is amended as follows.

(2) In section 194A (which modifies the [M12]Restrictive Trade Practices Act 1976 in its application to agreements relating to Channel 3 news provision), for subsections (2) to (6), substitute—

"(2) If, having sought the advice of the Director, it appears to the Secretary of State, in relation to some or all of the provisions of a relevant agreement, that the conditions mentioned in subsection (3) are satisfied, he may make a declaration to that effect.

(3) The conditions are that—

(a) the provisions in question do not have, and are not intended or likely to have, to any significant extent the effect of restricting, distorting or preventing competition; or

(b) the effect of restricting, distorting or preventing competition which the provisions in question do have or are intended or are likely to have, is not greater than is necessary—

(i) in the case of a relevant agreement falling within subsection (1)(a), for securing the appointment by holders of regional Channel 3 licences of a single body corporate to be the appointed news provider for the purposes of section 31(2), or

(ii) in the case of a relevant agreement falling within subsection (1)(b), for compliance by them with conditions included in their licences by virtue of section 31(1) and (2).

(4) If the Secretary of State makes a declaration under this section, the Chapter I prohibition does not apply to the agreement to the extent to which the agreement consists of provisions to which the declaration relates.

(5) If the Secretary of State is satisfied that there has been a material change of circumstances, he may—

(a) revoke a declaration made under this section, if he considers that the grounds on which it was made no longer exist;

(b) vary such a declaration, if he considers that there are grounds for making a different declaration; or

(c) make a declaration, even though he has notified the Director of his intention not to do so.

(6) If the Secretary of State makes, varies or revokes a declaration under this section, he must notify the Director of his decision.

(7) The Director may not exercise any Chapter III powers in respect of a relevant agreement, unless—

(a) he has notified the Secretary of State of his intention to do so; and

(b) the Secretary of State—

(i) has notified the Director that he has not made a declaration in respect of the agreement, or provisions of the agreement, under this section and that he does not intend to make such a declaration; or

(ii) has revoked a declaration under this section and a period of six months beginning with the date on which the revocation took effect has expired.

(8) If the Director proposes to exercise any Chapter III powers in respect of a relevant agreement, he must give the Secretary of State particulars of the agreement and such other information—

(a) as he considers will assist the Secretary of State to decide whether to exercise his powers under this section; or

(b) as the Secretary of State may request.

(9) In this section—

"the Chapter I prohibition" means the prohibition imposed by section 2(1) of the Competition Act 1998;

"Chapter III powers" means the powers given to the Director by Chapter III of Part I of that Act so far as they relate to the Chapter I prohibition;

"Director" means the Director General of Fair Trading;

"regional Channel 3 licence" has the same meaning as in Part I;

and expressions used in this section which are also used in Part I of the Competition Act 1998 are to be interpreted in the same way as for the purposes of that Part of that Act.

(10) In this section references to an agreement are to be read as applying equally to, or in relation to, a decision or concerted practice.

(11) In the application of this section to decisions and concerted practices, references to provisions of an agreement are to be read as references to elements of a decision or concerted practice."

Marginal Citations
M12 1976 c. 34.

Networking arrangements under the Broadcasting Act 1990 (c.42)

5 [F479(1) The Chapter I prohibition does not apply in respect of any networking arrangements to the extent that they—

(a) have been approved for the purposes of licence conditions imposed under section 291 of the Communications Act 2003; or

(b) are arrangements that have been considered under Schedule 4 to the Broadcasting Act 1990 and fall to be treated as so approved;

nor does that prohibition apply in respect of things done with a view to arrangements being entered into or approved to the extent that those things have effect for purposes that are directly related to, and necessary for compliance with, conditions so imposed.**]**

(2) **[**[F480]OFCOM**]** must publish a list of the networking arrangements which in their opinion are excluded from the Chapter I prohibition by virtue of sub-paragraph (1).

(3) **[**[F481]OFCOM**]** must—

(a) consult the **[**[F482]CMA**]** before publishing the list, and

(b) publish the list in such a way as they think most suitable for bringing it to the attention of persons who, in their opinion, would be affected by, or likely to have an interest in, it.

[[F483](4) In this paragraph "networking arrangements" has the same meaning as in Part 3 of the Communications Act 2003.**]**

Textual Amendments

F479 Sch. 2 para. 5(1) substituted (29.12.2003) by Communications Act 2003 (c. 21), **ss. 291(3)**, 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

F480 Words in Sch. 2 para. 5(2) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), **ss. 371(6)(a)**, 411(2) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

F481 Words in Sch. 2 para. 5(3) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), **ss. 371(6)(b)**, 411(2) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

F482 Word in Sch. 2 para. 5(3)(a) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 54** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F483 Sch. 2 para. 5(4) substituted (29.12.2003) by Communications Act 2003 (c. 21), **ss. 291(4)**, 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

[[F484]PART IV

ENVIRONMENTAL PROTECTION

Textual Amendments

F484 Sch. 2 Pt. 4 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 49(3)** (with reg. 6(2))

Producer responsibility obligations

6 (1) The [M13]Environment Act 1995 is amended as follows.

(2) In section 94(1) (supplementary provisions about regulations imposing producer responsibility obligations on prescribed persons), after paragraph (o), insert—

"(oa) the exclusion or modification of any provision of Part I of the Competition Act 1998 in relation to exemption schemes or in relation to any agreement, decision or concerted practice at least one of the parties to which is an operator of an exemption scheme;".

(3) After section 94(6), insert—

"(6A) Expressions used in paragraph (oa) of subsection (1) above which are also used in Part I of the Competition Act 1998 are to be interpreted in the same way as for the purposes of that Part of that Act."

(4) After section 94, insert—

" **Producer responsibility: competition matters.**

(1) For the purposes of this section, the relevant paragraphs are paragraphs (n), (o), (oa) and (ya) of section 94(1) above.

(2) Regulations made by virtue of any of the relevant paragraphs may include transitional provision in respect of agreements or exemption schemes—

(a) in respect of which information has been required for the purposes of competition scrutiny under any regulation made by virtue of paragraph (ya);

(b) which are being, or have been, considered for the purposes of competition scrutiny under any regulation made by virtue of paragraph (n) or (ya); or

(c) in respect of which provisions of the [M14]Restrictive Trade Practices Acts 1976 and [M15]1977 have been modified or excluded in accordance with any regulation made by virtue of paragraph (o).

(3) Subsections (2), (3), (5) to (7) and (10) of section 93 above do not apply to a statutory instrument which contains only regulations made by virtue of any of the relevant paragraphs or subsection (2) above.

(4) Such a statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament."**]**

Marginal Citations

M13 1995 c. 25.
M14 1976 c. 34.
M15 1977 c. 19.

SCHEDULE 3

Sections 3(1)(c) and 19(1)(b).

GENERAL EXCLUSIONS

Planning obligations

1 (1) The Chapter I prohibition does not apply to an agreement—

(a) to the extent to which it is a planning obligation;

(b) which is made under section 75 (agreements regulating development or use of land) or 246 (agreements relating to Crown land) of the [M16]Town and Country Planning (Scotland) Act 1997; or

(c) which is made under **[**[F485]Article 40 of the [M17]Planning (Northern Ireland) Order 1991**][**[F485]section 76 of the Planning Act (Northern Ireland) 2011**]** .

(2) In sub-paragraph (1)(a), "planning obligation" means—

(a) a planning obligation for the purposes of section 106 of the [M18]Town and Country Planning Act 1990; or

(b) a planning obligation for the purposes of section 299A of that Act.

Textual Amendments

F485 Words in Sch. 3 para. 1(1)(c) substituted (N.I.) (13.2.2015 for specified purposes, 1.4.2015 so far as not already in force) by Planning Act (Northern-Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 89** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2)

Marginal Citations

M16 1997 c. 8.
M17 S.I. 1991/1220 (N.I. 11).
M18 1990 c. 8.

Section 21(2) agreements

2 **[**[F486](1) The Chapter I prohibition does not apply to an agreement in respect of which a direction under section 21(2) of the [M19]Restrictive Trade Practices Act 1976 is in force immediately before the coming into force of section 2 ("a section 21(2) agreement").

(2) If a material variation is made to a section 21(2) agreement, sub-paragraph (1) ceases to apply to the agreement on the coming into force of the variation.

(3) Sub-paragraph (1) does not apply to a particular section 21(2) agreement if the **[**[F487]OFT**]** gives a direction under this paragraph to that effect.

(4) If the **[**[F487]OFT**]** is considering whether to give a direction under this paragraph, **[**[F488]it**]** may by notice in writing require any party to the agreement in question to give **[**[F488]the OFT**]** such information in connection with the agreement as **[**[F488]it**]** may require.

(5) The **[**[F487]OFT**]** may give a direction under this paragraph only as provided in sub-paragraph (6) or (7).

(6) If at the end of such period as may be specified in rules under section 51 a person has failed, without reasonable excuse, to comply with a requirement imposed under sub-paragraph (4), the **[**F487OFT**]** may give a direction under this paragraph.

(7) The **[**F487OFT**]** may also give a direction under this paragraph **[**F489if it**]** considers—

(a) that the agreement will, if not excluded, infringe the Chapter I prohibition; and

(b) that **[**F489the OFT is**]**not likely to grant it an unconditional individual exemption.

(8) For the purposes of sub-paragraph (7) an individual exemption is unconditional if no conditions or obligations are imposed in respect of it under section 4(3)(a).

(9) A direction under this paragraph—

(a) must be in writing;

(b) may be made so as to have effect from a date specified in the direction (which may not be earlier than the date on which it is given).**]**

Textual Amendments

F486 Sch. 3 para. 2 ceases to have effect (1.5.2007) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(b), **Sch. 1 para. 50(a)** (with reg. 6(2))

F487 Word in Sch. 3 para. 2 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(51)(a)(i)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F488 Words in Sch. 3 para. 2(4) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(51)(a)(ii)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F489 Words in Sch. 3 para. 2(7) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(51)(a)(iii)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Marginal Citations

M19 1976 c. 34.

F490...

Textual Amendments

F490 Sch. 3 para. 3 and crossheading omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **29(2)**; 2020 c. 1, Sch. 5 para. 1(1)

F4903 . . . . . .

Services of general economic interest etc.

4 Neither the Chapter I prohibition nor the Chapter II prohibition applies to an undertaking entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly in so far as the prohibition

would obstruct the performance, in law or in fact, of the particular tasks assigned to that undertaking.

Compliance with legal requirements

5 (1) The Chapter I prohibition does not apply to an agreement to the extent to which it is made in order to comply with a legal requirement.

(2) The Chapter II prohibition does not apply to conduct to the extent to which it is engaged in an order to comply with a legal requirement.

(3) In this paragraph "legal requirement" means a requirement—

(a) imposed by or under any enactment in force in the United Kingdom;

[F491(b) imposed by or under the EU withdrawal agreement or the EEA EFTA separation agreement and having legal effect in the United Kingdom without further enactment (and in this paragraph, "EEA EFTA separation agreement" has the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) of that Act)).**]**

F492(c) . . . . . .

Textual Amendments

F491 Sch. 3 para. 5(3)(b) substituted (31.12.2020) by S.I. 2019/93, reg. 29(3)(a) (as substituted by The Competition (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1343), regs. 1(1), **6**)

F492 Sch. 3 para. 5(3)(c) omitted (31.12.2020) by virtue of S.I. 2019/93, reg. 29(3)(b) (as substituted by The Competition (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1343), regs. 1(1), **6**)

Avoidance of conflict with international obligations

6 (1) If the Secretary of State is satisfied that, in order to avoid a conflict between provisions of this Part and an international obligation of the United Kingdom, it would be appropriate for the Chapter I prohibition not to apply to—

(a) a particular agreement, or

(b) any agreement of a particular description,

he may by order exclude the agreement, or agreements of that description, from the Chapter I prohibition.

(2) An order under sub-paragraph (1) may make provision for the exclusion of the agreement or agreements to which the order applies, or of such of them as may be specified, only in specified circumstances.

(3) An order under sub-paragraph (1) may also provide that the Chapter I prohibition is to be deemed never to have applied in relation to the agreement or agreements, or in relation to such of them as may be specified.

(4) If the Secretary of State is satisfied that, in order to avoid a conflict between provisions of this Part and an international obligation of the United Kingdom, it would be appropriate for the Chapter II prohibition not to apply in particular circumstances, he may by order provide for it not to apply in such circumstances as may be specified.

(5) An order under sub-paragraph (4) may provide that the Chapter II prohibition is to be deemed never to have applied in relation to specified conduct.

(6) An international arrangement relating to civil aviation and designated by an order made by the Secretary of State is to be treated as an international obligation for the purposes of this paragraph.

(7) In this paragraph and paragraph 7 "specified" means specified in the order.

Public policy

7 (1) If the Secretary of State is satisfied that there are exceptional and compelling reasons of public policy why the Chapter I prohibition ought not to apply to—

(a) a particular agreement, or

(b) any agreement of a particular description,

he may by order exclude the agreement, or agreements of that description, from the Chapter I prohibition.

(2) An order under sub-paragraph (1) may make provision for the exclusion of the agreement or agreements to which the order applies, or of such of them as may be specified, only in specified circumstances.

(3) An order under sub-paragraph (1) may also provide that the Chapter I prohibition is to be deemed never to have applied in relation to the agreement or agreements, or in relation to such of them as may be specified.

(4) If the Secretary of State is satisfied that there are exceptional and compelling reasons of public policy why the Chapter II prohibition ought not to apply in particular circumstances, he may by order provide for it not to apply in such circumstances as may be specified.

(5) An order under sub-paragraph (4) may provide that the Chapter II prohibition is to be deemed never to have applied in relation to specified conduct.

Coal and steel

F493 8 . . . . . .

Textual Amendments

F493 Sch. 3 para. 8 omitted (1.1.2025) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 120(2)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2)

Agricultural products

9 (1) **[**F494The Chapter 1 prohibition does not apply to an agreement to the extent that it is an agreement between the members of—

(a) a recognised producer organisation ("PO"), or

(b) a recognised association of producer organisations ("APO"),

for the PO or APO (as the case may be) to carry out one or more of the activities mentioned in sub-paragraph (1A) on behalf of its members (for all or part of their total production), provided that Conditions A and B are also met.**]**

[F494(1A) The activities are—

(a) planning production;

(b) optimising production costs;
(c) concentrating supply;
(d) placing products on the market;
(e) negotiating supply contracts.**]**

[F494(1B) Condition A is that—
(a) in the case of a PO, the PO concentrates supply and places the products of its members on the market, whether or not there is a transfer of ownership of agricultural products by the producers to the PO, or
(b) in the case of an APO, the APO concentrates supply and places the products of the members of the POs it represents on the market, whether or not there is a transfer of ownership of agricultural products by the producers to the APO or to any of the POs the APO represents.**]**

[F494(1C) Condition B is that—
(a) in the case of a PO, none of the producers concerned are members of any other PO as regards the products covered by the activities mentioned in sub-paragraph (1A) to which the agreement relates, or
(b) in the case of an APO, none of the producers concerned are members of a PO that is a member of any other APO as regards the products covered by the activities mentioned in sub-paragraph (1A) to which the agreement relates.**]**

[F494(1D) But the Secretary of State may decide that the RPO exclusion applies if Condition B is not met, if—
(a) every producer which is a member of more than one PO holds distinct production units located in different geographical areas, and
(b) the Secretary of State considers that it is appropriate in all the circumstances for the RPO exclusion to apply.**]**

[F494(1E) If the Secretary of State is considering whether to make a decision under sub-paragraph (1D), the Secretary of State may by notice in writing require any party to the agreement in question to give the Secretary of State such information in connection with the agreement as the Secretary of State may require.**]**

(2) **[**F496If the Commission determines that an agreement does not fulfil the conditions specified by the provision for agricultural products for exclusion from **[**F497Article 101(1)**]**, the exclusion provided by this paragraph ("the agriculture exclusion") is to be treated as ceasing to apply to the agreement on the date of the decision.**]**

(3) The **[**F498agriculture exclusion**][**F498RPO exclusion**]** does not apply to a particular agreement if the **[**F499CMA**]** gives a direction under this paragraph to that effect.

(4) If the **[**F499CMA**]** is considering whether to give a direction under this paragraph, **[**F500it**]** may by notice in writing require any party to the agreement in question to give the **[**F499CMA**]** such information in connection with the agreement as **[**F500it**]** may require.

(5) The **[**F499CMA**]** may give a direction under this paragraph only as provided in sub-paragraph (6) or (7).

(6) If at the end of such period as may be specified in rules under section 51 a person has failed, without reasonable excuse, to comply with a requirement imposed under sub-paragraph (4), the **[**F499CMA**]** may give a direction under this paragraph.

(7) The **[**F499CMA**]** may also give a direction under this paragraph if **[**F501it**]** considers that an agreement (whether or not **[**F501it**]** considers that it infringes the Chapter I prohibition) is likely, or is intended, substantially and unjustifiably to prevent, restrict or distort competition in relation to an agricultural product.

(8) A direction under this paragraph—

(a) must be in writing;

(b) may be made so as to have effect from a date specified in the direction (which may not be earlier than the date on which it is given).

(9) **[**F502In this paragraph—

"agricultural product" means a product that falls within a sector mentioned in Schedule 1 to the Agriculture Act 2020;

"recognised association of producer organisations" means an association recognised under section 30 of that Act;

"recognised producer organisation" means a producer organisation recognised under section 30 of that Act.**]**

Textual Amendments

F494 Sch. 3 para. 9(1)-(1E) substituted for Sch. 3para. 9(1) (11.11.2020 for specified purposes) by Agriculture Act 2020 (c. 21), s. 57(1)(b)(c)(2)(b), **Sch. 2 para. 2(2)**

F495 Words in Sch. 3 para. 9(1)(b) substituted (1.8.2012) by The Treaty of Lisbon (Changes in Terminology or Numbering) Order 2012 (S.I. 2012/1809), art. 2(1), **Sch. Pt. 1** (with art. 2(2))

F496 Sch. 3 para. 9(2) omitted (11.11.2020 for specified purposes) by virtue of Agriculture Act 2020 (c. 21), s. 57(1)(b)(c)(2)(b), **Sch. 2 para. 2(3)**

F497 Words in Sch. 3 para. 9(2) substituted (1.8.2012) by The Treaty of Lisbon (Changes in Terminology or Numbering) Order 2012 (S.I. 2012/1809), art. 2(1), **Sch. Pt. 1** (with art. 2(2))

F498 Words in Sch. 3 para. 9(3) substituted (11.11.2020 for specified purposes) by Agriculture Act 2020 (c. 21), s. 57(1)(b)(c)(2)(b), **Sch. 2 para. 2(4)**

F499 Word in Sch. 3 para. 9(3)-(7) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 55(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F500 Words in Sch. 3 para. 9(4) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(51)(b)(ii)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F501 Words in Sch. 3 para. 9(7) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(51)(b)(iii)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F502 Sch. 3 para. 9(9) substituted (11.11.2020 for specified purposes) by Agriculture Act 2020 (c. 21), s. 57(1)(b)(c)(2)(b), **Sch. 2 para. 2(5)**

F503 Words in Sch. 3 para. 9(9) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 50(b)(iii)**

Modifications etc. (not altering text)

C91 Sch. 3 para. 9 applied (31.12.2020) by Regulation (EC) No. 1379/2013, Art. 41(4) (as inserted by The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/739), regs. 1, **19(31)(d)**; 2020 c. 1, Sch. 5 para. 1(1))

[F50410(1) The Chapter 1 prohibition does not apply to an agreement to the extent that it is an agreement between the members of a recognised interbranch organisation that has

the object of carrying out one or more specified activities, provided that the condition in sub-paragraph (2) is also met.

This exclusion is referred to in this paragraph as the "RIBO exclusion".

(2) The condition in this sub-paragraph is that the organisation has notified the agreement to the CMA and provided all further details required by the CMA, and—

(a) the CMA has decided that it is appropriate for the RIBO exclusion to apply, or

(b) within two months of the CMA receiving all the details it requires, the CMA has not decided that it is inappropriate for the RIBO exclusion to apply.

(3) In deciding whether it is appropriate for the RIBO exclusion to apply, the CMA must consider whether the benefit of the agreement to the specified activities of the recognised interbranch organisation outweighs any prevention, restriction or distortion of competition within the United Kingdom as a result of the agreement.

(4) The CMA may at any time give a direction to the effect that the RIBO exclusion no longer applies to a particular agreement.

(5) Sub-paragraphs (4) to (8) of paragraph 9 apply to a direction under this paragraph as they apply to a direction under paragraph 9.

(6) In this paragraph—

"recognised interbranch organisation" means an organisation of agricultural businesses recognised under section 30 of the Agriculture Act 2020;

"specified activities" means the activities specified in regulations under section 30(6)(e) of that Act.**]**

Textual Amendments

F504 Sch. 3 para. 10 inserted (11.11.2020 for specified purposes) by Agriculture Act 2020 (c. 21), s. 57(1)(b)(c)(2)(b), **Sch. 2 para. 3**

F505SCHEDULE 4

Section 3(1)(d).

. . . . . .

Textual Amendments

F505 Sch. 4 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 207, 279, **Sch. 26** (with Sch. 24 paras. 2022); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

[F506SCHEDULE 5

Section 12(2).

NOTIFICATION UNDER CHAPTER I: PROCEDURE

Textual Amendments

F506 Sch. 5 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 51** (with reg. 6(2))

Modifications etc. (not altering text)

C92 Sch. 5 applied (with modifications) (1.3.2000) by S.I. 2000/263, **art. 8**

Commencement Information

I11 Sch. 5 partly in force; Sch. 5 not in force at Royal Assent, see s. 431; Sch. 5 partly in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Terms used

1 In this Schedule—

"applicant" means the person making an application to which this Schedule applies;

"application" means an application under section 13 or an application under section 14;

"application for guidance" means an application under section 13;

"application for a decision" means an application under section 14;

"rules" means rules made by the **[**F507OFT**]** under section 51; and

"specified" means specified in the rules.

Textual Amendments

F507 Words in Sch. 5 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(52)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

General rules about applications

2 (1) An application must be made in accordance with rules.

(2) A party to an agreement who makes an application must take all reasonable steps to notify all other parties to the agreement of whom he is aware—

(a) that the application has been made; and

(b) as to whether it is for guidance or a decision.

(3) Notification under sub-paragraph (2) must be in the specified manner.

Preliminary investigation

3 (1) If, after a preliminary investigation of an application, the **[**F507OFT**]** considers that it is likely—

(a) that the agreement concerned will infringe the Chapter I prohibition, and

(b) that it would not be appropriate to grant the agreement an individual exemption,

[F508it**]** may make a decision ("a provisional decision") under this paragraph.

(2) If the **[**F507OFT**]** makes a provisional decision—

(a) the **[**F507OFT**]** must notify the applicant in writing of **[**F508its**]** provisional decision; and

(b) section 13(4) or (as the case may be) section 14(4) is to be taken as never having applied.

(3) When making a provisional decision, the **[**F507OFT**]** must follow such procedure as may be specified.

(4) A provisional decision does not affect the final determination of an application.

(5) If the **[**F507OFT**]** has given notice to the applicant under sub-paragraph (2) in respect of an application for a decision, he may continue with the application under section 14.

Textual Amendments

F507 Words in Sch. 5 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(52)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F508 Words in Sch. 5 para. 3 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(52)(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Procedure on application for guidance

4 When determining an application for guidance, the **[**F507OFT**]** must follow such procedure as may be specified.

Textual Amendments

F507 Words in Sch. 5 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(52)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Procedure on application for a decision

5 (1) When determining an application for a decision, the **[**F507OFT**]** must follow such procedure as may be specified.

(2) The **[**F507OFT**]** must arrange for the application to be published in such a way as **[**F509it thinks**]** most suitable for **[**F510bringing the application**]** to the attention of those likely to be affected by it, unless **[**F511the OFT is**]** satisfied that it will be sufficient F512... to seek information from one or more particular persons other than the applicant.

(3) In determining the application, the **[**F507OFT**]** must take into account any representations made to **[**F513it**]** by persons other than the applicant.

Textual Amendments

F507 Words in Sch. 5 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(52)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F509 Words in Sch. 5 para. 5(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(52)(c)(i)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F510 Words in Sch. 5 para. 5(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(52)(c)(ii)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F511 Words in Sch. 5 para. 5(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(52)(c)(iii)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F512 Words in Sch. 5 para. 5(2) repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(52)(c)(iv), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F513 Word in Sch. 5 para. 5(3) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(52)(d)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Publication of decisions

6 If the **[**F507OFT**]** determines an application for a decision **[**F514it**]** must publish **[**F514its**]** decision, together with **[**F514its**]** reasons for making it, in such manner as may be specified.

Textual Amendments

F507 Words in Sch. 5 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(52)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F514 Words in Sch. 5 para. 6 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(52)(e)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

PROSPECTIVE

*Delay by the **[**F507OFT**]***

7 (1) This paragraph applies if the court is satisfied, on the application of a person aggrieved by the failure of the **[**F507OFT**]** to determine an application for a decision in accordance with the specified procedure, that there has been undue delay on the part of the **[**F507OFT**]** in determining the application.

(2) The court may give such directions to the **[**F507OFT**]** as it considers appropriate for securing that the application is determined without unnecessary further delay.**]**

[F515SCHEDULE 6

Section 20(2).

NOTIFICATION UNDER CHAPTER II: PROCEDURE

Textual Amendments

F515 Sch. 6 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 51** (with reg. 6(2))

Terms used

1 In this Schedule—

"applicant" means the person making an application to which this Schedule applies;

"application" means an application under section 21 or an application under section 22;

"application for guidance" means an application under section 21;

"application for a decision" means an application under section 22;

"other party", in relation to conduct of two or more persons, means one of those persons other than the applicant;

"rules" means rules made by the **[**F516OFT**]** under section 51; and

"specified" means specified in the rules.

Textual Amendments

F516 Words in Sch. 6 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(53)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

General rules about applications

2 (1) An application must be made in accordance with rules.

(2) If the conduct to which an application relates is conduct of two or more persons, the applicant must take all reasonable steps to notify all of the other parties of whom he is aware—

(a) that the application has been made; and

(b) as to whether it is for guidance or a decision.

(3) Notification under sub-paragraph (2) must be in the specified manner.

Modifications etc. (not altering text)

C93 Sch. 6 paras. 2-2C amended (1.3.2000) by S.I. 2000/947, **art. 6**

Preliminary investigation

3 (1) If, after a preliminary investigation of an application, the **[**F516OFT**]** considers that it is likely that the conduct concerned will infringe the Chapter II prohibition, **[**F517it**]** may make a decision ("a provisional decision") under this paragraph.

(2) If the **[**F516OFT**]** makes a provisional decision, **[**F517it**]** must notify the applicant in writing of that decision.

(3) When making a provisional decision, the **[**F516OFT**]** must follow such procedure as may be specified.

(4) A provisional decision does not affect the final determination of an application.

(5) If the **[**F516OFT**]** has given notice to the applicant under sub-paragraph (2) in respect of an application for a decision, he may continue with the application under section 22.

Textual Amendments

F516 Words in Sch. 6 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(53)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F517 Word in Sch. 6 para. 3(1)(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(53)(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Procedure on application for guidance

4 When determining an application for guidance, the **[**F516OFT**]** must follow such procedure as may be specified.

Textual Amendments

F516 Words in Sch. 6 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(53)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Procedure on application for a decision

5 (1) When determining an application for a decision, the **[**F516OFT**]** must follow such procedure as may be specified.

(2) The **[**F516OFT**]** must arrange for the application to be published in such a way as **[**F518it thinks**]** most suitable for **[**F519bringing the application**]** to the attention of those likely to be affected by it, unless **[**F520the OFT is**]** satisfied that it will be sufficient F521... to seek information from one or more particular persons other than the applicant.

(3) In determining the application, the **[**F516OFT**]** must take into account any representations made to **[**F522it**]** by persons other than the applicant.

Textual Amendments

F516 Words in Sch. 6 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(53)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F518 Words in Sch. 6 para. 5(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(53)(c)(i)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F519 Words in Sch. 6 para. 5(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(53)(c)(ii)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F520 Words in Sch. 6 para. 5(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(53)(c)(iii)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F521 Words in Sch. 6 para. 5(2) repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 38(53)(c)(iv), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F522 Word in Sch. 6 para. 5(3) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(53)(d)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Publication of decisions

6 If the **[**F516OFT**]** determines an application for a decision **[**F523it**]** must publish **[**F523its**]** decision, together with **[**F523its**]** reasons for making it, in such manner as may be specified.

Textual Amendments

F516 Words in Sch. 6 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(53)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F523 Words in Sch. 6 para. 6 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(53)(e)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

PROSPECTIVE

*Delay by the **[**F516OFT**]***

7 (1) This paragraph applies if the court is satisfied, on the application of a person aggrieved by the failure of the **[**F516OFT**]** to determine an application for a decision in accordance with the specified procedure, that there has been undue delay on the part of the **[**F516OFT**]** in determining the application.

(2) The court may give such directions to the **[**F516OFT**]** as it considers appropriate for securing that the application is determined without unnecessary further delay.**]**

[F524SCHEDULE 6A

Section 31A

COMMITMENTS

Textual Amendments

F524 Sch. 6A inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 52**

PART 1

PROCEDURAL REQUIREMENTS FOR THE ACCEPTANCE AND VARIATION OF COMMITMENTS

1. Paragraph 2 applies where the **[**F525CMA**]** proposes to—
   (a) accept any commitments under section 31A; or
   (b) accept any variation of such commitments other than a variation which is not material in any respect.

Textual Amendments

F525 Word in Sch. 6A para. 1 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 56(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

2. (1) Before accepting the commitments or variation, the **[**F526CMA**]** must—
   (a) give notice under this paragraph; and
   (b) consider any representations made in accordance with the notice and not withdrawn.

   (2) A notice under this paragraph must state—
   (a) that the **[**F527CMA**]** proposes to accept the commitments or variation;
   (b) the purpose of the commitments or variation and the way in which the commitments or variation would meet the **[**F528CMA's**]** competition concerns;
   (c) any other facts which the **[**F527CMA**]** considers are relevant to the acceptance or variation of the commitments; and
   (d) the period within which representations may be made in relation to the proposed commitments or variation.

   (3) The period stated for the purposes of sub-paragraph (2)(d) must be at least 11 working days starting with the date the notice is given or, if that date is not a working day, with the date of the first working day after that date.

Textual Amendments

F526 Word in Sch. 6A para. 2(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 56(3)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F527 Word in Sch. 6A para. 2(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 56(3)(b)(i)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F528 Word in Sch. 6A para. 2(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 56(3)(b)(ii)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

3. (1) The **[**F529CMA**]** must not accept the commitments or variation of which notice has been given under paragraph 2(1) with modifications unless it—
   (a) gives notice under this paragraph of the proposed modifications; and
   (b) considers any representations made in accordance with the notice and not withdrawn.

   (2) A notice under this paragraph must state—
   (a) the proposed modifications;

(b) the reasons for them; and

(c) the period within which representations may be made in relation to the proposed modifications.

(3) The period stated for the purposes of sub-paragraph (2)(c) must be at least 6 working days starting with the date the notice is given or, if that date is not a working day, with the date of the first working day after that date.

Textual Amendments

F529 Word in Sch. 6A para. 3(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 56(4)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

4. If, after giving notice under paragraph 2 or 3 the **[**F530CMA**]** decides—

(a) not to accept the commitments or variation concerned, and

(b) not to proceed by virtue of paragraph 5 or 6,

the **[**F530CMA**]** must give notice that it has so decided.

Textual Amendments

F530 Word in Sch. 6A para. 4 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 56(5)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

5. The requirements of paragraph 3 shall not apply if the **[**F531CMA**]** —

(a) has already given notice under paragraph 2 but not under paragraph 3; and

(b) considers that the modifications which are now being proposed are not material in any respect.

Textual Amendments

F531 Word in Sch. 6A para. 5 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 56(6)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

6. The requirements of paragraph 3 shall not apply if the **[**F532CMA**]** —

(a) has already given notices under paragraphs 2 and 3; and

(b) considers that the further modifications which are now being proposed are not material in any respect or do not differ in any material respect from the modifications in relation to which notice was last given under paragraph 3.

Textual Amendments

F532 Word in Sch. 6A para. 6 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 56(7)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

7. As soon as practicable after accepting commitments or a variation under section 31A the **[**F533CMA**]** must publish the commitments or the variation in such manner as the **[**F533CMA**]** considers appropriate.

Textual Amendments

F533 Word in Sch. 6A para. 7 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 56(8)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

8. A notice under paragraph 2 or 3 shall be given by—

(a) sending a copy of the notice to such person or persons as the **[**F534CMA**]** considers appropriate for the purpose of bringing the matter to which it relates to the attention of those likely to be affected by it; or

(b) publishing the notice in such manner as the **[**F534CMA**]** considers appropriate for the purpose of bringing the matter to which it relates to the attention of those likely to be affected by it.

Textual Amendments

F534 Word in Sch. 6A para. 8 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 56(9)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

PART 2

PROCEDURAL REQUIREMENTS FOR THE RELEASE OF COMMITMENTS

10. Paragraph 11 applies where the **[**F535CMA**]** proposes to release any commitments under section 31A.

Textual Amendments

F535 Word in Sch. 6A para. 10 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 56(10)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

11. (1) Before releasing the commitments, the **[**F536CMA**]** must—

(a) give notice under this paragraph;

(b) send a copy of the notice to the person (or persons) who gave the commitments; and

(c) consider any representations made in accordance with the notice and not withdrawn.

(2) A notice under this paragraph must state—

(a) the fact that a release is proposed;

(b) the reasons for it; and

(c) the period within which representations may be made in relation to the proposed release.

(3) The period stated for the purposes of sub-paragraph (2)(c) must be at least 11 working days starting with the date the notice is given or, if that date is not a working day, with the date of the first working day after that date.

Textual Amendments

F536 Word in Sch. 6A para. 11(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 56(11)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

12. If after giving notice under paragraph 11 the **[**[F537]CMA**]** decides not to proceed with the release, it must—

(a) give notice that it has so decided; and

(b) send a copy of the notice to the person (or persons) who gave the commitments.

Textual Amendments

F537 Word in Sch. 6A para. 12 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 56(12)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

13. As soon as practicable after releasing the commitments, the **[**[F538]CMA**]** must—

(a) publish the release in such manner as it considers appropriate; and

(b) send a copy of the release to the person (or persons) who gave the commitments.

Textual Amendments

F538 Word in Sch. 6A para. 13 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 56(13)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

14. A notice under paragraph 11 or 12 shall be given by—

(a) sending a copy of the notice to such other person or persons as the **[**[F539]CMA**]** considers appropriate for the purpose of bringing the matter to which it relates to the attention of those likely to be affected by it; or

(b) publishing the notice in such manner as the **[**[F539]CMA**]** considers appropriate for the purpose of bringing the matter to which it relates to the attention of those likely to be affected by it.**]**

Textual Amendments

F539 Word in Sch. 6A para. 14 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 56(14)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

[F540]SCHEDULE 7

Section 45(7).

. . . . . .

Textual Amendments

F540 Sch. 7 omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 222** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

[F541]SCHEDULE 7A

. . . . . .

Textual Amendments

F541 Sch. 7A omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 223** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

SCHEDULE 8

Sections 46(5) and 48(4).

APPEALS

PART I

GENERAL

Interpretation

[F542]1 . . . . . .

Textual Amendments

F542 Sch. 8 para. 1 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 8(2), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

General procedure

2 (1) An appeal to the **[**[F543]Tribunal under section **[**[F544]46, 47 or 49D(3)**]** must be made by sending a notice of appeal to it**]** within the specified period.

(2) The notice of appeal must set out the grounds of appeal in sufficient detail to indicate—

(a) under which provision of this Act the appeal is brought;

(b) to what extent (if any) the appellant contends that the decision against, or with respect to which, the appeal is brought was based on an error of fact or was wrong in law; and

(c) to what extent (if any) the appellant is appealing against the **[**[F545]**[**[F546]CMA's**]** exercise of its**]** discretion in making the disputed decision.

(3) The **[**F547Tribunal**]** may give an appellant leave to amend the grounds of appeal identified in the notice of appeal.

[F548(4) In this paragraph references to the Tribunal are to the Tribunal as constituted (in accordance with section 14 of the Enterprise Act 2002) for the purposes of the proceedings in question.

(5) Nothing in this paragraph restricts the power under section 15 of the Enterprise Act 2002 (Tribunal rules) to make provision as to the manner of instituting proceedings before the Tribunal.**]**

Textual Amendments

F543 Words in Sch. 8 para. 2(1) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 5 para. 8(3)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F544 Words in Sch. 8 para. 2(1) substituted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 17(2)**; S.I. 2015/1630, art. 3(j)

F545 Words in Sch. 8 para. 2(2)(c) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(54)(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F546 Word in Sch. 8 para. 2(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 57(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F547 Word in Sch. 8 para. 2(3) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 5 para. 8(3)(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F548 Sch. 8 para. 2(4)(5) inserted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 5 para. 8(3)(c)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Modifications etc. (not altering text)

C94 Sch. 8 para. 2(2) applied (1.3.2000) by S.I. 2000/261, **Rule 6**

Decisions of the tribunal

3**[**F549(A1) This paragraph applies to any appeal under section 46 or 47 other than—

(a) an appeal under section 46 against, or with respect to, a decision of the kind specified in subsection (3)(g) **[**F550, (h), (ha) or (hb)**]** of that section, and

(b) an appeal under section 47(1)(b) **[**F551, (c), (d) or (e)**].]**

(1) The **[**F552Tribunal**]** must determine the appeal on the merits by reference to the grounds of appeal set out in the notice of appeal.

(2) The **[**F552Tribunal**]** may confirm or set aside the decision which is the subject of the appeal, or any part of it, and may—

(a) remit the matter to the **[**F553CMA**]** ,

(b) impose or revoke, or vary the amount of, a penalty,

(c) **[**F554grant or cancel an individual exemption or vary any conditions or obligations imposed in relation to the exemption by the **[**F553CMA**]** ,**]**

(d) give such directions, or take such other steps, as the **[**F553CMA**]** could **[**F555itself**]** have given or taken, or

(e) make any other decision which the **[**F553CMA**]** could **[**F555itself**]** have made.

(3) Any decision of the **[**F552Tribunal**]** on an appeal has the same effect, and may be enforced in the same manner, as a decision of the **[**F553CMA**]** .

(4) If the **[**F552Tribunal**]** confirms the decision which is the subject of the appeal it may nevertheless set aside any finding of fact on which the decision was based.

Textual Amendments

F549 Sch. 8 para. 3(A1) inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 53(2)** (with reg. 8)

F550 Words in Sch. 8 para. 3(A1)(a) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 124(3)(a)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2) (with Sch. para. 3, 20)

F551 Words in Sch. 8 para. 3(A1)(b) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 124(3)(b)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2) (with Sch. para. 3, 20)

F552 Word in Sch. 8 para. 3 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 8(4), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F553 Word in Sch. 8 para. 3(2)(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 57(3)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F554 Sch. 8 para. 3(2)(c) ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 53(3)** (with regs. 6(2), 8)

F555 Word in Sch. 8 para. 3(2)(d)(e) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(54)(c)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

[F5563A(1) This paragraph applies to—

(a) any appeal under section 46 against, or with respect to, a decision of the kind specified in subsection (3)(g) **[**F557, (h), (ha) or (hb)**]** of that section, and

(b) any appeal under section 47(1)(b) **[**F558, (c), (d) or (e)**]**.

(2) The Tribunal must, by reference to the grounds of appeal set out in the notice of appeal, determine the appeal by applying the same principles as would be applied by a court on an application for judicial review.

(3) The Tribunal may—

(a) dismiss the appeal or quash the whole or part of the decision to which it relates; and

(b) where it quashes the whole or part of that decision, remit the matter back to the **[**F559CMA**]** with a direction to reconsider and make a new decision in accordance with the ruling of the Tribunal.**]**

Textual Amendments

F556 Sch. 8 para. 3A inserted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 53(4)** (with reg. 8)

F557 Words in Sch. 8 para. 3A(1)(a) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 124(4)(a)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2) (with Sch. para. 3, 20)

F558 Words in Sch. 8 para. 3A(1)(b) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 124(4)(b)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2) (with Sch. para. 3, 20)

F559 Word in Sch. 8 para. 3A(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 57(4)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

[F560 3B (1) This paragraph applies to an appeal under section 49D(3).

(2) The Tribunal must determine the appeal on the merits by reference to the grounds of appeal set out in the notice of appeal.

(3) The Tribunal may—

(a) approve the amount of costs which is the subject of the appeal, or

(b) impose a requirement to pay costs of a different amount.

(4) The Tribunal may also give such directions, or take such other steps, as the CMA could itself have given or taken.

(5) A requirement imposed by the Tribunal under sub-paragraph (3)(b) has the same effect, and may be enforced in the same manner, as a requirement imposed by the CMA under section 49D.]

Textual Amendments

F560 Sch. 8 para. 3B inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 8 para. 17(3)**; S.I. 2015/1630, art. 3(j)

F561 4 . . . . . .

Textual Amendments

F561 Sch. 8 paras. 4-14 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 8(5), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

PART II

RULES

Registrar of Appeal Tribunals

F561 5 . . . . . .

Textual Amendments

F561 Sch. 8 paras. 4-14 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 8(5), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Notice of appeal

F561 6 . . . . . .

Textual Amendments

F561 Sch. 8 paras. 4-14 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 8(5), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Response to the appeal

F561 7 . . . . . .

Textual Amendments

F561 Sch. 8 paras. 4-14 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 8(5), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Pre-hearing reviews and preliminary matters

F561 8 . . . . . .

Textual Amendments

F561 Sch. 8 paras. 4-14 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 8(5), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Conduct of the hearing

F561 9 . . . . . .

Textual Amendments

F561 Sch. 8 paras. 4-14 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 8(5), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Interest

F561 10 . . . . . .

Textual Amendments

F561 Sch. 8 paras. 4-14 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 8(5), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Fees

F561 11 . . . . . .

Textual Amendments

F561 Sch. 8 paras. 4-14 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 8(5), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Withdrawing an appeal

F561 12 . . . . . .

Textual Amendments

F561 Sch. 8 paras. 4-14 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 8(5), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Interim orders

F561 13 . . . . . .

Textual Amendments

F561 Sch. 8 paras. 4-14 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 8(5), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Miscellaneous

F561 14 . . . . . .

Textual Amendments

F561 Sch. 8 paras. 4-14 repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 5 para. 8(5), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

[F562SCHEDULE 8A

Section 47F

FURTHER PROVISION ABOUT CLAIMS IN RESPECT OF LOSS OR DAMAGE [F563, OR FOR DECLARATORY RELIEF,] BEFORE A COURT OR THE TRIBUNAL

Textual Amendments

F562 Sch. 8A inserted (9.3.2017) by The Claims in respect of Loss or Damage arising from Competition Infringements (Competition Act 1998 and Other Enactments (Amendment)) Regulations 2017 (S.I. 2017/385), reg. 1(2), **Sch. 1 para. 4** (with Sch. 1 para. 5)

F563 Words in Sch. 8A heading inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 8(2)**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

PART 1

INTERPRETATION

1. This Part of this Schedule contains definitions and other provisions about interpretation which apply for the purposes of this Schedule.

Competition law etc

2. (1) "Competition law" means—

(a) the Chapter I prohibition, **[**F564and**]**

(b) the Chapter II prohibition,

F565(c) . . . . . .

F566(d) . . . . . .

[F567(2) "Competition claim" means—

(a) a claim in respect of loss or damage arising from an infringement of competition law (whatever the legal basis of the claim) which is made by or on behalf of—

(i) the person who suffered the loss or damage, or

(ii) a person who has acquired that person's right to make the claim (whether by operation of law or otherwise), or

(b) a claim for a declaration or a declarator in respect of an infringement of competition law.**]**

(3) "Competition damages claim" means a competition claim to the extent that it is a claim for damages.

(4) "Competition proceedings" means proceedings before a court or the Tribunal to the extent that they relate to a competition claim.

(5) Where the context requires, references to an infringement of competition law and to loss or damage (however expressed) include an alleged infringement and alleged loss or damage.

Textual Amendments

F564 Word in Sch. 8A para. 2(1)(a) inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **30(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F565 Sch. 8A para. 2(1)(c) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **30(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F566 Sch. 8A para. 2(1)(d) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **30(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F567 Sch. 8A para. 2(2) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 8(3)**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

Competition authority etc

3. (1) "Competition authority" means—

(a) the CMA, **[**F568and**]**

(b) a regulator, so far as it exercises functions under Part 1 of this Act concurrently with the CMA,

F569(c) . . . . . .

F570(d) . . . . . .

F571(2) . . . . . .

(3) "Investigation materials", in relation to a competition authority, means—

(a) information prepared by a person (other than a competition authority) for the purpose of an investigation by the competition authority into an infringement of competition law;

(b) information sent by the competition authority, during the course of such an investigation, to an undertaking which is the subject of the investigation;

(c) a settlement submission which has been withdrawn.

(4) **[**F572Section 58A(3) applies**]** for the purposes of determining when a decision of **[**F573the CMA or a regulator**]** becomes "final".

F574(5) . . . . . .

F575(6) . . . . . .

Textual Amendments

F568 Word in Sch. 8A para. 3(1)(a) inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **30(3)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F569 Sch. 8A para. 3(1)(c) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **30(3)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F570 Sch. 8A para. 3(1)(d) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **30(3)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F571 Sch. 8A para. 3(2) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **30(3)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F572 Words in Sch. 8A para. 3(4) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **30(3)(c)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F573 Words in Sch. 8A para. 3(4) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **30(3)(c)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F574 Sch. 8A para. 3(5) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **30(3)(d)**; 2020 c. 1, Sch. 5 para. 1(1)

F575 Sch. 8A para. 3(6) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **30(3)(d)**; 2020 c. 1, Sch. 5 para. 1(1)

Cartels

4. (1) "Cartel" means an agreement or concerted practice between two or more competitors aimed at—

(a) co-ordinating their competitive behaviour in a market, or

(b) otherwise influencing competition in a market,

through practices such as (but not limited to) those listed in sub-paragraph (2).

(2) Those practices are—

(a) fixing or co-ordinating purchase or selling prices or other trading conditions, including in relation to intellectual property rights,

(b) allocating production or sales quotas, and

(c) sharing markets and customers, including bid-rigging, restrictions of imports or exports or anti-competitive actions against other competitors.

(3) "Cartel leniency programme" means a programme operated by a competition authority under which—

(a) an undertaking that has participated in a cartel may provide the competition authority with information about the cartel and the undertaking's involvement in it, and

(b) if it does so voluntarily and independently of the other cartel members, the competition authority may give the undertaking immunity from, or a reduction in, a financial penalty which would otherwise be payable by the undertaking for its participation in the cartel.

(4) "Cartel leniency statement" means a set of information provided, orally or in writing, to a competition authority by or on behalf of a person which—

(a) consists of information about a cartel and the person's role in relation to the cartel,

(b) is provided voluntarily, and

(c) is provided specifically for the purposes of the competition authority's cartel leniency programme,

excluding any pre-existing information.

(5) For the purposes of sub-paragraph (4)—

(a) "pre-existing information" means information that exists irrespective of a competition authority's investigations, and

(b) the fact that information is in a competition authority's file does not prevent it from being pre-existing information.

(6) References to a cartel leniency statement include—

(a) a part of a cartel leniency statement,

(b) a quotation from a cartel leniency statement,

(c) all or part of a record of a cartel leniency statement, and

(d) a copy of all or part of a cartel leniency statement or of a record of such a statement.

(7) On the application of a claimant in competition proceedings, a court or the Tribunal may, in accordance with procedural rules, determine whether information is a cartel leniency statement.

(8) For the purposes of making a determination under sub-paragraph (7), the court or the Tribunal may—

(a) take evidence from the author of the document, and

(b) obtain assistance from a competition authority,

but may not obtain assistance from anyone else.

Settlement submission to a competition authority

5. (1) "Settlement submission" means a statement made, orally or in writing, to a competition authority by or on behalf of an undertaking—

(a) which states—

(i) that the undertaking accepts that it has infringed competition law, or

(ii) that the undertaking does not accept that it has infringed competition law but will not dispute a decision of the competition authority that it has done so,

(b) which is made voluntarily, and

(c) which is made for the sole purpose of allowing the competition authority to follow a simplified or expedited procedure in connection with the infringement.

(2) References to a settlement submission include—

(a) a part of a settlement submission,

(b) a quotation from a settlement submission,

(c) all or part of a record of a settlement submission, and

(d) a copy of all or part of a settlement submission or of a record of such a submission.

(3) On the application of a claimant in competition proceedings, a court or the Tribunal may, in accordance with procedural rules, determine whether a document is a settlement submission.

(4) For the purposes of making a determination under sub-paragraph (3), the court or the Tribunal may—

(a) take evidence from the author of the document, and

(b) obtain assistance from a competition authority,

but may not obtain assistance from anyone else.

Consensual dispute resolution process

6. (1) "Consensual dispute resolution process" means arbitration, mediation or any other process enabling parties to a dispute to resolve it out of court.

(2) A dispute is resolved "out of court" even if the process involves a court or the Tribunal approving what the parties agree or declaring their agreement binding.

Other definitions

7. (1) "Court" means—

(a) the High Court or the Court of Appeal in England and Wales,

(b) the sheriff or the Court of Session,

(c) the High Court or the Court of Appeal in Northern Ireland, or

(d) the Supreme Court,

except in paragraphs 3(6) and 35.

(2) "Damages" includes any sum of money (other than costs or expenses) which may be awarded in respect of a competition claim.

[F576(2A) "Digital markets proceedings" means proceedings under section 101 of the Digital Markets, Competition and Consumer Act 2024 (rights to enforce requirements of Part 1).**]**

(3) "Procedural rules" means—

(a) in relation to proceedings before a court, rules of court, and

(b) in relation to proceedings before the Tribunal, Tribunal rules.

(4) "Undertaking" includes an association of undertakings.

Textual Amendments

F576 Sch. 8A para. 7(2A) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 116(6)(a)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2)

Modifications etc. (not altering text)

C95 Sch. 8A para. 7 applied (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 116(5)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2)

PART 2

PASSING ON

Overcharges and underpayments

8. For the purposes of this Part of this Schedule—

(a) there is an overcharge as a result of an infringement of competition law if, when a product or service is acquired directly from the infringer, the price actually paid exceeds the price that would have been paid in the absence of the infringement, and

(b) there is an underpayment as a result of an infringement of competition law if, when a product or service is provided directly to the infringer, the price actually paid is less than the amount that would have been paid in the absence of the infringement.

Burden of proof where an overcharge is passed on to an indirect purchaser

9. **[**F577(1) Sub-paragraph (2) applies where there is an overcharge as a result of an infringement of competition law and—

(a) a competition claim within paragraph 2(2)(a) is made in respect of loss or damage which—

(i) arises, directly or indirectly, from the overcharge, and

(ii) was suffered by a person who acquired a product or service indirectly from the infringer ("the injured person"), or

(b) a competition claim within paragraph 2(2)(b) is made in respect of the overcharge.**]**

(2) The claimant is to be treated as having proved that the overcharge was passed on to the claimant if the claimant proves that—

(a) the defendant infringed competition law,

(b) as a result of the infringement, there was an overcharge when a person acquired a product or service directly from the defendant, and

(c) the claimant subsequently acquired—

(i) the product or service mentioned in paragraph (b), or

(ii) a product or service derived from or containing the product or service mentioned in paragraph (b).

(3) Sub-paragraph (2) does not apply if the defendant proves that the overcharge, or part of it, was not passed on to the claimant.

(4) Where the claimant is not the injured person, the following are to be read as references to the injured person—

(a) the second reference to the claimant in the opening words of sub-paragraph (2), and

(b) the references to the claimant in sub-paragraphs (2)(c) and (3).

(5) Where the defendant is not the infringer, the references in sub-paragraph (2)(a) and (b) to the defendant are to be read as references to the infringer.

Textual Amendments

F577 Sch. 8A para. 9(1) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 8(4)**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

Burden of proof where an underpayment is passed on to an indirect provider

10 **[**F578(1) Sub-paragraph (2) applies where there is an underpayment as a result of an infringement of competition law and—

(a) a competition claim within paragraph 2(2)(a) is made in respect of loss or damage which—

(i) arises, directly or indirectly, from the underpayment, and

(ii) was suffered by a person who provided a product or service indirectly to the infringer ("the injured person"), or

(b) a competition claim within paragraph 2(2)(b) is made in respect of the underpayment.**]**

(2) The claimant is to be treated as having proved that the underpayment was passed on to the claimant if the claimant proves that—

(a) the defendant infringed competition law,

(b) as a result of the infringement, there was an underpayment when a person provided a product or service directly to the defendant, and

(c) the product or service mentioned in paragraph (b)—

(i) was provided to the person by the claimant, or

(ii) contained or was derived from a product or service provided by the claimant.

(3) Sub-paragraph (2) does not apply if the defendant proves that the underpayment, or part of it, was not passed on to the claimant.

(4) Where the claimant is not the injured person, the following are to be read as references to the injured person—

(a) the second reference to the claimant in the opening words of sub-paragraph (2), and

(b) the references to the claimant in sub-paragraphs (2)(c) and (3).

(5) Where the defendant is not the infringer, the references in sub-paragraph (2)(a) and (b) to the defendant are to be read as references to the infringer.

Textual Amendments

F578 Sch. 8A para. 10(1) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 8(5)**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

Burden of proof where an overcharge or underpayment is passed on by the claimant

11. (1) This paragraph applies where—

(a) there is an overcharge or underpayment as a result of an infringement of competition law,

(b) a person makes a competition claim in respect of [F579]... the overcharge or underpayment, and

(c) in its defence, the defendant claims that the claimant passed on all or part of the overcharge or underpayment to another person.

(2) The defendant has the burden of proving—

(a) that the claimant passed on the overcharge or underpayment, and

(b) the extent to which the claimant did so.

(3) Where the competition claim is made by someone other than **[**[F580]a person who suffered loss or damage arising directly or indirectly from the overcharge or underpayment**]** ("the injured person"), the references in sub-paragraphs (1)(c) and (2) to the claimant are to be read as references to the injured person.

Textual Amendments

F579 Words in Sch. 8A para. 11(1)(b) omitted (1.1.2025) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 8(6)(a)**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

F580 Words in Sch. 8A para. 11(3) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 8(6)(b)**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

PART 3

SMALL AND MEDIUM-SIZED ENTERPRISES

Liability of small and medium-sized enterprises

12. (1) Sub-paragraph (3) applies where—

(a) an undertaking participated in an infringement of competition law with one or more other undertakings,

(b) throughout the period of the infringement, the undertaking's share of the relevant market (or, if there was more than one, each relevant market) was less than 5%,

(c) but for this paragraph, the undertaking's liability to pay damages in respect of the infringement (whatever the legal basis of the liability) would irretrievably jeopardise its economic viability and cause its assets to lose all their value, and

(d) the undertaking is a small or medium-sized enterprise.

(2) Sub-paragraph (3) does not apply where—

(a) the undertaking led the infringement,

(b) the undertaking coerced one or more of the other undertakings to participate in the infringement, or

(c) the undertaking has previously been found to have infringed competition law.

(3) The undertaking is not liable (either alone or jointly) to pay damages in respect of loss or damage suffered by a person as a result of the infringement of competition law (whatever the legal basis of the liability) except where—

(a) the person acquired a product or service that was the object of the infringement directly or indirectly from the undertaking, or

(b) the person acquired a product or service containing or derived from a product or service that was the object of the infringement indirectly from the undertaking.

(4) The reference in sub-paragraph (1)(c) to the effect of the undertaking's liability to pay damages is to its effect taking account of the undertaking's other liabilities.

(5) In this paragraph "small or medium-sized enterprise" means a small or medium-sized enterprise as defined in the Annex to Commission Recommendation (EC) No. 2003/361 of 6 May 2003 **[**F581("the SME Annex"), subject to sub-paragraph (6)**]**.

[For the purposes of this paragraph, the SME Annex has effect as if—

F582(6) (a) in Article 2(1), for "EUR 50 million and/or an annual balance sheet total not exceeding EUR 43 million" there were substituted " £44,000,000 and/or an annual balance sheet total not exceeding £38,000,000 ";

(b) in Article 2(2), for "EUR 10 million" there were substituted " £8,800,000 ";

(c) in Article 2(3), for "EUR 2 million" there were substituted " £1,750,000 ";

(d) in Article 3(2)(a), for "EUR 1 250 000" there were substituted " £1,100,000 ";

(e) in Article 3(2)(d), for "EUR 10 million" there were substituted " £8,800,000 ";

(f) in Article 3(5), for "by national or Community rules" there were substituted " under the law of the United Kingdom (or any part of it) ";

(g) in Article 5(b), for "national law" there were substituted " the law of the United Kingdom (or any part of it) ".**]**

Textual Amendments

F581 Words in Sch. 8A para. 12(5) inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **30(4)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F582 Sch. 8A para. 12(6) inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **30(4)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

PART 4

CARTELS

Presumption that cartels cause harm

13. For the purposes of competition proceedings, it is to be presumed, unless the contrary is proved, that a cartel causes loss or damage.

Immunity recipients

14. (1) Paragraphs 15 and 16 apply where—

(a) undertakings have infringed the Chapter I prohibition [F583]... by participating in a cartel, and

(b) in respect of its participation in the infringement (the "cartel infringement"), an undertaking has been granted immunity from financial penalties under a cartel leniency programme.

(2) The undertaking mentioned in sub-paragraph (1)(b) is referred to in paragraphs 15 and 16 as "an immunity recipient".

Textual Amendments

F583 Words in Sch. 8A para. 14(1)(a) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **30(5)**; 2020 c. 1, Sch. 5 para. 1(1)

Liability of immunity recipients

15. [F584(1)] An immunity recipient is not liable (either alone or jointly) to pay damages [F585to] a person as a result of the cartel infringement (whatever the legal basis of the liability) except where—

(a) the person acquired a product or service that was the object of the cartel infringement directly or indirectly from the immunity recipient,

(b) the person acquired a product or service containing or derived from a product or service that was the object of the cartel infringement indirectly from the immunity recipient,

(c) the person provided a product or service that was the object of the cartel infringement directly or indirectly to the immunity recipient,

(d) a product or service that was the object of the cartel infringement contained or was derived from a product or service provided by the person, or

(e) the person is unable to obtain full compensation for the loss or damage from other undertakings involved in the cartel infringement.

[F586(2)] But an immunity recipient is not liable (either alone or jointly) by virtue of sub-paragraph (1)(e) to pay exemplary damages.

Textual Amendments

F584 Sch. 8A para. 15 renumbered as Sch. 8A para. 15(1) (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 126(2)(a)(i)**, 339(1) (with s. 126(3)-(5)); S.I. 2024/1226, regs. 1(2), 2(1)(2)

F585 Word in Sch. 8A para. 15(1) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 126(2)(a)(ii)**, 339(1) (with s. 126(3)-(5)); S.I. 2024/1226, regs. 1(2), 2(1)(2)

F586 Sch. 8A para. 15(2) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 126(2)(a)(iii)**, 339(1) (with s. 126(3)-(5)); S.I. 2024/1226, regs. 1(2), 2(1)(2)

Contribution between participants in cartels

16. (1) Sub-paragraph (2) applies in relation to proceedings to recover contribution under section 1 of the Civil Liability (Contribution) Act 1978 or section 3(2) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1940 where contribution is to be recovered—

(a) in respect of loss or damage suffered by a person as a result of a cartel infringement, and

(b) from a person who is an immunity recipient in relation to the cartel infringement.

(2) The amount of contribution that the immunity recipient may be required to pay may not exceed the amount of the loss or damage the immunity recipient caused to—

(a) persons who acquired products or services that were the object of the cartel infringement directly or indirectly from the immunity recipient,

(b) persons who acquired products or services containing or derived from products or services that were the object of the cartel infringement indirectly from the immunity recipient,

(c) persons who provided products or services that were the object of the cartel infringement directly or indirectly to the immunity recipient, and

(d) persons who provided—

(i) products or services that were subsequently contained in products or services that were the object of the cartel infringement, or

(ii) products or services from which products or services that were the object of the cartel infringement were subsequently derived.

(3) The following have effect subject to sub-paragraph (2)—

(a) section 2(1) of the Civil Liability (Contribution) Act 1978 (assessment of contribution);

(b) section 3(2) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1940 (contribution among joint wrongdoers).

PART 5

LIMITATION AND PRESCRIPTIVE PERIODS

Time limits for bringing competition proceedings

17. (1) Under the law of England and Wales and the law of Northern Ireland, proceedings in respect of a competition claim may not be brought before a court or the Tribunal after the end of the limitation period for the claim determined in accordance with this Part of this Schedule.

(2) Under the law of Scotland—

(a) proceedings in respect of a competition claim may not be brought before a court or the Tribunal after the end of the prescriptive period for the claim determined in accordance with this Part of this Schedule, and

(b) accordingly, an obligation in respect of **[**F587any**]** loss or damage that is the subject of the claim is extinguished,

except where the subsistence of the obligation in relation to which the claim is made was relevantly acknowledged before the end of that period.

(3) Section 6 of the Prescription and Limitation (Scotland) Act 1973 (extinction of obligations by prescriptive periods of 5 years) does not apply in relation to an obligation described in sub-paragraph (2).

(4) The following provisions of the Prescription and Limitation (Scotland) Act 1973 apply for the purposes of, or in relation to, sub-paragraph (2) as they apply for the purposes of, or in relation to, section 6 of that Act—

(a) section 10 (relevant acknowledgment);

(b) section 13 (prohibition of contracting out);

(c) section 14(1)(c) and (d) (computation of prescriptive periods).

Textual Amendments

F587 Word in Sch. 8A para. 17(2)(b) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 8(7)**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

Length of limitation or prescriptive period

18. (1) The limitation period is 6 years.

(2) The prescriptive period is 5 years.

(3) But see—

(a) the provision in paragraphs 20 to 25 for the running of the period to be suspended in certain circumstances, and

(b) paragraph 23(5), which extends the period in certain circumstances.

Beginning of limitation or prescriptive period

19. (1) The limitation or prescriptive period for a competition claim against an infringer begins with the later of—

(a) the day on which the infringement of competition law that is the subject of the claim ceases, and

(b) the claimant's day of knowledge.

(2) "The claimant's day of knowledge" is the day on which the claimant first knows or could reasonably be expected to know—

(a) of the infringer's behaviour,

(b) that the behaviour constitutes an infringement of competition law,

(c) that the claimant has suffered loss or damage arising from that infringement, and

(d) the identity of the infringer.

(3) Where the claimant has acquired the right to make the competition claim from another person (whether by operation of law or otherwise) —

(a) the reference in sub-paragraph (2) to the day on which the claimant first knows or could reasonably be expected to know something is to be read as a reference to the first day on which either the claimant or a person in whom the cause of action was previously vested first knows or could reasonably be expected to know it, and

(b) the reference to the claimant in sub-paragraph (2)(c) is to be read as a reference to the injured person.

(4) In sub-paragraph (3), "injured person", in relation to a competition claim, means a person who suffered the loss or damage that is the subject of the claim.

(5) Where a person ("P") has acquired an infringer's liability in respect of an infringement of competition law from another person (whether by operation of law or otherwise)—

(a) the reference to an infringer in sub-paragraph (1) is to be read as a reference to P, but

(b) the references to the infringer in sub-paragraph (2) are to be read as references to the original infringer.

(6) The references in sub-paragraphs (2) and (3) to a person knowing something are to a person having sufficient knowledge of it to bring competition proceedings.

[F588(6A) This paragraph applies in respect of a competition claim within paragraph 2(2)(b) as if—

(a) in sub-paragraph (2), paragraph (c) (but not the ", and" at the end of it) were omitted;

(b) in sub-paragraph (3), paragraph (b) (and the "and" before it) were omitted;

(c) sub-paragraph (4) were omitted.**]**

(7) This paragraph has effect subject to the provision in paragraphs 20 to 25, which defers the beginning of the limitation or prescriptive period in certain circumstances.

Textual Amendments

F588 Sch. 8A para. 19(6A) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 8(8)**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

Effect of disability on beginning of limitation period: England and Wales and Northern Ireland

20. (1) This paragraph applies if the claimant in relation to a competition claim is under a disability on the day on which, but for this paragraph, the limitation period for the claim would begin.

(2) In England and Wales and Northern Ireland, the limitation period for the claim begins with the earlier of—

(a) the day on which the claimant ceases to be under a disability, and

(b) the day on which the claimant dies.

(3) Where—

(a) the claimant has acquired the right to make the competition claim from another person (whether by operation of law or otherwise), and

(b) but for this paragraph, the limitation period would begin on the day specified in paragraph 19(2),

the references to the claimant in sub-paragraphs (1) and (2) of this paragraph are to be read as references to the person by reference to whose knowledge that day would fall to be determined in accordance with paragraph 19(3).

(4) In England and Wales, references in this paragraph to a person being "under a disability" have the same meaning as in the Limitation Act 1980 (see section 38(2) of that Act).

(5) In Northern Ireland, references in this paragraph to a person being "under a disability" have the same meaning as in the Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339 (N.I. 11)) (see article 47 of that Order).

Suspension during investigation by competition authority

21. (1) Where a competition authority investigates an infringement of competition law, the period of the investigation is not to be counted when calculating whether the limitation or prescriptive period for a competition claim [F589]... arising from the infringement has expired.

(2) The period of an investigation by a competition authority begins when the competition authority takes the first formal step in the investigation.

(3) The period of an investigation by a competition authority ends—

(a) if the competition authority makes a decision in relation to the infringement as a result of the investigation, at the end of the period of one year beginning with the day on which the decision becomes final, and

(b) otherwise, at the end of the period of one year beginning with the day on which the competition authority closes the investigation.

Textual Amendments

F589 Words in Sch. 8A para. 21(1) omitted (1.1.2025) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 8(9)**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

Modifications etc. (not altering text)

C96 Sch. 8A para. 21(3) modified (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), reg. 1(1), **Sch. 4 para. 7(4)(b)** (as amended by S.I. 2020/1343, **reg. 36(3)(d)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Suspension during consensual dispute resolution process

22. (1) This paragraph applies where—

(a) a dispute arising from an infringement of competition law is the subject of a consensual dispute resolution process,

(b) a competition claim is made which arises from the dispute, and

(c) the claimant and the defendant participated in the consensual dispute resolution process.

(2) The period of the consensual dispute resolution process is not to be counted when calculating whether the limitation or prescriptive period for the claim expired.

(3) The period of a consensual dispute resolution process in relation to a dispute begins with the first day on which either of the following occurs—

(a) the claimant and the defendant (with or without others) enter into an agreement to engage in the process in respect of the dispute, or

(b) the claimant and the defendant submit the dispute to the person who is to run the process.

(4) The period of a consensual dispute resolution process ends with the first day on which one of the following occurs —

(a) the claimant and the defendant reach an agreement to resolve the dispute;

(b) where the process is the subject of an agreement or rules, the process comes to an end in accordance with the agreement or rules;

(c) the claimant or defendant notifies the other that it has withdrawn from the process;

(d) the claimant or the defendant asks the other to confirm that it wishes to continue with the process and does not receive a response within the period of 14 days beginning with the day on which the request is made;

(e) the claimant and the defendant are notified that the person to whom they submitted the dispute refuses to deal with it;

(f) the claimant and defendant are notified that the person running the process cannot continue to act in relation to the dispute and fail to agree to submit the dispute to another person within the period of 14 days beginning with the day on which they are notified.

(5) Where the competition claim is made in collective proceedings, the references to the claimant in sub-paragraphs (1)(c), (3) and (4) are to be read as references to the claimant or the representative.

(6) Where the claimant has acquired the right to make the competition claim from another person (whether by operation of law or otherwise), the references to the claimant in sub-paragraphs (1)(c), (3), (4) and (5) are to be read as references to the claimant or a person in whom the cause of action was previously vested.

(7) Where the defendant has acquired the infringer's liability in respect of the infringement of competition law from another person (whether by operation of law or otherwise), the references to the defendant in sub-paragraphs (1)(c), (3) and (4) are to be read as references to the defendant or a person who has previously held the liability.

Suspension during collective proceedings

23. (1) Where a competition claim is made in collective proceedings at the commencement of those proceedings ("the section 47B claim"), this paragraph applies for the purpose of determining the limitation or prescriptive period for the claim if it is subsequently made in proceedings under section 47A.

(2) The period of the collective proceedings is not to be counted when calculating whether the limitation or prescriptive period has expired.

(3) The period of collective proceedings begins with the day on which the collective proceedings are commenced.

(4) The period of collective proceedings ends with the first day on which one of the following occurs—

(a) the Tribunal declines to make a collective proceedings order in respect of the collective proceedings;

(b) the Tribunal makes a collective proceedings order in respect of the proceedings, but the order does not provide that the section 47B claim is eligible for inclusion in the proceedings;

(c) the Tribunal rejects the section 47B claim;

(d) in the case of opt-in collective proceedings, the period within which a person may choose to have the section 47B claim included in the proceedings expires without the person having done so;

(e) in the case of opt-out collective proceedings—

(i) a person domiciled in the United Kingdom chooses (within the period in which such a choice may be made) to have the section 47B claim excluded from the collective proceedings, or

(ii) the period within which a person not domiciled in the United Kingdom may choose to have the section 47B claim included in the collective proceedings expires without the person having done so;

(f) the section 47B claim is withdrawn;

(g) the Tribunal revokes the collective proceedings order in respect of the collective proceedings;

(h) the Tribunal varies the collective proceedings order in such a way that the section 47B claim is no longer included in the collective proceedings;

(i) the section 47B claim is settled with or without the Tribunal's approval;

(j) the section 47B claim is dismissed, discontinued or otherwise disposed of without an adjudication on the merits.

(5) Where—

(a) there is a period of collective proceedings in relation to a competition claim, and

(b) but for this sub-paragraph, the limitation or prescriptive period would expire before the end of the period of 6 months beginning with the day after the day on which the period of collective proceedings ends,

the limitation or prescriptive period for the claim is to be treated as expiring at the end of that 6 month period.

Suspension of prescriptive period during period of disability: Scotland

24. (1) This paragraph applies if the **[**F590relevant person**]** in relation to a competition claim is under legal disability for a period at any time.

(2) In Scotland, the period during which the **[**F591relevant person**]** is under legal disability is not to be counted when calculating whether the prescriptive period for the claim has expired.

(3) References in this paragraph to a person being "under legal disability" have the same meaning as in the Prescription and Limitation (Scotland) Act 1973 (see section 15(1) of that Act).

[F592(4) In this paragraph, "relevant person" means—

(a) in relation to a competition claim within paragraph 2(2)(a), a person who suffered the loss or damages that is the subject of the claim;

(b) in relation to a competition claim within paragraph 2(2)(b), the pursuer.**]**

Textual Amendments

F590 Words in Sch. 8A para. 24(1) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 8(10)(a)**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

F591 Words in Sch. 8A para. 24(2) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 8(10)(a)**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

F592 Sch. 8A para. 24(4) substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 8(10)(b)**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

Continuity of limitation or prescriptive period

25. For the purposes of calculating whether the limitation or prescriptive period for a competition claim has expired, a period described in paragraph 21, 22, 23 or 24 is not to be regarded as separating the time immediately before it from the time immediately after it.

New claims in pending actions: England and Wales and Northern Ireland

26. (1) In section 35 of the Limitation Act 1980 (new claims in pending actions)—

(a) subsection (1) applies for the purposes of this Part of this Schedule as it applies for the purposes of that Act, and

(b) subsections (3) to (8) apply in relation to a competition claim that is a new claim and to competition proceedings as they apply in relation to other new claims and proceedings.

(2) In Article 73 of the Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339 (N.I. 11)) (new claims in pending actions)—

(a) paragraph (1) applies for the purposes of this Part of this Schedule as it applies for the purposes of that Order, and

(b) paragraphs (2) to (7) apply in relation to a competition claim that is a new claim and to competition proceedings as they apply in relation to other new claims and proceedings.

PART 6

DISCLOSURE ETC

Disclosure orders

27. (1) For the purposes of this Part of this Schedule (and subject to sub-paragraph (2)), a court or the Tribunal makes a disclosure order in respect of something if—

(a) in England and Wales or Northern Ireland, it orders its disclosure or production in accordance with procedural rules, or

(b) in Scotland, it grants commission and diligence for its recovery or makes an order in respect of it under section 1 of the Administration of Justice (Scotland) Act 1972 (inspection of documents etc).

(2) A court or the Tribunal does not make a disclosure order in respect of something if it does something described in sub-paragraph (1) for the purposes of enabling a court or the Tribunal to determine whether it is a cartel leniency statement or a settlement submission.

Modifications etc. (not altering text)
C97 Sch. 8A para. 27 applied (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 116(5)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2)

Restriction in relation to settlement submissions and cartel leniency statements

28. For the purposes of competition proceedings **[**[F593]or digital markets proceedings**]**, a court or the Tribunal must not make a disclosure order in respect of—
(a) a settlement submission which has not been withdrawn, or
(b) a cartel leniency statement (whether or not it has been withdrawn).

Textual Amendments
F593 Words in Sch. 8A para. 28 inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 116(6)(b)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2)

Restriction in relation to investigation materials

29. For the purposes of competition proceedings **[**[F594]or digital markets proceedings**]**, a court or the Tribunal must not make a disclosure order in respect of a competition authority's investigation materials before the day on which the competition authority closes the investigation to which those materials relate.

Textual Amendments
F594 Words in Sch. 8A para. 29 inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 116(6)(c)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2)

Restriction in relation to material in a competition authority's file

30. (1) For the purposes of competition proceedings **[**[F595]or digital markets proceedings**]**, a court or the Tribunal must not make a disclosure order addressed to a competition authority in respect of documents or information included in a competition authority's file.

(2) Sub-paragraph (1) does not apply where the court or the Tribunal making the order is satisfied that no-one else is reasonably able to provide the documents or information.

Textual Amendments

F595 Words in Sch. 8A para. 30(1) inserted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 116(6)(d)**, 339(1); S.I. 2024/1226, regs. 1(2), 2(1)(2)

Power of High Court in Northern Ireland to order disclosure etc by non-parties

31. (1) On the application of a party to competition proceedings, where it appears to the High Court in Northern Ireland that evidence relevant to the proceedings is likely to be in the possession, custody or power of a person who is not a party to the proceedings, the court may order the person—

(a) to disclose whether such evidence is in the person's possession, custody or power, and

(b) if it is, to produce it—

(i) to the applicant, or

(ii) on such conditions as may be specified in the order, to the applicant's legal adviser or other professional adviser.

(2) An order under sub-paragraph (1) must not be made if the court considers that compliance with it would be likely to be injurious to the public interest.

(3) Rules of court may make provision specifying circumstances in which a court may or may not make an order under sub-paragraph (1).

(4) The power under sub-paragraph (3) includes power to make incidental, supplementary and consequential provision.

(5) Sub-paragraph (1) is without prejudice to the exercise by the High Court in Northern Ireland of any power to make orders which is exercisable apart from this paragraph.

PART 7

USE OF EVIDENCE

Cartel leniency statements and settlement submissions

32. (1) A settlement submission which has not been withdrawn is not admissible in evidence in competition proceedings.

(2) A cartel leniency statement is not admissible in evidence in competition proceedings (whether or not it has been withdrawn).

(3) The prohibitions in sub-paragraphs (1) and (2) do not apply if a party to the proceedings obtained the submission or statement—

(a) lawfully, and

(b) otherwise than from a competition authority's file.

Investigation materials

33. (1) A competition authority's investigation materials are not admissible in evidence in competition proceedings at any time before the competition authority has closed the investigation to which those materials relate.

(2) The prohibition in sub-paragraph (1) does not apply if a party to the proceedings obtained the materials—

(a) lawfully, and

(b) otherwise than from a competition authority's file.

Material obtained from a competition authority's file

34. Documents or information obtained by a person ("P") from a competition authority's file are admissible in evidence in competition proceedings only where—

(a) the proceedings relate, entirely or partly, to a competition claim made by P or by a person who has acquired P's right to make the claim (whether by operation of law or otherwise), and

(b) none of the prohibitions in paragraphs 32 and 33 applies.

Decisions of member State competition authorities

F596 35. . . . . .

Textual Amendments

F596 Sch. 8A para. 35 omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **30(6)**; 2020 c. 1, Sch. 5 para. 1(1)

F597 PART 8

EXEMPLARY DAMAGES

Textual Amendments

F597 Sch. 8A Pt. 8 omitted (1.1.2025) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 126(2)(b)**, 339(1) (with s. 126(3)-(5)); S.I. 2024/1226, regs. 1(2), 2(1)(2)

Exemplary damages

36. . . . . .

PART 9

CONTRIBUTION AND CONSENSUAL SETTLEMENTS

Consensual settlement

37. In this Part of this Schedule, "consensual settlement" means an agreement relating to a dispute about loss or damage arising from an infringement of competition law which—

(a) is reached through a consensual dispute resolution process,

(b) is made between—

(i) an infringer or a person who has acquired an infringer's liability in respect of the infringement (whether by operation of law or otherwise) ("the settling infringer"), and

(ii) a person who suffered the loss or damage or a person who has acquired such a person's right to make a claim in respect of the loss or damage (whether by operation of law or otherwise) ("the settling complainant"), and

(c) entirely resolves the dispute between the settling infringer and the settling complainant.

Assessment of contribution

38. (1) This paragraph applies in relation to proceedings to recover contribution under section 1 of the Civil Liability (Contribution) Act 1978 or section 3(2) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1940 where contribution is to be recovered in respect of loss or damage suffered by a person as a result of an infringement of competition law.

(2) The amount of contribution that one person liable in respect of the loss or damage may recover from another must be determined in the light of their relative responsibility for the whole of the loss or damage caused by the infringement.

(3) The determination of that amount must take into account any damages paid by the other person in respect of the loss or damage in accordance with a consensual settlement.

(4) The following have effect subject to this paragraph—

(a) section 2(1) of the Civil Liability (Contribution) Act 1978 (assessment of contribution);

(b) section 3(2) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1940 (contribution among joint wrongdoers).

Effect of consensual settlement on the amount of a claim

39. (1) Where loss or damage arising from an infringement of competition law is the subject of—

(a) a consensual settlement, and

(b) a competition damages claim by the settling complainant,

the amount of the settling complainant's claim is reduced by the settling infringer's share of the loss or damage.

(2) Sub-paragraph (1) has effect regardless of the terms of the consensual settlement.

Effect of consensual settlement for the settling infringer

40. (1) Where loss or damage arising from an infringement of competition law is the subject of a consensual settlement, the settling complainant ceases to have a right of action against the settling infringer in respect of the loss or damage.

(2) Sub-paragraph (1) has effect regardless of the terms of the consensual settlement.

(3) Sub-paragraphs (1) and (2) do not apply where—

(a) an undertaking other than the settling infringer is liable to pay damages to the settling complainant in respect of loss or damage which arises from the infringement,

(b) that undertaking is (or, if there is more than one, those undertakings are) unable to pay damages corresponding to the outstanding amount of the settling complainant's claim, and

(c) the settling infringer's liability for that amount is not expressly excluded by the terms of the consensual settlement.

Effect of consensual settlement on contribution between defendants

41. (1) Where—

(a) loss or damage arising from an infringement of competition law is the subject of a consensual settlement,

(b) it is also the subject of a competition damages claim by the settling complainant, and

(c) an undertaking other than the settling infringer is liable to pay damages to the settling complainant in respect of the loss or damage that is the subject of the claim,

that undertaking may not recover contribution from the settling infringer in respect of the loss or damage under section 1 of the Civil Liability (Contribution) Act 1978 or section 3(2) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1940.

(2) Sub-paragraph (1) has effect regardless of the terms of the consensual settlement.

(3) The following have effect subject to this paragraph—

(a) section 1 of the Civil Liability (Contribution) Act 1978;

(b) section 3(2) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1940.

PART 10

APPLICATION

42. (1) Parts 2 to 5 F598... and 9 of this Schedule apply in relation to competition claims, competition proceedings, claims for contribution arising from competition claims and proceedings relating to such claims only to the extent that **[**F599—

(a) in respect of competition claims within paragraph 2(2)(a), the claim and proceedings relate to loss or damage suffered on or after 8 March 2017 as a result of an infringement of competition law that takes place on or after that date;

(b) in respect of competition claims within paragraph 2(2)(b), the claim and proceedings relate to an infringement of competition law that takes place on or after 8 March 2017.

(2) Where an infringement of competition law takes place over a period of 2 or more days it is to be taken for the purposes of sub-paragraph (1) to have taken place on the first of those days**]**

Textual Amendments

F598 Word in Sch. 8A para. 42(1) omitted (1.1.2025) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), **ss. 126(2)(c)**, 339(1) (with s. 126(3)-(5)); S.I. 2024/1226, regs. 1(2), 2(1)(2)

F599 Sch. 8A para. 42(1)(a)(b) substituted for words (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 8(11)**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

43. The following provisions of this Schedule apply only in relation to proceedings on a competition claim in relation to which the first proceedings before a court or the Tribunal began on or after **[**F600**]**8 March 2017**]**—

(a) paragraphs 4(7) and (8) and 5(3) and (4);

(b) Parts 6 and 7.**]**

Textual Amendments

F600 Words in Sch. 8A para. 43 substituted (1.1.2025) by Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 8(12)**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

F601 44. . . . . .

Textual Amendments

F601 Sch. 8A para. 44 omitted (1.1.2025) by virtue of Digital Markets, Competition and Consumers Act 2024 (c. 13), s. 339(1), **Sch. 3 para. 8(13)**; S.I. 2024/1226, regs. 1(2), 2(1)(9) (with Sch. para. 4, 20)

SCHEDULE 9

Section 51(2).

[F602CMA'S**]** RULES

Textual Amendments

F602 Word in Sch. 9 heading substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 58(2)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

General

[F603 1 In this Schedule "rules" means rules made by the **[**F604CMA**]** under section 51.**]**

Textual Amendments

F603 Sch. 9 para. 1 substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 54(2)**

F604 Word in Sch. 9 para. 1 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 58(3)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

[F605 Delegation of functions

Textual Amendments

F605 Sch. 9 para. 1A and cross-heading inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 42(4)**, 103(1)(i)(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

1A (1) Rules may provide for the exercise of a function of the CMA under this Part on its behalf—

(a) by one or more members of the CMA Board (see Part 2 of Schedule 4 to the Enterprise and Regulatory Reform Act 2013);

(b) by one or more members of the CMA panel (see Part 3 of that Schedule to that Act);

(c) by one or more members of staff of the CMA;

(d) jointly by one or more of the persons mentioned in paragraph (a), (b) or (c).

(2) Sub-paragraph (1) does not apply in relation to any function prescribed in regulations made under section 7(1) of the Civil Aviation Act 1982 (power for Secretary of State to prescribe certain functions of the Civil Aviation Authority which must not be performed on its behalf by any other person).**]**

Applications

2 **[**[F606]Rules may make provision—

(a) as to the form and manner in which an application for guidance or an application for a decision must be made;

(b) for the procedure to be followed in dealing with the application;

(c) for the application to be dealt with in accordance with a timetable;

(d) as to the documents and information which must be given to the **[**[F607]OFT**]** in connection with the application;

(e) requiring the applicant to give such notice of the application, to such other persons, as may be specified;

(f) as to the consequences of a failure to comply with any rule made by virtue of sub-paragraph (e);

(g) as to the procedure to be followed when the application is subject to the concurrent jurisdiction of the **[**[F607]OFT**]** and a regulator.**]**

Textual Amendments

F606 Sch. 9 para. 2 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 54(3)** (with reg. 6(2))

F607 Words in Sch. 9 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(55)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Provisional decisions

3 **[**F608Rules may make provision as to the procedure to be followed by the **[**F607OFT**]** when making a provisional decision under paragraph 3 of Schedule 5 or paragraph 3 of Schedule 6.**]**

Textual Amendments

F607 Words in Sch. 9 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(55)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F608 Sch. 9 para. 3 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 54(3)** (with reg. 6(2))

Guidance

4 **[**F609Rules may make provision as to—

(a) the form and manner in which guidance is to be given;

(b) the procedure to be followed if—

(i) the **[**F607OFT**]** takes further action with respect to an agreement after giving guidance that it is not likely to infringe the Chapter I prohibition; or

(ii) the **[**F607OFT**]** takes further action with respect to conduct after giving guidance that it is not likely to infringe the Chapter II prohibition.**]**

Textual Amendments

F607 Words in Sch. 9 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(55)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F609 Sch. 9 para. 4 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 54(3)** (with reg. 6(2))

Decisions

5 (1) Rules may make provision as to—

(a) the form and manner in which notice of any decision is to be given;

(b) the person or persons to whom the notice is to be given;

(c) the manner in which the **[**F610CMA**]** is to publish a decision;

[F611(d) the procedure to be followed if—

(i) the **[**F610CMA**]** takes further action with respect to an agreement after having decided that it does not infringe the Chapter I prohibition; **[**F612or**]**

F613(ii) . . . . . .

(iii) the **[**F610CMA**]** takes further action with respect to conduct after having decided that it does not infringe the Chapter II prohibition; F614...

F614(iv) . . . . . .]

[F615(2) In this paragraph "decision" means a decision of the [F610CMA] —

(a) as to whether or not an agreement has infringed the Chapter I prohibition; [F616or]

F617(b) . . . . . .

(c) as to whether or not conduct has infringed the Chapter II prohibition; or

F618(d) . . . . . .]

Textual Amendments

F610 Word in Sch. 9 para. 5(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 58(4)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F611 Sch. 9 para. 5(1)(d) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 54(4)**

F612 Word in Sch. 9 para. 5(1)(d)(i) inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **31(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F613 Sch. 9 para. 5(1)(d)(ii) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **31(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F614 Sch. 9 para. 5(1)(d)(iv) and word omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **31(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F615 Sch. 9 para. 5(2) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 54(5)**

F616 Word in Sch. 9 para. 5(2)(a) inserted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **31(3)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F617 Sch. 9 para. 5(2)(b) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **31(3)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F618 Sch. 9 para. 5(2)(d) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **31(3)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Individual exemptions

6 [F619Rules may make provision as to—

(a) the procedure to be followed by the [F607OFT] when deciding whether, in accordance with section 5—

(i) to cancel an individual exemption that [F607it] has granted,

(ii) to vary or remove any of its conditions or obligations, or

(iii) to impose additional conditions or obligations;

(b) the form and manner in which notice of such a decision is to be given.]

Textual Amendments

F607 Words in Sch. 9 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(55)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F619 Sch. 9 para. 6 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 54(6)** (with regs. 6(2), 10)

7 [F620Rules may make provision as to—

(a) the form and manner in which an application under section 4(6) for the extension of an individual exemption is to be made;

(b) the circumstances in which the **[**F607OFT**]** will consider such an application;

(c) the procedure to be followed by the **[**F607OFT**]** when deciding whether to grant such an application;

(d) the form and manner in which notice of such a decision is to be given.**]**

Textual Amendments

F607 Words in Sch. 9 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(55)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F620 Sch. 9 para. 7 ceased to have effect (1.5.2004) by virtue of The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 54(6)** (with reg. 6(2))

Block exemptions

[F6218 Rules may make provision as to—

(a) the procedure to be followed by the **[**F622CMA**]** if it cancels a block exemption;

F623(b) . . . . . .**]**

Textual Amendments

F621 Sch. 9 para. 8 substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 54(7)**

F622 Word in Sch. 9 para. 8 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 58(5)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F623 Sch. 9 para. 8(b) omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **31(4)**; 2020 c. 1, Sch. 5 para. 1(1)

[F624[F625Assimilated] exemptions]

Textual Amendments

F624 Sch. 9 para. 9 crossheading substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **31(5)**; 2020 c. 1, Sch. 5 para. 1(1)

F625 Word in Sch. 9 para. 9 heading substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 41(2)(e)**

9 Rules may make provision as to—

(a) the circumstances in which the **[**F626CMA**]** may—

(i) impose conditions or obligations in relation to **[**F627an assimilated**][**F628exemption**]**,

(ii) vary or remove any such conditions or obligations,

(iii) impose additional conditions or obligations, or

(iv) cancel the exemption;

(b) as to the procedure to be followed by the **[**F626CMA**]** if **[**F607it**]** is acting under section 10(5);

(c) the form and manner in which notice of a decision to take any of the steps in sub-paragraph (a) is to be given;

(d) the circumstances in which an exemption may be cancelled with retrospective effect.

Textual Amendments

F607 Words in Sch. 9 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(55)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F626 Word in Sch. 9 para. 9 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 58(6)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F627 Words in Sch. 9 para. 9(a)(i) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 41(3)(d)**

F628 Words in Sch. 9 para. 9(a)(i) substituted (31.12.2020) by The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **31(6)**; 2020 c. 1, Sch. 5 para. 1(1)

F629 ...

Textual Amendments

F629 Sch. 9 para. 10 and crossheading omitted (31.12.2020) by virtue of The Competition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/93), regs. 1(1), **31(7)**; 2020 c. 1, Sch. 5 para. 1(1)

F62910 . . . . . .

Directions withdrawing exclusions

11 **[**F630Rules may make provision as to the factors which the **[**F631CMA**]** may take into account when **[**F607it**]** is determining the date on which a direction given under paragraph 4(1) of Schedule 1 or paragraph 2(3) or 9(3) of Schedule 3 is to have effect.**]**

Textual Amendments

F607 Words in Sch. 9 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(55)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F630 Words in Sch. 9 para. 11 cease to have effect (1.5.2007) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(b), **Sch. 1 para. 54(8)** (with reg. 6(2))

F631 Word in Sch. 9 para. 11 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 58(7)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Disclosure of information

12 (1) Rules may make provision as to the circumstances in which the **[**F632CMA**]** is to be required, before disclosing information given to **[**F607it**]** by a third party in connection

with the exercise of any of the **[**F633CMA's**]** functions under Part I, to give notice, and an opportunity to make representations, to the third party.

(2) In relation to the agreement (or conduct) concerned, "third party" means a person who is not a party to the agreement (or who has not engaged in the conduct).

Textual Amendments

F607 Words in Sch. 9 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 38(55)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F632 Word in Sch. 9 para. 12(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 58(8)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F633 Word in Sch. 9 para. 12(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 58(8)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Applications under section 47

13 Rules may make provision as to—

(a) the period within which an application under section 47(1) must be made;

(b) the procedure to be followed by the **[**F634CMA **]** in dealing with the application;

(c) the person or persons to whom notice of the **[**F635CMA's**]** response to the application is to be given.

Textual Amendments

F634 Word in Sch. 9 para. 13 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 58(9)(a)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F635 Word in Sch. 9 para. 13 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 58(9)(b)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

[F636Oral hearings: procedure

Textual Amendments

F636 Sch. 9 para. 13A and cross-heading inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 42(5)**, 103(1)(i)(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

13A (1) Rules may make provision as to the procedure to be followed by the CMA in holding oral hearings as part of an investigation.

(2) Rules may, in particular, make provision as to the appointment of a person mentioned in sub-paragraph (3) who has not been involved in the investigation in question to—

(a) chair an oral hearing, and

(b) prepare a report following the hearing and give it to the person who is to exercise on behalf of the CMA its function of making a decision (within the meaning given by section 31(2)) as a result of the investigation.

(3) The persons are—

(a) a member of the CMA Board;
(b) a member of the CMA panel;
(c) a member of staff of the CMA.

(4) The report must—
(a) contain an assessment of the fairness of the procedure followed in holding the oral hearing, and
(b) identify any other concerns about the fairness of the procedure followed in the investigation which have been brought to the attention of the person preparing the report.**]**

[F637 Procedural complaints

Textual Amendments

F637 Sch. 9 para. 13B and cross-heading inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 42(6)**, 103(1)(i)(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

13B (1) Rules may make provision as to arrangements to be made by the CMA for dealing with complaints about the conduct by the CMA of an investigation.

(2) Rules may, in particular, make provision as to—
(a) the appointment of a person mentioned in sub-paragraph (3) who has not been involved in the investigation in question to consider any such complaint;
(b) the time-table for the consideration of any such complaint.

(3) The persons are—
(a) a member of the CMA Board;
(b) a member of the CMA panel;
(c) a member of staff of the CMA.**]**

[F638 Settling cases

Textual Amendments

F638 Sch. 9 para. 13C and cross-heading inserted (25.4.2013 for specified purposes, 1.4.2014 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 42(7)**, 103(1)(i)(3); S.I. 2014/416, art. 2(1)(b) (with Sch.)

13C Rules may make provision as to the procedure to be followed in a case where, during an investigation, one or more persons notify the CMA that they accept that there has been an infringement of a kind to which the investigation relates.**]**

Enforcement

14 Rules may make provision as to the procedure to be followed when the **[**F639CMA**]** takes action under any of sections **[**F640**]**32 to 40**]** with respect to the enforcement of the provisions of this Part.

Textual Amendments

F639 Word in Sch. 9 para. 14 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 5 para. 58(10)** (with s. 28); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F640 Words in Sch. 9 para. 14 substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 1 para. 54(9)**

SCHEDULE 10

Sections 54 and 66(5).

REGULATORS

PART I

MONOPOLIES

F641 1 . . . . . .

Textual Amendments

F641 Sch. 10 para. 1 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

PART II

THE PROHIBITIONS

Telecommunications

2 F642(1) . . . . . .

F642(2) . . . . . .

F642(3) . . . . . .

F642(4) . . . . . .

F642(5) . . . . . .

F642(6) . . . . . .

F643(7) . . . . . .

F644(8) . . . . . .

F645(9) . . . . . .

F646(10) . . . . . .

Textual Amendments

F642 Sch. 10 para. 2(1)-(6) repealed (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 19(1)** Note 1 (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

F643 Sch. 10 para. 2(7) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

F644 Sch. 10 para. 2(8) repealed (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 19(1)** Note 1 (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

F645 Sch. 10 para. 2(9) repealed (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 19(1)** Note 1 (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

F646 Sch. 10 para. 2(10) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

Commencement Information

I12 Sch. 10 para. 2 wholly in force; Sch. 10 para. 2 not in force at Royal Assent see s. 76(3); Sch. 10 para. 2 in force for certain purposes at 26.11.1998 by S.I. 1998/2750, **art. 2**; Sch. 10 para. 2 fully in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Gas

3 (1) In consequence of the repeal by this Act of provisions of the [M20]Competition Act 1980, the functions transferred by subsection (3) of section 36A of the [M21]Gas Act 1986 (functions with respect to competition) are no longer exercisable by the Director General of Gas Supply.

(2) Accordingly, that Act is amended as follows.

[F647](3) . . . . . .

(4) Section 36A is amended as follows.

(5) For subsection (3) substitute—

"(3) The Director shall be entitled to exercise, concurrently with the Director General of Fair Trading, the functions of that Director under the provisions of Part I of the Competition Act 1998 (other than sections 38(1) to (6) and 51), so far as relating to—

(a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act, or

(b) conduct of the kind mentioned in section 18(1) of that Act,

which relate to the carrying on of activities to which this subsection applies.

(3A) So far as necessary for the purposes of, or in connection with, the provisions of subsection (3) above, references in Part I of the Competition Act 1998 to the Director General of Fair Trading are to be read as including a reference to the Director (except in sections 38(1) to (6), 51, 52(6) and (8) and 54 of

that Act and in any other provision of that Act where the context otherwise requires)."

F648(6) . . . . . .

(7) In subsection (6), omit "or (3)".

(8) In subsection (7), for paragraph (b) substitute—

"(b) Part I of the Competition Act 1998 (other than sections 38(1) to (6) and 51),".

F649(9) . . . . . .

F649(10) . . . . . .

F649(11) . . . . . .

Textual Amendments

F647 Sch. 10 para. 3(3) repealed (1.10.2001) by 2000 c. 27, ss. 108, **Sch. 8**; S.I. 2001/3266, art. 2, **Sch.** (subject to arts. 3-20)

F648 Sch. 10 para. 3(6) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

F649 Sch. 10 para. 3(9)-(11) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

Commencement Information

I13 Sch. 10 para. 3 wholly in force; Sch. 10 para. 3 not in force at Royal Assent see s. 76(3); Sch. 10 para. 3 in force for certain purposes at 26.11.1998 by S.I. 1998/2750, **art. 2**; Sch. 10 para. 3 fully in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Marginal Citations

M20 1980 c. 21.

M21 1986 c. 44.

Electricity

4 (1) In consequence of the repeal by this Act of provisions of the M22Competition Act 1980, the functions transferred by subsection (3) of section 43 of the M23Electricity Act 1989 (functions with respect to competition) are no longer exercisable by the Director General of Electricity Supply.

(2) Accordingly, that Act is amended as follows.

F650(3) . . . . . .

(4) Section 43 is amended as follows.

(5) For subsection (3) substitute—

"(3) The Director shall be entitled to exercise, concurrently with the Director General of Fair Trading, the functions of that Director under the provisions of Part I of the Competition Act 1998 (other than sections 38(1) to (6) and 51), so far as relating to—

(a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act, or

(b) conduct of the kind mentioned in section 18(1) of that Act,

which relate to commercial activities connected with the generation, transmission or supply of electricity.

(3A) So far as necessary for the purposes of, or in connection with, the provisions of subsection (3) above, references in Part I of the Competition Act 1998 to the Director General of Fair Trading are to be read as including a reference to the Director (except in sections 38(1) to (6), 51, 52(6) and (8) and 54 of that Act and in any other provision of that Act where the context otherwise requires).”

F651(6) . . . . . .

(7) In subsection (5), omit “or (3)”.

(8) In subsection (6), for paragraph (b) substitute—

“(b) Part I of the Competition Act 1998 (other than sections 38(1) to (6) and 51),”.

F652(9) . . . . . .

Textual Amendments

F650 Sch. 10 para. 4(3) repealed (1.10.2001) by 2000 c. 27, s. 108, **Sch. 8**; S.I. 2001/3266, art. 2, **Sch.** (subject to arts. 3-20)

F651 Sch. 10 para. 4(6) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

F652 Sch. 10 para. 4(9) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

Commencement Information

I14 Sch. 10 para. 4 wholly in force; Sch. 10 para. 4 not in force at Royal Assent see s. 76(3); Sch. 10 para. 4 in force for certain purposes at 26.11.1998 by S.I. 1998/2750, **art. 2**; Sch. 10 para. 4 fully in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Marginal Citations

M22 1980 c. 21.

M23 1989 c. 29.

Water

5 (1) In consequence of the repeal by this Act of provisions of the M24Competition Act 1980, the functions exercisable by virtue of subsection (3) of section 31 of the M25Water Industry Act 1991 (functions of Director with respect to competition) are no longer exercisable by the Director General of Water Services.

(2) Accordingly, that Act is amended as follows.

F653(3) . . . . . .

(4) In section 2, after subsection (6), insert—

"(6A) Subsections (2) to (4) above do not apply in relation to anything done by the Director in the exercise of functions assigned to him by section 31(3) below ("Competition Act functions").

(6B) The Director may nevertheless, when exercising any Competition Act function, have regard to any matter in respect of which a duty is imposed by any of subsections (2) to (4) above, if it is a matter to which the Director General of Fair Trading could have regard when exercising that function."

(5) Section 31 is amended as follows.

(6) For subsection (3) substitute—

"(3) The Director shall be entitled to exercise, concurrently with the Director General of Fair Trading, the functions of that Director under the provisions of Part I of the Competition Act 1998 (other than sections 38(1) to (6) and 51), so far as relating to—

(a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act, or

(b) conduct of the kind mentioned in section 18(1) of that Act,

which relate to commercial activities connected with the supply of water or securing a supply of water or with the provision or securing of sewerage services."

F654(7) . . . . . .

(8) After subsection (4), insert—

"(4A) So far as necessary for the purposes of, or in connection with, the provisions of subsection (3) above, references in Part I of the Competition Act 1998 to the Director General of Fair Trading are to be read as including a reference to the Director (except in sections 38(1) to (6), 51, 52(6) and (8) and 54 of that Act and in any other provision of that Act where the context otherwise requires)."

F655(9) . . . . . .

F655(10) . . . . . .

(11) In subsection (7), omit "or (3)".

(12) In subsection (8), for paragraph (b) substitute—

"(b) Part I of the Competition Act 1998 (other than sections 38(1) to (6) and 51),".

F656(13) . . . . . .

Textual Amendments

F653 Sch. 10 para. 5(3) repealed (1.4.2005) by Water Act 2003 (c. 37), s. 105(3), Sch. 7 para. 32(4)(a), **Sch. 9 Pt. 3**; S.I. 2005/968, art. 2(m)(ii)(n)

F654 Sch. 10 para. 5(7) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

F655 Sch. 10 para. 5(9)(10) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

F656 Sch. 10 para. 5(13) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

Commencement Information

I15 Sch. 10 para. 5 wholly in force; Sch. 10 para. 5 not in force at Royal Assent see s. 76(3); Sch. 10 para. 5 in force for certain purposes at 26.11.1998 by S.I. 1998/2750, **art. 2**; S.I. 2000/344, art. 2, **Sch.**

Marginal Citations

M24 1980 c. 21.

M25 1991 c. 56.

Railways

6 (1) In consequence of the repeal by this Act of provisions of the [M26]Competition Act 1980, the functions transferred by subsection (3) of section 67 of the [M27]Railways Act 1993 (respective functions of the Regulator and the Director etc) are no longer exercisable by the Rail Regulator.

(2) Accordingly, that Act is amended as follows.

(3) In section 4 (general duties of the Secretary of State and the Regulator), after subsection (7), insert—

"(7A) Subsections (1) to (6) above do not apply in relation to anything done by the Regulator in the exercise of functions assigned to him by section 67(3) below ("Competition Act functions").

(7B) The Regulator may nevertheless, when exercising any Competition Act function, have regard to any matter in respect of which a duty is imposed by any of subsections (1) to (6) above, if it is a matter to which the Director General of Fair Trading could have regard when exercising that function."

(4) Section 67 is amended as follows.

(5) For subsection (3) substitute—

"(3) The Regulator shall be entitled to exercise, concurrently with the Director, the functions of the Director under the provisions of Part I of the Competition Act 1998 (other than sections 38(1) to (6) and 51), so far as relating to—

(a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act, or

(b) conduct of the kind mentioned in section 18(1) of that Act,

which relate to the supply of railway services.

(3A) So far as necessary for the purposes of, or in connection with, the provisions of subsection (3) above, references in Part I of the Competition Act 1998 to the Director are to be read as including a reference to the Regulator (except in sections 38(1) to (6), 51, 52(6) and (8) and 54 of that Act and in any other provision of that Act where the context otherwise requires)."

[F657](6) . . . . . .

(7) In subsection (6)(a), omit "or (3)".

(8) In subsection (8), for paragraph (b) substitute—

"(b) Part I of the Competition Act 1998 (other than sections 38(1) to (6) and 51),".

F658(9) . . . . . .

Textual Amendments

F657 Sch. 10 para. 6(6) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

F658 Sch. 10 para. 6(9) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

Commencement Information

I16 Sch. 10 para. 6 wholly in force; Sch. 10 para. 6 not in force at Royal Assent see s. 76(3); Sch. 10 para. 6 in force for certain purposes at 26.11.1998 by S.I. 1998/2750, **art. 2**; SCh. 10 para. 6 fully in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Marginal Citations

M26 1980 c. 21.

M27 1993 c. 43.

PART III

THE PROHIBITIONS: NORTHERN IRELAND

Electricity

7 (1) In consequence of the repeal by this Act of provisions of the M28Competition Act 1980, the functions transferred by paragraph (3) of Article 46 of the M29Electricity (Northern Ireland) Order 1992 (functions with respect to competition) are no longer exercisable by the Director General of Electricity Supply for Northern Ireland.

(2) Accordingly, that Order is amended as follows.

(3) **[**F659In Article 6 (general duties of the Director), after paragraph (2), add—

"(3) Paragraph (1) does not apply in relation to anything done by the Director in the exercise of functions assigned to him by Article 46(3) ("Competition Act functions").

(4) The Director may nevertheless, when exercising any Competition Act function, have regard to any matter in respect of which a duty is imposed by paragraph (1) ("a general matter"), if it is a matter to which the Director General of Fair Trading could have regard when exercising that function; but that is not to be taken as implying that, in the exercise of any function mentioned in Article 4(7) or paragraph (2), regard may not be had to any general matter."**]**

(4) Article 46 is amended as follows.

(5) For paragraph (3) substitute—

"(3) The Director shall be entitled to exercise, concurrently with the Director General of Fair Trading, the functions of that Director under the provisions of Part I of the Competition Act 1998 (other than sections 38(1) to (6) and 51), so far as relating to—

(a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act, or

(b) conduct of the kind mentioned in section 18(1) of that Act,

which relate to commercial activities connected with the generation, transmission or supply of electricity.

(3A) So far as necessary for the purposes of, or in connection with, the provisions of paragraph (3), references in Part I of the Competition Act 1998 to the Director General of Fair Trading are to be read as including a reference to the Director (except in sections 38(1) to (6), 51, 52(6) and (8) and 54 of that Act and in any other provision of that Act where the context otherwise requires)."

F660(6) . . . . . .

(7) In paragraph (5), omit "or (3)".

(8) In paragraph (6), for sub-paragraph (b) substitute—

"(b) Part I of the Competition Act 1998 (other than sections 38(1) to (6) and 51),".

F661(9) . . . . . .

Textual Amendments

F659 Sch. 10 para. 7(3) repealed (N.I.) (1.4.2003) by The Energy (Northern Ireland) Order 2003 (S.I. 2003/419), art. 1(2), **Sch. 5**; S.R. 2003/203, art. 2, Sch.

F660 Sch. 10 para. 7(6) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

F661 Sch. 10 para. 7(9) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

Commencement Information

I17 Sch. 10 para. 7 wholly in force; Sch. 10 para. 7 not in force at Royal Assent see s. 76(3); Sch. 10 para. 7 in force for certain purposes at 26.11.1998 by S.I. 1998/2750, **art. 2**; SCh. 10 para. 7 fully in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Marginal Citations

M28 1980 c. 21.

M29 S.I. 1992/231 (N.I. 1).

Gas

8 (1) In consequence of the repeal by this Act of provisions of the M30Competition Act 1980, the functions transferred by paragraph (3) of Article 23 of the M31Gas (Northern Ireland) Order 1996 (functions with respect to competition) are no longer exercisable by the Director General of Gas for Northern Ireland.

(2) Accordingly, that Order is amended as follows.

(3) **[**F662In Article 5 (general duties of the Department and Director), after paragraph (4), insert—

"(4A) Paragraphs (2) to (4) do not apply in relation to anything done by the Director in the exercise of functions assigned to him by Article 23(3) ("Competition Act functions").

(4B) The Director may nevertheless, when exercising any Competition Act function, have regard to any matter in respect of which a duty is imposed by any of paragraphs (2) to (4), if it is a matter to which the Director General of Fair Trading could have regard when exercising that function."**]**

(4) Article 23 is amended as follows.

(5) For paragraph (3) substitute—

"(3) The Director shall be entitled to exercise, concurrently with the Director General of Fair Trading, the functions of that Director under the provisions of Part I of the Competition Act 1998 (other than sections 38(1) to (6) and 51), so far as relating to—

(a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act, or

(b) conduct of the kind mentioned in section 18(1) of that Act,

connected with the conveyance, storage or supply of gas.

(3A) So far as necessary for the purposes of, or in connection with, the provisions of paragraph (3), references in Part I of the Competition Act 1998 to the Director General of Fair Trading are to be read as including a reference to the Director (except in sections 38(1) to (6), 51, 52(6) and (8) and 54 of that Act and in any other provision of that Act where the context otherwise requires)."

F663(6) . . . . . .

(7) In paragraph (5), omit "or (3)".

(8) In paragraph (6), for sub-paragraph (b) substitute—

"(b) Part I of the Competition Act 1998 (other than sections 38(1) to (6) and 51),".

F664(9) . . . . . .

F664(10) . . . . . .

F664(11) . . . . . .

Textual Amendments

F662 Sch. 10 para. 8(3) repealed (N.I.) (1.4.2003) by The Energy (Northern Ireland) Order 2003 (S.I. 2003/419), art. 1(2), **Sch. 5**; S.R. 2003/203, art. 2, Sch.

F663 Sch. 10 para. 8(6) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

F664 Sch. 10 para. 8(9)-(11) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

Commencement Information

I18 Sch. 10 para. 8 wholly in force; Sch. 10 para. 8 not in force at Royal Assent see s. 76(3); Sch. 10 para. 8 in force for certain purposes at 26.11.1998 by S.I. 1998/2750, **art. 2**; Sch. 10 para. 8 fully in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Marginal Citations

M30 1980 c. 21.

M31 S.I. 1996/275 (N.I. 2).

PART IV

UTILITIES: MINOR AND CONSEQUENTIAL AMENDMENTS

The Telecommunications Act 1984 (c.12)

9 (1) The Telecommunications Act 1984 is amended as follows.

F665(2) . . . . . .

F665(3) . . . . . .

F665(4) . . . . . .

F666(5) . . . . . .

F667(6) . . . . . .

(7) In section 101(3) (general restrictions on disclosure of information)—

(a) omit paragraphs (d) and (e) (which refer to the Restrictive Trade Practices Act 1976 and the M32Resale Prices Act 1976);

(b) after paragraph (m), insert—

"(n) the Competition Act 1998".

(8) At the end of section 101, insert—

"(6) Information obtained by the Director in the exercise of functions which are exercisable concurrently with the Director General of Fair Trading under Part I of the Competition Act 1998 is subject to sections 55 and 56 of that Act (disclosure) and not to subsections (1) to (5) of this section."

Textual Amendments

F665 Sch. 10 para. 9(2)-(4) repealed (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 19(1)** Note 1 (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

F666 Sch. 10 para. 9(5) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

F667 Sch. 10 para. 9(6) repealed (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 19(1)** Note 1 (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Commencement Information

I19 Sch. 10 para. 9 wholly in force; Sch. 10 para. 9 not in force at Royal Assent see s. 76(3); Sch. 10 para. 9 in force for certain purposes at 26.11.1998 by S.I. 1998/2750, **art. 2**; Sch. 10 para. 9(7)(b) in force at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; Sch. 10 para. 9(1)(2)(5) in force at 1.4.1999 by S.I. 1999/505, art. 2, **Sch. 2**; Sch. 10 para. 9(3)(4)(6)(7)(a) and (8) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Marginal Citations

M32 1976 c. 53.

The Gas Act 1986 (c.44)

10 (1) The Gas Act 1986 is amended as follows.

F668(2) . . . . . .

(3) In section 25, omit subsection (2) (which falls with the repeal of the M33Restrictive Trade Practices Act 1976).

F669(4) . . . . . .

(5) In section 28 (orders for securing compliance with certain provisions), in subsection (5), after paragraph (aa), omit "or" and after paragraph (b), insert "or

(c) that the most appropriate way of proceeding is under the Competition Act 1998."

(6) In section 42(3) (general restrictions on disclosure of information)—

(a) omit paragraphs (e) and (f) (which refer to the Restrictive Trade Practices Act 1976 and the M34Resale Prices Act 1976);

(b) after paragraph (n), insert—

"(o) the Competition Act 1998".

(7) At the end of section 42, insert—

"(7) Information obtained by the Director in the exercise of functions which are exercisable concurrently with the Director General of Fair Trading under Part I of the Competition Act 1998 is subject to sections 55 and 56 of that Act (disclosure) and not to subsections (1) to (6) of this section."

Textual Amendments

F668 Sch. 10 para. 10(2) repealed (20.6.2003) by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 1, **Sch. para. 32(2)**

F669 Sch. 10 para. 10(4) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

Commencement Information

I20 Sch. 10 para. 10 wholly in force; Sch. 10 para. 10 not in force at Royal Assent see s. 76(3); Sch. 10 para. 10 in force for certain purposes at 26.11.1998 by S.I. 1998/2750, **art. 2**; Sch. 10 para. 10(6)(b) in force at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; Sch. 10 para. 10(1)(2) in force at 1.4.1999 by S.I. 1999/505, art. 2, **Sch. 2**; Sch. 10 para. 10 (3)-(5)(6)(a) and (7) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Marginal Citations

M33 1976 c. 34.

M34 1976 c. 53.

The Water Act 1989 (c.15)

11 In section 174(3) of the Water Act 1989 (general restrictions on disclosure of information)—

(a) omit paragraphs (d) and (e) (which refer to the Restrictive Trade Practices Act 1976 and the Resale Prices Act 1976);

(b) after paragraph (l), insert—

"(ll) the Competition Act 1998".

Commencement Information

I21 Sch. 10 para. 11 wholly in force; Sch. 10 para. 11 not in force at Royal Assent see s. 76(3); Sch. 10 para. 11(b) in force at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; Sch. 10 para. 11(a) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

The Electricity Act 1989 (c.29)

12 (1) The Electricity Act 1989 is amended as follows.

(2) In section 12 (modification references to Competition Commission), for subsections (8) and (9) substitute—

"(8) The provisions mentioned in subsection (8A) are to apply in relation to references under this section as if—

(a) the functions of the Competition Commission in relation to those references were functions under the 1973 Act;

(b) the expression "merger reference" included a reference under this section;

(c) in section 70 of the 1973 Act—

(i) references to the Secretary of State were references to the Director, and

(ii) the reference to three months were a reference to six months.

(8A) The provisions are—

(a) sections 70 (time limit for report on merger) and 85 (attendance of witnesses and production of documents) of the 1973 Act;

(b) Part II of Schedule 7 to the Competition Act 1998 (performance of the Competition Commission's general functions); and

(c) section 24 of the 1980 Act (modification of provisions about performance of such functions).

(9) For the purposes of references under this section, the Secretary of State is to appoint not less than eight members of the Competition Commission.

(9A) In selecting a group to perform the Commission's functions in relation to any such reference, the chairman of the Commission must select up to three of the members appointed under subsection (9) to be members of the group."

(3) In section 13, omit subsection (2) (which falls with the repeal of the [M35]Restrictive Trade Practices Act 1976).

[F670](4) . . . . . .

(5) In section 25 (orders for securing compliance), in subsection (5), after paragraph (b), omit "or" and after paragraph (c), insert "or

(d) that the most appropriate way of proceeding is under the Competition Act 1998."

[F671](6) . . . . . .

(7) In section 57(3) (general restrictions on disclosure of information)—

(a) omit paragraphs (d) and (e) (which refer to the [M36]Restrictive Trade Practices Act 1976 and the [M37]Resale Prices Act 1976);

(b) after paragraph (no), insert—

"(nop) the Competition Act 1998".

(8) At the end of section 57, insert—

"(7) Information obtained by the Director in the exercise of functions which are exercisable concurrently with the Director General of Fair Trading under Part I of the Competition Act 1998 is subject to sections 55 and 56 of that Act (disclosure) and not to subsections (1) to (6) of this section."

Textual Amendments

F670 Sch. 10 para. 12(4) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

F671 Sch. 10 para. 12(6) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

Commencement Information

I22 Sch. 10 para. 12 wholly in force; Sch. 10 para. 12 not in force at Royal Assent see s. 76(3); Sch. 10 para. 12(7)(b) in force at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; Sch. 10 para. 12(1)(2)(6) in force at 1.4.1999 by S.I. 1999/505, art. 2, **Sch. 2**; Sch. 10 para. 12 (3)-(5)(7)(a) and (8) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Marginal Citations

M35 1976 c. 34.

M36 1976 c. 34.

M37 1976 c. 53.

The Water Industry Act 1991 (c.56)

13 (1) The Water Industry Act 1991 is amended as follows.

(2) [F672In section 12(5) (determinations under conditions of appointment)—

(a) after "this Act", insert " or ";

(b) omit "or the 1980 Act".]

(3) **[**F672In section 14 (modification references to Competition Commission), for subsections (7) and (8) substitute—

"(7) The provisions mentioned in subsection (7A) are to apply in relation to references under this section as if—

(a) the functions of the Competition Commission in relation to those references were functions under the 1973 Act;

(b) the expression "merger reference" included a reference under this section;

(c) in section 70 of the 1973 Act—

(i) references to the Secretary of State were references to the Director, and

(ii) the reference to three months were a reference to six months.

(7A) The provisions are—

(a) sections 70 (time limit for report on merger) and 85 (attendance of witnesses and production of documents) of the 1973 Act;

(b) Part II of Schedule 7 to the Competition Act 1998 (performance of the Competition Commission's general functions); and

(c) section 24 of the 1980 Act (modification of provisions about performance of such functions).

(8) For the purposes of references under this section, the Secretary of State is to appoint not less than eight members of the Competition Commission.

(8A) In selecting a group to perform the Commission's functions in relation to any such reference, the chairman of the Commission must select one or more of the members appointed under subsection (8) to be members of the group."**]**

(4) In section 15, omit subsection (2) (which falls with the repeal of the Restrictive Trade Practices Act 1976).

(5) In section 17 (modification by order under other enactments)—

(a) in subsection (1), omit paragraph (b) and the "or" immediately before it;

(b) in subsection (2)—

(i) after paragraph (a), insert " or ";

(ii) omit paragraph (c) and the "or" immediately before it;

(c) in subsection (4), omit "or the 1980 Act".

(6) In section 19 (exceptions to duty to enforce), after subsection (1), insert—

"(1A) The Director shall not be required to make an enforcement order, or to confirm a provisional enforcement order, if he is satisfied that the most appropriate way of proceeding is under the Competition Act 1998."

(7) In section 19(3), after "subsection (1) above", insert " or, in the case of the Director, is satisfied as mentioned in subsection (1A) above, ".

F673(8) . . . . . .

(9) After section 206(9) (restriction on disclosure of information), insert—

"(9A) Information obtained by the Director in the exercise of functions which are exercisable concurrently with the Director General of Fair Trading under

Part I of the Competition Act 1998 is subject to sections 55 and 56 of that Act (disclosure) and not to subsections (1) to (9) of this section."

(10) In Schedule 15 (disclosure of information), in Part II (enactments in respect of which disclosure may be made)—

(a) omit the entries relating to the [M38]Restrictive Trade Practices Act 1976 and the [M39]Resale Prices Act 1976;

(b) after the entry relating to the [M40]Railways Act 1993, insert the entry— " The Competition Act 1998 ".

Textual Amendments

F672 Sch. 10 para. 13(2)(3) repealed (1.4.2004 for specified purposes, 1.10.2004 in so far as not already in force) by Water Act 2003 (c. 37), s. 105(3), Sch. 7 para. 32(4)(b), **Sch. 9 Pt. 3**; S.I. 2004/641, art. 3(y)(z), Sch. 2; S.I. 2004/2528, art. 2(t)(ii)(u)

F673 Sch. 10 para. 13(8) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

Commencement Information

I23 Sch. 10 para. 13 wholly in force; Sch. 10 para. 13 not in force at Royal Assent see s. 76(3); Sch. 10 para. 13(10)(b) in force at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; Sch. 10 para. 13(1)(3)(8) in force at 1.4.1999 by S.I. 1999/505, art. 2, **Sch. 2**; Sch. 10 para. 13 (2)(4)-(7)(9) and (10)(a) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Marginal Citations

M38 1976 c. 34.
M39 1976 c. 53.
M40 1993 c. 43.

The Water Resources Act 1991 (c.57)

14 In Schedule 24 to the Water Resources Act 1991 (disclosure of information), in Part II (enactments in respect of which disclosure may be made)—

(a) omit the entries relating to the Restrictive Trade Practices Act 1976 and the Resale Prices Act 1976;

(b) after the entry relating to the [M41]Coal Industry Act 1994, insert the entry— " The Competition Act 1998 ".

Commencement Information

I24 Sch. 10 para. 14 wholly in force; Sch. 10 para. 14 not in force at Royal Assent see s. 76(3); Sch. 10 para. 14(b) in force at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; Sch. 10 para. 14(a) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Marginal Citations

M41 1994 c. 21.

The Railways Act 1993 (c.43)

15 (1) The Railways Act 1993 is amended as follows.

F674(2) . . . . . .

(3) In section 14, omit subsection (2) (which falls with the repeal of the M42Restrictive Trade Practices Act 1976).

F675(4) . . . . . .

(5) In section 22, after subsection (6), insert—

"(6A) Neither the Director General of Fair Trading nor the Regulator may exercise, in respect of an access agreement, the powers given by section 32 (enforcement directions) or section 35(2) (interim directions) of the Competition Act 1998.

(6B) Subsection (6A) does not apply to the exercise of the powers given by section 35(2) in respect of conduct—

(a) which is connected with an access agreement; and

(b) in respect of which section 35(1)(b) of that Act applies."

(6) In section 55 (orders for securing compliance), after subsection (5), insert—

"(5A) The Regulator shall not make a final order, or make or confirm a provisional order, in relation to a licence holder or person under closure restrictions if he is satisfied that the most appropriate way of proceeding is under the Competition Act 1998."

(7) In section 55—

F676(a) . . . . . .

(b) in subsection (11), for "subsection (10)" substitute " subsections (5A) and (10) ".

(8) Omit section 131 (modification of Restrictive Trade Practices Act 1976).

(9) In section 145(3) (general restrictions on disclosure of information)—

(a) omit paragraphs (d) and (e) (which refer to the M43Restrictive Trade Practices Act 1976 and the M44Resale Prices Act 1976);

(b) after paragraph (q), insert—

"(qq) the Competition Act 1998."

(10) After section 145(6), insert—

"(6A) Information obtained by the Regulator in the exercise of functions which are exercisable concurrently with the Director General of Fair Trading under Part I of the Competition Act 1998 is subject to sections 55 and 56 of that Act (disclosure) and not to subsections (1) to (6) of this section."

Textual Amendments

F674 Sch. 10 para. 15(2) repealed (20.6.2003) by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 1, **Sch. para. 32(2)**

F675 Sch. 10 para. 15(4) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

F676 Sch. 10 para. 15(7)(a) repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art 3(1), **Sch. 2 Pt. I**

Commencement Information

I25 Sch. 10 para. 15 wholly in force; Sch. 10 para. 15 not in force at Royal Assent see s. 76(3); Sch. 10 para. 15(9)(b) in force at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; Sch. 10 para. 15(1)(2) in force at 1.4.1999 by S.I. 1999/505, art. 2, **Sch. 2**; Sch. 10 para. 15(3)-(8), (9)(a) and (10) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Marginal Citations

M42 1976 c. 34.
M43 1976 c. 34.
M44 1976 c. 53.

The Channel Tunnel Rail Link Act 1996 (c.61)

16 (1) The Channel Tunnel Rail Link Act 1996 is amended as follows.

(2) In section 21 (duties as to exercise of regulatory functions), in subsection (6), at the end of the paragraph about regulatory functions, insert "other than any functions assigned to him by virtue of section 67(3) of that Act ("Competition Act functions").

(7) The Regulator may, when exercising any Competition Act function, have regard to any matter to which he would have regard if—

(a) he were under the duty imposed by subsection (1) or (2) above in relation to that function; and

(b) the matter is one to which the Director General of Fair Trading could have regard if he were exercising that function."

(3) In section 22 (restriction of functions in relation to competition etc.), for subsection (3) substitute—

"(3) The Rail Regulator shall not be entitled to exercise any functions assigned to him by section 67(3) of the [M45]Railways Act 1993 (by virtue of which he exercises concurrently with the Director General of Fair Trading certain functions under Part I of the Competition Act 1998 so far as relating to matters connected with the supply of railway services) in relation to—

(a) any agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act that have been entered into or taken by, or

(b) any conduct of the kind mentioned in section 18(1) of that Act that has been engaged in by,

a rail link undertaker in connection with the supply of railway services, so far as relating to the rail link."

Marginal Citations

M45 1993 c. 43.

PART V

MINOR AND CONSEQUENTIAL AMENDMENTS: NORTHERN IRELAND

The Electricity (Northern Ireland) Order 1992

17 (1) The [M46]Electricity (Northern Ireland) Order 1992 is amended as follows.

(2) In Article 15 (modification references to Competition Commission), for paragraphs (8) and (9) substitute—

"(8) The provisions mentioned in paragraph (8A) are to apply in relation to references under this Article as if—

(a) the functions of the Competition Commission in relation to those references were functions under the 1973 Act;

(b) "merger reference" included a reference under this Article;

(c) in section 70 of the 1973 Act—

(i) references to the Secretary of State were references to the Director, and

(ii) the reference to three months were a reference to six months.

(8A) The provisions are—

(a) sections 70 (time limit for report on merger) and 85 (attendance of witnesses and production of documents) of the 1973 Act;

(b) Part II of Schedule 7 to the Competition Act 1998 (performance of the Competition Commission's general functions); and

(c) section 24 of the 1980 Act (modification of provisions about performance of such functions).

(9) The Secretary of State may appoint members of the Competition Commission for the purposes of references under this Article.

(9A) In selecting a group to perform the Commission's functions in relation to any such reference, the chairman of the Commission must select up to three of the members appointed under paragraph (9) to be members of the group."

(3) In Article 16, omit paragraph (2) (which falls with the repeal of the [M47]Restrictive Trade Practices Act 1976).

(4) In Article 18 (modification by order under other statutory provisions)—

(a) in paragraph (1), omit sub-paragraph (b) and the "or" immediately before it;

(b) in paragraph (2)—

(i) after sub-paragraph (a), insert " or ";

(ii) omit sub-paragraph (c) and the "or" immediately before it;

(c) in paragraph (3), omit "or the 1980 Act".

(5) **[**[F677]In Article 28 (orders for securing compliance), in paragraph (5), after sub-paragraph (b), omit "or" and after sub-paragraph (c), insert

(d) that the most appropriate way of proceeding is under the Competition Act 1998."**]**

[F678](6) . . . . . .

(7) **[**[F679]In Article 61(3) (general restrictions on disclosure of information)—

(a) omit sub-paragraphs (f) and (g) (which refer to the Restrictive Trade Practices Act 1976 and the [M48]Resale Prices Act 1976);

(b) after sub-paragraph (t), add—

"(u) the Competition Act 1998".**]**

(8) **[**[F679]At the end of Article 61, insert—

"(7) Information obtained by the Director in the exercise of functions which are exercisable concurrently with the Director General of Fair Trading under Part I of the Competition Act 1998 is subject to sections 55 and 56 of that Act (disclosure) and not to paragraphs (1) to (6)."**]**

(9) In Schedule 12, omit paragraph 16 (which amends the [M49]Restrictive Trade Practices Act 1976).

Textual Amendments

F677 Sch. 10 para. 17(5) repealed (N.I.) (1.4.2003) by The Energy (Northern Ireland) Order 2003 (S.I. 2003/419), art. 1(2), **Sch. 5**; S.R. 2003/203, art. 2, Sch.

F678 Sch. 10 para. 17(6) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

F679 Sch. 10 para. 17(7)(8) repealed (N.I.) (1.4.2003) by The Energy (Northern Ireland) Order 2003 (S.I. 2003/419), art. 1(2), **Sch. 5**; S.R. 2003/203, art. 2, Sch.

Commencement Information

I26 Sch. 10 para. 17 partly in force; Sch. 10 para. 17 not in force at Royal Assent see s. 76(3); Sch. 10 para. 17(7)(b) in force at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; Sch. 10 para. 17(1)(2)(6) in force at 1.4.1999 by S.I. 1999/505, art. 2, **Sch. 2**; Sch. 10 para. 17(3)-(5)(7)(a)(8) and (9) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Marginal Citations

M46 S.I. 1992/231 (N.I. 1).

M47 1976 c. 34.

M48 1976 c. 53.

M49 1976 c. 34.

The Gas (Northern Ireland) Order 1996

18 (1) The [M50]Gas (Northern Ireland) Order 1996 is amended as follows.

[F680](2) . . . . . .

(3) In Article 16, omit paragraph (2) (which falls with the repeal of the Restrictive Trade Practices Act 1976).

(4) In Article 18 (modification by order under other statutory provisions)—

(a) in paragraph (1), omit sub-paragraph (b) and the "or" immediately before it;

(b) in paragraph (3)—

(i) after sub-paragraph (a), insert " or ";

(ii) omit sub-paragraph (c) and the "or" immediately before it;

(c) in paragraph (5), omit "or the 1980 Act".

(5) **[**F681In Article 19 (orders for securing compliance), in paragraph (5), after sub-paragraph (b), omit "or" and after sub-paragraph (c), insert

(d) that the most appropriate way of proceeding is under the Competition Act 1998."**]**

(6) **[**F681In Article 44(4) (general restrictions on disclosure of information)—

(a) omit sub-paragraphs (f) and (g) (which refer to the Restrictive Trade Practices Act 1976 and the M51Resale Prices Act 1976);

(b) after sub-paragraph (u), add—

"(v) the Competition Act 1998".**]**

(7) **[**F682At the end of Article 44, insert—

"(8) Information obtained by the Director in the exercise of functions which are exercisable concurrently with the Director General of Fair Trading under Part I of the Competition Act 1998 is subject to sections 55 and 56 of that Act (disclosure) and not to paragraphs (1) to (7)."**]**

Textual Amendments

F680 Sch. 10 para. 18(2) repealed (20.6.2003) by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 1, **Sch. para. 32(2)**

F681 Sch. 10 para. 18(5)(6) repealed (N.I.) (1.4.2003) by The Energy (Northern Ireland) Order 2003 (S.I. 2003/419), art. 1(2), **Sch. 5**; S.R. 2003/203, art. 2, Sch.

F682 Sch. 10 para. 18(7) repealed (N.I.) (1.4.2003) by The Energy (Northern Ireland) Order 2003 (S.I. 2003/419), art. 1(2), **Sch. 5**; S.R. 2003/203, art. 2, Sch.

Commencement Information

I27 Sch. 10 para. 18 partly in force; Sch. 10 para. 18 not in force at Royal Assent see s. 76(3); Sch. 10 para. 18(6)(b) in force at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; Sch. 10 para. 18(1)(2) in force at 1.4.1999 by S.I. 1999/505, art. 2, **Sch. 2**; Sch. 10 para. 18(3)-(5)(6)(a) and (7) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Marginal Citations

M50 S.I. 1996/275 (N.I. 2).

M51 1976 c. 53.

F683SCHEDULE 11

Section 55(4).

. . . . . .

Textual Amendments

F683 Sch. 11 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 247(j), 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 6)

SCHEDULE 12

Section 74(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

The Fair Trading Act 1973 (c.41)

1 (1) The Fair Trading Act 1973 is amended as follows.

(2) Omit section 4 and Schedule 3 (which make provision in respect of the Monopolies and Mergers Commission).

(3) Omit—

(a) section 10(2),
(b) section 54(5),
(c) section 78(3),
(d) paragraph 3(1) and (2) of Schedule 8,

(which fall with the repeal of the [M52]Restrictive Trade Practices Act 1976).

[F684](4) . . . . . .

[F684](5) . . . . . .

[F684](6) . . . . . .

[F684](7) . . . . . .

(8) Omit section 45 (power of the Director to require information about complex monopoly situations).

[F685](9) . . . . . .

[F686](10) . . . . . .

[F686](11) . . . . . .

[F686](12) . . . . . .

[F686](13) . . . . . .

[F687](14) . . . . . .

(15) In section 135(1) (financial provisions)—

(a) in the words before paragraph (a) and in paragraph (b), omit "or the Commission"; and
(b) omit paragraph (a).

Textual Amendments

F684 Sch. 12 para. 1(4)-(7) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

F685 Sch. 12 para. 1(9) repealed (20.6.2003) by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 1, **Sch. para. 32(3)(a)**

F686 Sch. 12 para. 1(10)-(13) repealed (29.12.2003) by The Enterprise Act 2002 and Media Mergers (Consequential Amendments) Order 2003 (S.I. 2003/3180), art. 1(1), **Sch. para. 6(2)** (with art. 3)

F687 Sch. 12 para. 1(14) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

Commencement Information

I28 Sch. 12 para. 1 wholly in force; Sch. 12 para. 1 not in force at Royal Assent see s. 76(3); Sch. 12 para. 1(14) in force at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; Sch. 12 para. 1(1)(2)(9)-(13)(15) in force at 1.4.1999 by S.I. 1999/505, art. 2, **Sch. 2**; Sch. 12 para. 1(3)(a)(b)(d) in force at 10.11.1999 by S.I. 1999/2859, **art. 2**; Sch. 12 para. 1(3)(c)(4)-(8) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Marginal Citations

M52 1976 c. 34.

The Energy Act 1976 (c.76)

2 In the Energy Act 1976, omit section 5 (temporary relief from restrictive practices law in relation to certain agreements connected with petroleum).

The Estate Agents Act 1979 (c.38)

3 In section 10(3) of the Estate Agents Act 1979 (restriction on disclosure of information), in paragraph (a)—

(a) omit "or the [M53]Restrictive Trade Practices Act 1976"; and

(b) after "the [M54]Coal Industry Act 1994", insert " or the Competition Act 1998 ".

Commencement Information

I29 Sch. 12 para. 3 wholly in force; Sch. 12 para. 3 not in force at Royal Assent see s. 76(3); Sch. 12 para. 3(b) in force at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; Sch. 12 para. 3(a) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Marginal Citations

M53 1976 c. 34.

M54 1994 c. 21.

The Competition Act 1980 (c.21)

4 (1) The Competition Act 1980 is amended as follows.

(2) In section 11(8) (public bodies and other persons referred to the Commission), omit paragraph (b) and the "and" immediately before it.

(3) [F688For section 11(9) (which makes provision for certain functions of the Competition Commission under the [M55]Fair Trading Act 1973 to apply in relation to references under the Competition Act 1980) substitute—

"(9) The provisions mentioned in subsection (9A) are to apply in relation to a reference under this section as if—

(a) the functions of the Competition Commission under this section were functions under the Fair Trading Act 1973;

(b) the expression "merger reference" included a reference to the Commission under this section; and

(c) in paragraph 20(2)(a) of Schedule 7 to the Competition Act 1998, the reference to section 56 of the Fair Trading Act 1973 were a reference to section 12 below.

(9A) The provisions are—

(a) sections 70 (time limit for report on merger), 84 (public interest) and 85 (attendance of witnesses and production of documents) of the Fair Trading Act 1973; and

(b) Part II of Schedule 7 to the Competition Act 1998 (performance of the Competition Commission's general functions)."**]**

(4) **[**[F688]In section 13 (investigation of prices directed by Secretary of State)—

(a) in subsection (1), omit from "but the giving" to the end;

(b) for subsection (6) substitute—

"(6) For the purposes of an investigation under this section the Director may, by notice in writing signed by him—

(a) require any person to produce—

(i) at a time and a place specified in the notice,

(ii) to the Director or to any person appointed by him for the purpose,

any documents which are specified or described in the notice and which are documents in his custody or under his control and relating to any matter relevant to the investigation; or

(b) require any person carrying on any business to—

(i) furnish to the Director such estimates, forecasts, returns or other information as may be specified or described in the notice; and

(ii) specify the time, manner and form in which any such estimates, forecasts, returns or information are to be furnished.

(7) No person shall be compelled, for the purpose of any investigation under this section—

(a) to produce any document which he could not be compelled to produce in civil proceedings before the High Court or, in Scotland, the Court of Session; or

(b) in complying with any requirement for the furnishing of information, to give any information which he could not be compelled to give in evidence in such proceedings.

(8) Subsections (6) to (8) of section 85 of the [M56]Fair Trading Act 1973 (enforcement provisions relating to notices requiring production of documents etc.) shall apply in relation to a notice under subsection (6) above as they apply in relation to a notice under section 85(1) but as if, in section 85(7), for the words from "any one" to "the Commission" there were substituted "the Director.""**]**

(5) In section 15 (special provisions for agricultural schemes) omit subsections (2)(b), (3) and (4).

(6) In section 16 (reports), omit subsection (3).

(7) In section 17 (publication etc. of reports)—

(a) in subsections (1) and (3) to (5), omit "8(1)";

(b) in subsection (2), omit "8(1) or"; and

(c) in subsection (6), for "sections 9, 10 or" substitute " section ".

(8) In section 19(3) (restriction on disclosure of information), omit paragraphs (d) and (e).

(9) In section 19(3), after paragraph (q), insert—

"(r) the Competition Act 1998".

(10) In section 19(5)(a), omit "or in anything published under section 4(2)(a) above".

(11) Omit section 22 (which amends the [M57]Fair Trading Act 1973).

[F689](12) . . . . . .

(13) Omit sections 25 to 30 (amendments of the [M58]Restrictive Trade Practices Act 1976).

(14) In section 31 (orders and regulations)—

(a) omit subsection (2); and

(b) in subsection (3), omit "10".

(15) In section 33 (short title etc)—

[F690](a) . . . . . .

(b) omit subsections (3) and (4).

Textual Amendments

F688 Sch. 12 para. 4(3)(4) repealed (20.6.2003 for specified purposes) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

F689 Sch. 12 para. 4(12) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

F690 Sch. 12 para. 4(15)(a) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

Commencement Information

I30 Sch. 12 para. 4 wholly in force; Sch. 12 para. 4 not in force at Royal Assent see s. 76(3); Sch. 12 para. 4(9)(11) in force at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; Sch. 12 para. 4(1)(3)(12) in force at 1.4.1999 by S.I. 1999/505, art. 2, **Sch. 2**; Sch. 12 para. 4(2), (4)-(8)(10)(13)-(15) in force at 1.3.2000 by S.I. 2000/344, **art. 2**, SCh.

Marginal Citations

M55 1973 c. 41.

M56 1973 c. 41.

M57 1973 c. 41.

M58 1976 c. 34.

Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26))

5 In Schedule 6 to the Magistrates' Courts (Northern Ireland) Order 1981, omit paragraphs 42 and 43 (which amend the Restrictive Trade Practices Act 1976).

Agricultural Marketing (Northern Ireland) Order 1982 (S.I. 1982/1080 (N.I. 12))

6 In Schedule 8 to the Agricultural Marketing (Northern Ireland) Order 1982—

(a) omit the entry relating to paragraph 16(2) of Schedule 3 to the [M59]Fair Trading Act 1973; and

(b) in the entry relating to the [M60]Competition Act 1980—

(i) for "sections" substitute " section ";

(ii) omit "and 15(3)".

Commencement Information

I31 Sch. 12 para. 6 wholly in force; Sch. 12 para. 6 not in force at Royal Assent see s. 76(3); Sch. 12 para. 6(a) in force at 1.4.1999 by S.I. 1999/505, art. 2, **Sch. 2**; Sch. 12 para. 6(b) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Marginal Citations

M59 1973 c. 41.

M60 1980 c. 21.

The Airports Act 1986 (c.31)

[F691]7 . . . . . .

Textual Amendments

F691 Sch. 12 para. 7 repealed (20.6.2003) by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 1, **Sch. para. 32(3)(b)**

F692...

Textual Amendments

F692 Sch. 12 para. 8 and cross-heading repealed (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 19** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

8 In Schedule 11 to the Financial Services Act 1986, in paragraph 12—

(a) in sub-paragraph (1), omit "126";

(b) omit sub-paragraph (2).

The Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 (S.I. 1986/1035 (N.I. 9))

9 In Part II of Schedule 1 to the [M61]Companies Consolidation (Consequential Provisions)(Northern Ireland) Order 1986, omit the entries relating to the [M62]Restrictive Trade Practices Act 1976 and the Resale Prices Act 1976.

Marginal Citations
M61 1976 c. 34.
M62 1976 c. 53.

The Consumer Protection Act 1987 (c.43)

10 In section 38(3) of the Consumer Protection Act 1987 (restrictions on disclosure of information)—
(a) omit paragraphs (e) and (f); and
(b) after paragraph (o), insert—
"(p) the Competition Act 1998."

Commencement Information
I32 Sch. 12 para. 10 wholly in force; Sch. 12 para. 10 not in force at Royal Assent see s. 76(3); Sch. 12 para. 10(b) in force at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; Sch. 12 para. 10(a) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

The Channel Tunnel Act 1987 (c.53)

[F693]11 . . . . . .

Textual Amendments
F693 Sch. 12 para. 11 repealed (20.6.2003) by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 1, **Sch. para. 32(3)(c)**

The Road Traffic (Consequential Provisions) Act 1988 (c.54)

12 In Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (consequential amendments), omit paragraph 19.

The Companies Act 1989 (c.40)

13 In Schedule 20 to the Companies Act 1989 (amendments about mergers and related matters), omit paragraphs 21 to 24.

The Broadcasting Act 1990 (c.42)

[F694]14 . . . . . .

Textual Amendments

F694 Sch. 12 para. 14 repealed (20.6.2003) by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 1, **Sch. para. 32(3)(d)**

The Tribunals and Inquiries Act 1992 (c.53)

15 In Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under the supervision of the Council on Tribunals), after paragraph 9, insert—

"Competition	9A. An appeal tribunal established under section 48 of the Competition Act 1998."

The Osteopaths Act 1993 (c.21)

F695 16 . . . . . .

Textual Amendments

F695 Sch. 12 para. 16 repealed (20.6.2003) by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 1, **Sch. para. 32(3)(e)**

The Chiropractors Act 1994 (c.17)

F696 17 . . . . . .

Textual Amendments

F696 Sch. 12 para. 17 repealed (20.6.2003) by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 1, **Sch. para. 32(3)(f)**

The Coal Industry Act 1994 (c.21)

18 In section 59(4) of the Coal Industry Act 1994 (information to be kept confidential by the Coal Authority)—

(a) omit paragraphs (e) and (f); and

(b) after paragraph (m), insert—

"(n) the Competition Act 1998."

Commencement Information

I33 Sch. 12 para. 18 wholly in force; Sch. 12 para. 18 not in force at Royal Assent see s. 76(3); Sch. 12 para. 18(b) in force at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; Sch. 12 para. 18(a) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

The Deregulation and Contracting Out Act 1994 (c.40)

19 (1) The Deregulation and Contracting Out Act 1994 is amended as follows.

(2) Omit—

(a) section 10 (restrictive trade practices: non-notifiable agreements); and

(b) section 11 (registration of commercially sensitive information).

(3) In section 12 (anti-competitive practices: competition references), omit subsections (1) to (6).

(4) In Schedule 4, omit paragraph 1.

(5) In Schedule 11 (miscellaneous deregulatory provisions: consequential amendments), in paragraph 4, omit sub-paragraphs (3) to (7).

The Airports (Northern Ireland) Order 1994 (S.I. 1994/426 (N.I. 1))

F697 20 . . . . . .

Textual Amendments

F697 Sch. 12 para. 20 repealed (20.6.2003) by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 1, **Sch. para. 32(3)(g)**

The Broadcasting Act 1996 (c.55)

21 In section 77 of the Broadcasting Act 1996 (which modifies the Restrictive Trade Practices Act 1976 in its application to agreements relating to Channel 3 news provision), omit subsection (2).

SCHEDULE 13

Section 74(2).

TRANSITIONAL PROVISIONS AND SAVINGS

PART I

GENERAL

Interpretation

1 (1) In this Schedule—

"RPA" means the M63Resale Prices Act 1976;

"RTPA" means the Restrictive Trade Practices Act 1976;

"continuing proceedings" has the meaning given by paragraph 15;

"the Court" means the Restrictive Practices Court;

"Director" means the Director General of Fair Trading;

"document" includes information recorded in any form;

"enactment date" means the date on which this Act is passed;

"information" includes estimates and forecasts;

"interim period" means the period beginning on the enactment date and ending immediately before the starting date;

"prescribed" means prescribed by an order made by the Secretary of State;

"regulator" means any person mentioned in paragraphs (a) to (g) of paragraph 1 of Schedule 10 **[**[F698]and the Civil Aviation Authority**]**;

"starting date" means the date on which section 2 comes into force;

"transitional period" means the transitional period provided for in Chapters III and IV of Part IV of this Schedule.

(2) Sections 30, 44, 51, 53, 55, 56, 57 and 59(3) and (4) and paragraph 12 of Schedule 9 ("the applied provisions") apply for the purposes of this Schedule as they apply for the purposes of Part I of this Act.

(3) Section 2(5) applies for the purposes of any provisions of this Schedule which are concerned with the operation of the Chapter I prohibition as it applies for the purposes of Part I of this Act.

(4) In relation to any of the matters in respect of which a regulator may exercise powers as a result of paragraph 35(1), the applied provisions are to have effect as if references to the Director included references to the regulator.

(5) The fact that to a limited extent the Chapter I prohibition does not apply to an agreement, because a transitional period is provided by virtue of this Schedule, does not require those provisions of the agreement in respect of which there is a transitional period to be disregarded when considering whether the agreement infringes the prohibition for other reasons.

Textual Amendments

F698 Words in the definition of "regulator" in Sch. 13 para. 1(1) inserted (1.2.2001) by 2000 c. 38, ss. 97, **Sch. 8 Pt. IV para. 16(2)** (with s. 106); S.I. 2001/57, art. 3, **Sch. 2 Pt. I**

Marginal Citations

M63 1976 c. 53.

General power to make transitional provision and savings

2 (1) Nothing in this Schedule affects the power of the Secretary of State under section 75 to make transitional provisions or savings.

(2) An order under that section may modify any provision made by this Schedule.

Advice and information

3 (1) The Director may publish advice and information explaining provisions of this Schedule to persons who are likely to be affected by them.

(2) Any advice or information published by the Director under this paragraph is to be published in such form and manner as he considers appropriate.

Modifications etc. (not altering text)

C98 Sch. 13 para. 3 modified (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), **ss. 371(8)**, 411(2) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

PART II

DURING THE INTERIM PERIOD

Block exemptions

4 (1) The Secretary of State may, at any time during the interim period, make one or more orders for the purpose of providing block exemptions which are effective on the starting date.

(2) An order under this paragraph has effect as if properly made under section 6.

Certain agreements to be non-notifiable agreements

5 An agreement which—

(a) is made during the interim period, and

(b) satisfies the conditions set out in paragraphs (a), (c) and (d) of section 27A(1) of the RTPA,

is to be treated as a non-notifiable agreement for the purposes of the RTPA.

Application of RTPA during the interim period

6 In relation to agreements made during the interim period—

(a) the Director is no longer under the duty to take proceedings imposed by section 1(2)(c) of the RTPA but may continue to do so;

(b) section 21 of that Act has effect as if subsections (1) and (2) were omitted; and

(c) section 35(1) of that Act has effect as if the words "or within such further time as the Director may, upon application made within that time, allow" were omitted.

Guidance

7 (1) Sub-paragraphs (2) to (4) apply in relation to agreements made during the interim period.

(2) An application may be made to the Director in anticipation of the coming into force of section 13 in accordance with directions given by the Director and such an application is to have effect on and after the starting date as if properly made under section 13.

(3) The Director may, in response to such an application—

(a) give guidance in anticipation of the coming into force of section 2; or

(b) on and after the starting date, give guidance under section 15 as if the application had been properly made under section 13.

(4) Any guidance so given is to have effect on and after the starting date as if properly given under section 15.

Modifications etc. (not altering text)

C99 Sch. 13 para. 7 modified (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), **ss. 371(8)**, 411(2) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

PART III

ON THE STARTING DATE

Applications which fall

8 (1) Proceedings in respect of an application which is made to the Court under any of the provisions mentioned in sub-paragraph (2), but which is not determined before the starting date, cease on that date.

(2) The provisions are—

(a) sections 2(2), 35(3), 37(1) and 40(1) of the RTPA and paragraph 5 of Schedule 4 to that Act;

(b) section 4(1) of the RTPA so far as the application relates to an order under section 2(2) of that Act; and

(c) section 25(2) of the RPA.

(3) The power of the Court to make an order for costs in relation to any proceedings is not affected by anything in this paragraph or by the repeals made by section 1.

Orders and approvals which fall

9 (1) An order in force immediately before the starting date under—

(a) section 2(2), 29(1), 30(1), 33(4), 35(3) or 37(1) of the RTPA; or

(b) section 25(2) of the RPA,

ceases to have effect on that date.

(2) An approval in force immediately before the starting date under section 32 of the RTPA ceases to have effect on that date.

PART IV

ON AND AFTER THE STARTING DATE

CHAPTER I

GENERAL

Duty of Director to maintain register etc.

10 (1) This paragraph applies even though the relevant provisions of the RTPA are repealed by this Act.

(2) The Director is to continue on and after the starting date to be under the duty imposed by section 1(2)(a) of the RTPA to maintain a register in respect of agreements—

(a) particulars of which are, on the starting date, entered or filed on the register;

(b) which fall within sub-paragraph (4);

(c) which immediately before the starting date are the subject of proceedings under the RTPA which do not cease on that date by virtue of this Schedule; or

(d) in relation to which a court gives directions to the Director after the starting date in the course of proceedings in which a question arises as to whether an agreement was, before that date—

(i) one to which the RTPA applied;

(ii) subject to registration under that Act;

(iii) a non-notifiable agreement for the purposes of that Act.

(3) The Director is to continue on and after the starting date to be under the duties imposed by section 1(2)(a) and (b) of the RTPA of compiling a register of agreements and entering or filing certain particulars in the register, but only in respect of agreements of a kind referred to in paragraph (b), (c) or (d) of sub-paragraph (2).

(4) An agreement falls within this sub-paragraph if—

(a) it is subject to registration under the RTPA but—

(i) is not a non-notifiable agreement within the meaning of section 27A of the RTPA, or

(ii) is not one to which paragraph 5 applies;

(b) particulars of the agreement have been provided to the Director before the starting date; and

(c) as at the starting date no entry or filing has been made in the register in respect of the agreement.

(5) Sections 23 and 27 of the RTPA are to apply after the starting date in respect of the register subject to such modifications, if any, as may be prescribed.

(6) In sub-paragraph (2)(d) "court" means—

(a) the High Court;

(b) the Court of Appeal;

(c) the Court of Session;

(d) the High Court or Court of Appeal in Northern Ireland; or

[F699(e) the Supreme Court.**]**

Textual Amendments

F699 Sch. 13 para. 10(6)(e) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 9 para. 65(5)**; S.I. 2009/1604, art. 2(d)

Commencement Information

I34 Sch. 13 para. 10 wholly in force; Sch. 13 para. 10 not in force at Royal Assent see s. 76(3); Sch. 13 para. 10(5) in force at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**Sch. 13 para. 10(1)-(4) and (6) fully in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

RTPA section 3 applications

11 (1) Even though section 3 of the RTPA is repealed by this Act, its provisions (and so far as necessary that Act) are to continue to apply, with such modifications (if any) as may be prescribed—

(a) in relation to a continuing application under that section; or

(b) so as to allow an application to be made under that section on or after the starting date in respect of a continuing application under section 1(3) of the RTPA.

(2) "Continuing application" means an application made, but not determined, before the starting date.

Commencement Information

I35 Sch. 13 para. 11 partly in force; Sch. 13 para. 11 not in force at Royal Assent see s. 76(3); Sch. 13 para. 11 in force for certain purposes at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**

RTPA section 26 applications

12 (1) Even though section 26 of the RTPA is repealed by this Act, its provisions (and so far as necessary that Act) are to continue to apply, with such modifications (if any) as may be prescribed, in relation to an application which is made under that section, but not determined, before the starting date.

(2) If an application under section 26 is determined on or after the starting date, this Schedule has effect in relation to the agreement concerned as if the application had been determined immediately before that date.

Commencement Information

I36 Sch. 13 para. 12 wholly in force; Sch. 13 para. 12 not in force at Royal Assent see s. 76(3); Sch. 13 para. 12(1) in force for certain purposes at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; Sch. 13 para. 12(1) and (2) fully in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Right to bring civil proceedings

13 (1) Even though section 35 of the RTPA is repealed by this Act, its provisions (and so far as necessary that Act) are to continue to apply in respect of a person who, immediately before the starting date, has a right by virtue of section 27ZA or 35(2)

of that Act to bring civil proceedings in respect of an agreement (but only so far as that right relates to any period before the starting date or, where there are continuing proceedings, the determination of the proceedings).

(2) Even though section 25 of the RPA is repealed by this Act, the provisions of that section (and so far as necessary that Act) are to continue to apply in respect of a person who, immediately before the starting date, has a right by virtue of subsection (3) of that section to bring civil proceedings (but only so far as that right relates to any period before the starting date or, where there are continuing proceedings, the determination of the proceedings).

CHAPTER II

CONTINUING PROCEEDINGS

The general rule

14 (1) The Chapter I prohibition does not apply to an agreement at any time when the agreement is the subject of continuing proceedings under the RTPA.

(2) The Chapter I prohibition does not apply to an agreement relating to goods which are the subject of continuing proceedings under section 16 or 17 of the RPA to the extent to which the agreement consists of exempt provisions.

(3) In sub-paragraph (2) "exempt provisions" means those provisions of the agreement which would, disregarding section 14 of the RPA, be—

(a) void as a result of section 9(1) of the RPA; or

(b) unlawful as a result of section 9(2) or 11 of the RPA.

(4) If the Chapter I prohibition does not apply to an agreement because of this paragraph, the provisions of, or made under, the RTPA or the RPA are to continue to have effect in relation to the agreement.

(5) The repeals made by section 1 do not affect—

(a) continuing proceedings; or

(b) proceedings of the kind referred to in paragraph 11 or 12 of this Schedule which are continuing after the starting date.

Meaning of "continuing proceedings"

15 (1) For the purposes of this Schedule "continuing proceedings" means proceedings in respect of an application made to the Court under the RTPA or the RPA, but not determined, before the starting date.

(2) But proceedings under section 3 or 26 of the RTPA to which paragraph 11 or 12 applies are not continuing proceedings.

(3) The question whether (for the purposes of Part III, or this Part, of this Schedule) an application has been determined is to be decided in accordance with sub-paragraphs (4) and (5).

(4) If an appeal against the decision on the application is brought, the application is not determined until—

(a) the appeal is disposed of or withdrawn; or

(b) if as a result of the appeal the case is referred back to the Court—

(i) the expiry of the period within which an appeal ("the further appeal") in respect of the Court's decision on that reference could have been brought had this Act not been passed; or

(ii) if later, the date on which the further appeal is disposed of or withdrawn.

(5) Otherwise, the application is not determined until the expiry of the period within which any party to the application would have been able to bring an appeal against the decision on the application had this Act not been passed.

RTPA section 4 proceedings

16 Proceedings on an application for an order under section 4 of the RTPA are also continuing proceedings if—

(a) leave to make the application is applied for before the starting date but the proceedings in respect of that application for leave are not determined before that date; or

(b) leave to make an application for an order under that section is granted before the starting date but the application itself is not made before that date.

RPA section 16 or 17 proceedings

17 Proceedings on an application for an order under section 16 or 17 of the RPA are also continuing proceedings if—

(a) leave to make the application is applied for before the starting date but the proceedings in respect of that application for leave are not determined before that date; or

(b) leave to make an application for an order under section 16 or 17 of the RPA is granted before the starting date, but the application itself is not made before that date.

Continuing proceedings which are discontinued

18 (1) On an application made jointly to the Court by all the parties to any continuing proceedings, the Court must, if it is satisfied that the parties wish it to do so, discontinue the proceedings.

(2) If, on an application under sub-paragraph (1) or for any other reason, the Court orders the proceedings to be discontinued, this Schedule has effect (subject to paragraphs 21 and 22) from the date on which the proceedings are discontinued as if they had never been instituted.

CHAPTER III

THE TRANSITIONAL PERIOD

The general rule

19 (1) Except where this Chapter or Chapter IV provides otherwise, there is a transitional period, beginning on the starting date and lasting for one year, for any agreement made before the starting date.

(2) The Chapter I prohibition does not apply to an agreement to the extent to which there is a transitional period for the agreement.

(3) The Secretary of State may by regulations provide for sections 13 to 16 and Schedule 5 to apply with such modifications (if any) as may be specified in the regulations, in respect of applications to the Director about agreements for which there is a transitional period.

Modifications etc. (not altering text)

C100 Sch. 13 para. 19(3) modified (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), **ss. 371(8)**, 411(2) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

Commencement Information

I37 Sch. 13 para. 19 wholly in force; Sch. 13 para. 19 not in force at Royal Assent see s. 76(3); Sch. 13 para. 19(3) in force at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; Sch. 13 para. 19(1) and (2) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Cases for which there is no transitional period

20 (1) There is no transitional period for an agreement to the extent to which, immediately before the starting date, it is—

(a) void under section 2(1) or 35(1)(a) of the RTPA;

(b) the subject of an order under section 2(2) or 35(3) of the RTPA; or

(c) unlawful under section 1, 2 or 11 of the RPA or void under section 9 of that Act.

(2) There is no transitional period for an agreement to the extent to which, before the starting date, a person has acted unlawfully for the purposes of section 27ZA(2) or (3) of the RTPA in respect of the agreement.

(3) There is no transitional period for an agreement to which paragraph 25(4) applies.

(4) There is no transitional period for—

(a) an agreement in respect of which there are continuing proceedings, or

(b) an agreement relating to goods in respect of which there are continuing proceedings,

to the extent to which the agreement is, when the proceedings are determined, void or unlawful.

Continuing proceedings under the RTPA

21 In the case of an agreement which is the subject of continuing proceedings under the RTPA, the transitional period begins—

(a) if the proceedings are discontinued, on the date of discontinuance;

(b) otherwise, when the proceedings are determined.

Continuing proceedings under the RPA

22 (1) In the case of an agreement relating to goods which are the subject of continuing proceedings under the RPA, the transitional period for the exempt provisions of the agreement begins—

(a) if the proceedings are discontinued, on the date of discontinuance;

(b) otherwise, when the proceedings are determined.

(2) In sub-paragraph (1) "exempt provisions" has the meaning given by paragraph 14(3).

Provisions not contrary to public interest

23 (1) To the extent to which an agreement contains provisions which, immediately before the starting date, are provisions which the Court has found not to be contrary to the public interest, the transitional period lasts for five years.

(2) Sub-paragraph (1) is subject to paragraph 20(4).

(3) To the extent to which an agreement which on the starting date is the subject of continuing proceedings is, when the proceedings are determined, found by the Court not to be contrary to the public interest, the transitional period lasts for five years.

Goods

24 (1) In the case of an agreement relating to goods which, immediately before the starting date, are exempt under section 14 of the RPA, there is a transitional period for the agreement to the extent to which it consists of exempt provisions.

(2) Sub-paragraph (1) is subject to paragraph 20(4).

(3) In the case of an agreement relating to goods—

(a) which on the starting date are the subject of continuing proceedings, and

(b) which, when the proceedings are determined, are found to be exempt under section 14 of the RPA,

there is a transitional period for the agreement, to the extent to which it consists of exempt provisions.

(4) In each case, the transitional period lasts for five years.

(5) In sub-paragraphs (1) and (3) "exempt provisions" means those provisions of the agreement which would, disregarding section 14 of the RPA, be—

(a) void as a result of section 9(1) of the RPA; or

(b) unlawful as a result of section 9(2) or 11 of the RPA.

Transitional period for certain agreements

25 (1) This paragraph applies to agreements—

(a) which are subject to registration under the RTPA but which—

(i) are not non-notifiable agreements within the meaning of section 27A of the RTPA, or

(ii) are not agreements to which paragraph 5 applies; and

(b) in respect of which the time for furnishing relevant particulars as required by or under the RTPA expires on or after the starting date.

(2) "Relevant particulars" means—

(a) particulars which are required to be furnished by virtue of section 24 of the RTPA; or

(b) particulars of any variation of an agreement which are required to be furnished by virtue of sections 24 and 27 of the RTPA.

(3) There is a transitional period of one year for an agreement to which this paragraph applies if—

(a) relevant particulars are furnished before the starting date; and

(b) no person has acted unlawfully (for the purposes of section 27ZA(2) or (3) of the RTPA) in respect of the agreement.

(4) If relevant particulars are not furnished by the starting date, section 35(1)(a) of the RTPA does not apply in relation to the agreement (unless sub-paragraph (5) applies).

(5) This sub-paragraph applies if a person falling within section 27ZA(2) or (3) of the RTPA has acted unlawfully for the purposes of those subsections in respect of the agreement.

Special cases

26 (1) In the case of an agreement in respect of which—

F700(a) . . . . . .

(b) a direction under section 194A(3) of the M64Broadcasting Act 1990 ("the 1990 Act") is in force immediately before the starting date,

the transitional period lasts for five years.

F701(2) . . . . . .

(3) Sub-paragraphs (1) F702... do not affect the power of—

F703(a) . . . . . .

(b) the Secretary of State to make a declaration under section 194A of the 1990 Act (as amended by Schedule 2 to this Act),

in respect of an agreement for which there is a transitional period.

Textual Amendments

F700 Sch. 13 para. 26(1)(a) repealed (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 19** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

F701 Sch. 13 para. 26(2) repealed (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 19** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

F702 Words in Sch. 13 para. 26(3) repealed (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 19** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

F703 Sch. 13 para. 26(3)(a) repealed (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 19** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

Marginal Citations
M64 1990 c. 42.

CHAPTER IV

THE UTILITIES

General

27 In this Chapter "the relevant period" means the period beginning with the starting date and ending immediately before the fifth anniversary of that date.

Electricity

28 (1) For an agreement to which, immediately before the starting date, the RTPA does not apply by virtue of a section 100 order, there is a transitional period—

(a) beginning on the starting date; and

(b) ending at the end of the relevant period.

(2) For an agreement which is made at any time after the starting date and to which, had the RTPA not been repealed, that Act would not at the time at which the agreement is made have applied by virtue of a section 100 order, there is a transitional period—

(a) beginning on the date on which the agreement is made; and

(b) ending at the end of the relevant period.

(3) For an agreement (whether made before or after the starting date) which, during the relevant period, is varied at any time in such a way that it becomes an agreement which, had the RTPA not been repealed, would at that time have been one to which that Act did not apply by virtue of a section 100 order, there is a transitional period—

(a) beginning on the date on which the variation is made; and

(b) ending at the end of the relevant period.

(4) If an agreement for which there is a transitional period as a result of sub-paragraph (1), (2) or (3) is varied during the relevant period, the transitional period for the agreement continues if, had the RTPA not been repealed, the agreement would have continued to be one to which that Act did not apply by virtue of a section 100 order.

(5) But if an agreement for which there is a transitional period as a result of sub-paragraph (1), (2) or (3) ceases to be one to which, had it not been repealed, the RTPA would not have applied by virtue of a section 100 order, the transitional period ends on the date on which the agreement so ceases.

(6) Sub-paragraph (3) is subject to paragraph 20.

(7) In this paragraph and paragraph 29—

"section 100 order" means an order made under section 100 of the [M65]Electricity Act 1989; and

expressions which are also used in Part I of the Electricity Act 1989 have the same meaning as in that Part.

Marginal Citations
M65 1989 c. 29.

Electricity: power to make transitional orders

29 (1) There is a transitional period for an agreement (whether made before or after the starting date) relating to the generation, transmission or supply of electricity which—

(a) is specified, or is of a description specified, in an order ("a transitional order") made by the Secretary of State (whether before or after the making of the agreement but before the end of the relevant period); and

(b) satisfies such conditions as may be specified in the order.

(2) A transitional order may make provision as to when the transitional period in respect of such an agreement is to start or to be deemed to have started.

(3) The transitional period for such an agreement ends at the end of the relevant period.

(4) But if the agreement—

(a) ceases to be one to which a transitional order applies, or

(b) ceases to satisfy one or more of the conditions specified in the transitional order,

the transitional period ends on the date on which the agreement so ceases.

(5) Before making a transitional order, the Secretary of State must consult the Director General of Electricity Supply and the Director.

(6) The conditions specified in a transitional order may include conditions which refer any matter to the Secretary of State for determination after such consultation as may be so specified.

(7) In the application of this paragraph to Northern Ireland, the reference in sub-paragraph (5) to the Director General of Electricity Supply is to be read as a reference to the Director General of Electricity Supply for Northern Ireland.

Gas

30 (1) For an agreement to which, immediately before the starting date, the RTPA does not apply by virtue of section 62 or a section 62 order, there is a transitional period—

(a) beginning on the starting date; and

(b) ending at the end of the relevant period.

(2) For an agreement which is made at any time after the starting date and to which, had the RTPA not been repealed, that Act would not at the time at which the agreement is made have applied by virtue of section 62 or a section 62 order, there is a transitional period—

(a) beginning on the date on which the agreement is made; and

(b) ending at the end of the relevant period.

(3) For an agreement (whether made before or after the starting date) which, during the relevant period, is varied at any time in such a way that it becomes an agreement which, had the RTPA not been repealed, would at that time have been one to which that Act did not apply by virtue of section 62 or a section 62 order, there is a transitional period—

(a) beginning on the date on which the variation is made; and

(b) ending at the end of the relevant period.

(4) If an agreement for which there is a transitional period as a result of sub-paragraph (1), (2) or (3) is varied during the relevant period, the transitional period for the agreement continues if, had the RTPA not been repealed, the agreement would have continued to be one to which that Act did not apply by virtue of section 62 or a section 62 order.

(5) But if an agreement for which there is a transitional period as a result of sub-paragraph (1), (2) or (3) ceases to be one to which, had it not been repealed, the RTPA would not have applied by virtue of section 62 or a section 62 order, the transitional period ends on the date on which the agreement so ceases.

(6) Sub-paragraph (3) also applies in relation to a modification which is treated as an agreement made on or after 28th November 1985 by virtue of section 62(4).

(7) Sub-paragraph (3) is subject to paragraph 20.

(8) In this paragraph and paragraph 31—

"section 62" means section 62 of the [M66]Gas Act 1986;

"section 62 order" means an order made under section 62.

Marginal Citations

M66 1986 c. 44.

Gas: power to make transitional orders

31 (1) There is a transitional period for an agreement of a description falling within section 62(2)(a) and (b) or section 62(2A)(a) and (b) which—

(a) is specified, or is of a description specified, in an order ("a transitional order") made by the Secretary of State (whether before or after the making of the agreement but before the end of the relevant period); and

(b) satisfies such conditions as may be specified in the order.

(2) A transitional order may make provision as to when the transitional period in respect of such an agreement is to start or to be deemed to have started.

(3) The transitional period for such an agreement ends at the end of the relevant period.

(4) But if the agreement—

(a) ceases to be one to which a transitional order applies, or

(b) ceases to satisfy one or more of the conditions specified in the transitional order,

the transitional period ends on the date when the agreement so ceases.

(5) Before making a transitional order, the Secretary of State must consult the Director General of Gas Supply and the Director.

(6) The conditions specified in a transitional order may include—

(a) conditions which are to be satisfied in relation to a time before the coming into force of this paragraph;

(b) conditions which refer any matter (which may be the general question whether the Chapter I prohibition should apply to a particular agreement) to the Secretary of State, the Director or the Director General of Gas Supply for determination after such consultation as may be so specified.

Gas: Northern Ireland

32 (1) For an agreement to which, immediately before the starting date, the RTPA does not apply by virtue of an Article 41 order, there is a transitional period—

(a) beginning on the starting date; and

(b) ending at the end of the relevant period.

(2) For an agreement which is made at any time after the starting date and to which, had the RTPA not been repealed, that Act would not at the time at which the agreement is made have applied by virtue of an Article 41 order, there is a transitional period—

(a) beginning on the date on which the agreement is made; and

(b) ending at the end of the relevant period.

(3) For an agreement (whether made before or after the starting date) which, during the relevant period, is varied at any time in such a way that it becomes an agreement which, had the RTPA not been repealed, would at that time have been one to which that Act did not apply by virtue of an Article 41 order, there is a transitional period—

(a) beginning on the date on which the variation is made; and

(b) ending at the end of the relevant period.

(4) If an agreement for which there is a transitional period as a result of sub-paragraph (1), (2) or (3) is varied during the relevant period, the transitional period for the agreement continues if, had the RTPA not been repealed, the agreement would have continued to be one to which that Act did not apply by virtue of an Article 41 order.

(5) But if an agreement for which there is a transitional period as a result of sub-paragraph (1), (2) or (3) ceases to be one to which, had it not been repealed, the RTPA would not have applied by virtue of an Article 41 order, the transitional period ends on the date on which the agreement so ceases.

(6) Sub-paragraph (3) is subject to paragraph 20.

(7) In this paragraph and paragraph 33—

"Article 41 order" means an order under Article 41 of the [M67]Gas (Northern Ireland) Order 1996;

"Department" means the Department of Economic Development.

Marginal Citations

M67 S.I. 1996/275 (N.I. 2).

Gas: Northern Ireland – power to make transitional orders

33 (1) There is a transitional period for an agreement of a description falling within Article 41(1) which—

(a) is specified, or is of a description specified, in an order ("a transitional order") made by the Department (whether before or after the making of the agreement but before the end of the relevant period); and

(b) satisfies such conditions as may be specified in the order.

(2) A transitional order may make provision as to when the transitional period in respect of such an agreement is to start or to be deemed to have started.

(3) The transitional period for such an agreement ends at the end of the relevant period.

(4) But if the agreement—

(a) ceases to be one to which a transitional order applies, or

(b) ceases to satisfy one or more of the conditions specified in the transitional order,

the transitional period ends on the date when the agreement so ceases.

(5) Before making a transitional order, the Department must consult the Director General of Gas for Northern Ireland and the Director.

(6) The conditions specified in a transitional order may include conditions which refer any matter (which may be the general question whether the Chapter I prohibition should apply to a particular agreement) to the Department for determination after such consultation as may be so specified.

Railways

34 (1) In this paragraph—

"section 131" means section 131 of the [M68]Railways Act 1993 ("the 1993 Act");

"section 131 agreement" means an agreement—

(a) to which the RTPA does not apply immediately before the starting date by virtue of section 131(1); or

(b) in respect of which a direction under section 131(3) is in force immediately before that date;

"non-exempt agreement" means an agreement relating to the provision of railway services (whether made before or after the starting date) which is not a section 131 agreement; and

"railway services" has the meaning given by section 82 of the 1993 Act.

(2) For a section 131 agreement there is a transitional period of five years.

(3) There is a transitional period for a non-exempt agreement to the extent to which the agreement is at any time before the end of the relevant period required or approved—

(a) by the Secretary of State or the Rail Regulator in pursuance of any function assigned or transferred to him under or by virtue of any provision of the 1993 Act;

(b) by or under any agreement the making of which is required or approved by the Secretary of State or the Rail Regulator in the exercise of any such function; or

(c) by or under a licence granted under Part I of the 1993 Act.

(4) The transitional period conferred by sub-paragraph (3)—

(a) is to be taken to have begun on the starting date; and

(b) ends at the end of the relevant period.

(5) Sub-paragraph (3) is subject to paragraph 20.

(6) Any variation of a section 131 agreement on or after the starting date is to be treated, for the purposes of this paragraph, as a separate non-exempt agreement.

Marginal Citations

M68 1993 c. 43.

The regulators

35 (1) Subject to sub-paragraph (3), each of the regulators may exercise, in respect of sectoral matters and concurrently with the Director, the functions of the Director under paragraph 3, 7, 19(3), 36, 37, 38 or 39.

(2) In sub-paragraph (1) "sectoral matters" means—

F704(a) . . . . . .

(b) in the case of the Director General of Gas Supply, the matters referred to in section 36A(3) and (4) of the M69Gas Act 1986;

(c) in the case of the Director General of Electricity Supply, the matters referred to in section 43(3) of the M70Electricity Act 1989;

(d) in the case of the Director General of Electricity Supply for Northern Ireland, the matters referred to in Article 46(3) of the M71Electricity (Northern Ireland) Order 1992;

(e) in the case of the **[**F705Water Services Regulation Authority**]**, the matters referred to in section 31(3) of the M72Water Industry Act 1991;

(f) in the case of the Rail Regulator, the matters referred to in section 67(3) of the M73Railways Act 1993;

(g) in the case of the Director General of Gas for Northern Ireland, the matters referred to in Article 23(3) of the M74Gas (Northern Ireland) Order 1996.

[F706(h) in the case of the Civil Aviation Authority, the supply of air traffic services within the meaning given by section 98 of the Transport Act 2000.**]**

(3) The power to give directions in paragraph 7(2) is exercisable by the Director only but if the Director is preparing directions which relate to a matter in respect of which a regulator exercises concurrent jurisdiction, he must consult that regulator.

(4) Consultations conducted by the Director before the enactment date, with a view to preparing directions which have effect on or after that date, are to be taken to satisfy sub-paragraph (3).

(5) References to enactments in sub-paragraph (2) are to the enactments as amended by or under this Act.

Textual Amendments

F704 Sch. 13 para. 35(2)(a) repealed (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 19(1)** Note 1 (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

F705 Words in Sch. 13 para. 35(2)(e) substituted (1.4.2006) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 32(5)**; S.I. 2005/2714, art. 4(f)

F706 Sch. 13 para. 35(2)(h) inserted (1.2.2001) by 2000 c. 38, ss. 97, **Sch. 8 Pt. IV para. 16(3)** (with s. 106); S.I. 2001/57, art. 3, **Sch. 2 Pt. I**

Marginal Citations

M69 1986 c. 44.
M70 1989 c. 29.
M71 S.I. 1992/231 (N.I.1).
M72 1991 c. 56.
M73 1993 c. 43.
M74 S.I. 1996/275 (N.I.2).

CHAPTER V

EXTENDING THE TRANSITIONAL PERIOD

36 (1) A party to an agreement for which there is a transitional period may apply to the Director, not less than three months before the end of the period, for the period to be extended.

(2) The Director may (on his own initiative or on an application under sub-paragraph (1)) —

(a) extend a one-year transitional period by not more than twelve months;
(b) extend a transitional period of any period other than one year by not more than six months.

(3) An application under sub-paragraph (1) must—

(a) be in such form as may be specified; and
(b) include such documents and information as may be specified.

(4) If the Director extends the transitional period under this paragraph, he must give notice in such form, and to such persons, as may be specified.

(5) The Director may not extend a transitional period more than once.

(6) In this paragraph—

"person" has the same meaning as in Part I; and

"specified" means specified in rules made by the Director under section 51.

Modifications etc. (not altering text)
C101 Sch. 13 paras. 36-39 modified (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), **ss. 371(8)**, 411(2) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

CHAPTER VI

TERMINATING THE TRANSITIONAL PERIOD

General

37 (1) Subject to sub-paragraph (2), the Director may by a direction in writing terminate the transitional period for an agreement, but only in accordance with paragraph 38.

(2) The Director may not terminate the transitional period, nor exercise any of the powers in paragraph 38, in respect of an agreement which is excluded from the Chapter I prohibition by virtue of any of the provisions of Part I of this Act other than paragraph 1 of Schedule 1 or paragraph 2 or 9 of Schedule 3 **[**F707or the Competition Act 1998 (Land and Vertical Agreements Exclusion) Order 2000**]**.

Textual Amendments
F707 Words in Sch. 13 para. 37(2) inserted (1.3.2000) by S.I. 2000/311, **art. 2**

Modifications etc. (not altering text)
C101 Sch. 13 paras. 36-39 modified (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), **ss. 371(8)**, 411(2) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

Circumstances in which the Director may terminate the transitional period

38 (1) If the Director is considering whether to give a direction under paragraph 37 ("a direction"), he may in writing require any party to the agreement concerned to give him such information in connection with that agreement as he may require.

(2) If at the end of such period as may be specified in rules made under section 51, a person has failed, without reasonable excuse, to comply with a requirement imposed under sub-paragraph (1), the Director may give a direction.

(3) The Director may also give a direction if he considers—

(a) that the agreement would, but for the transitional period or a relevant exclusion, infringe the Chapter I prohibition; and

(b) that he would not be likely to grant the agreement an unconditional individual exemption.

(4) For the purposes of sub-paragraph (3) an individual exemption is unconditional if no conditions or obligations are imposed in respect of it under section 4(3)(a).

(5) In this paragraph—

"person" has the same meaning as in Part I;

"relevant exclusion" means an exclusion under paragraph 1 of Schedule 1 or paragraph 2 or 9 of Schedule 3 **[**F708or the Competition Act 1998 (Land and Vertical Agreements Exclusion) Order 2000**]**.

Textual Amendments

F708 Words in the definition of "relevant exclusion" in Sch. 13 para. 38(5) inserted (1.9.2000) by S.I. 2000/2031, **art. 2**

Modifications etc. (not altering text)

C101 Sch. 13 paras. 36-39 modified (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), **ss. 371(8)**, 411(2) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

Procedural requirements on giving a paragraph 37 direction

39 (1) The Director must specify in a direction under paragraph 37 ("a direction") the date on which it is to have effect (which must not be less than 28 days after the direction is given).

(2) Copies of the direction must be given to—

(a) each of the parties concerned, and

(b) the Secretary of State,

not less than 28 days before the date on which the direction is to have effect.

(3) In relation to an agreement to which a direction applies, the transitional period (if it has not already ended) ends on the date specified in the direction unless, before that date, the direction is revoked by the Director or the Secretary of State.

(4) If a direction is revoked, the Director may give a further direction in respect of the same agreement only if he is satisfied that there has been a material change of circumstance since the revocation.

(5) If, as a result of paragraph 24(1) or (3), there is a transitional period in respect of provisions of an agreement relating to goods—

(a) which immediately before the starting date are exempt under section 14 of the RPA, or

(b) which, when continuing proceedings are determined, are found to be exempt under section 14 of the RPA,

the period is not affected by paragraph 37 or 38.

Modifications etc. (not altering text)

C101 Sch. 13 paras. 36-39 modified (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), **ss. 371(8)**, 411(2) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

PART V

THE FAIR TRADING ACT 1973

References to the Monopolies and Mergers Commission

40 (1) If, on the date on which the repeal by this Act of a provision mentioned in sub-paragraph (2) comes into force, the Monopolies and Mergers Commission has not completed a reference which was made to it before that date, continued consideration of the reference may include consideration of a question which could not have been considered if the provision had not been repealed.

(2) The provisions are—

(a) sections 10(2), 54(5) and 78(3) and paragraph 3(1) and (2) of Schedule 8 to the Fair Trading Act 1973 (c. 41);
(b) section 11(8)(b) of the Competition Act 1980 (c. 21);
(c) section 14(2) of the Telecommunications Act 1984 (c. 12);
(d) section 45(3) of the Airports Act 1986 (c. 31);
(e) section 25(2) of the Gas Act 1986 (c. 44);
(f) section 13(2) of the Electricity Act 1989 (c. 29);
(g) section 15(2) of the Water Industry Act 1991 (c. 56);
(h) article 16(2) of the [M75]Electricity (Northern Ireland) Order 1992;
(i) section 14(2) of the Railways Act 1993 (c. 43);
(j) article 36(3) of the [M76]Airports (Northern Ireland) Order 1994;
(k) article 16(2) of the [M77]Gas (Northern Ireland) Order 1996.

Marginal Citations
M75 S.I. 1992/231 (N.I. 1).
M76 S.I. 1994/426 (N.I. 1).
M77 S.I. 1996/275 (N.I. 2).

Orders under Schedule 8

41 (1) In this paragraph—

"the 1973 Act" means the [M78]Fair Trading Act 1973;

"agreement" means an agreement entered into before the date on which the repeal of the limiting provisions comes into force;

"the order" means an order under section 56 or 73 of the 1973 Act;

"the limiting provisions" means sub-paragraph (1) or (2) of paragraph 3 of Schedule 8 to the 1973 Act (limit on power to make orders under paragraph 1 or 2 of that Schedule) and includes any provision of the order included because of either of those sub-paragraphs; and

"transitional period" means the period which—

(a) begins on the day on which the repeal of the limiting provisions comes into force; and
(b) ends on the first anniversary of the starting date.

(2) Sub-paragraph (3) applies to any agreement to the extent to which it would have been unlawful (in accordance with the provisions of the order) but for the limiting provisions.

(3) As from the end of the transitional period, the order is to have effect in relation to the agreement as if the limiting provisions had never had effect.

Marginal Citations
M78 1973 c. 41.

Part III of the Act

42 (1) The repeals made by section 1 do not affect any proceedings in respect of an application which is made to the Court under Part III of the [M79]Fair Trading Act 1973, but is not determined, before the starting date.

(2) The question whether (for the purposes of sub-paragraph (1)) an application has been determined is to be decided in accordance with sub-paragraphs (3) and (4).

(3) If an appeal against the decision on the application is brought, the application is not determined until—

(a) the appeal is disposed of or withdrawn; or

(b) if as a result of the appeal the case is referred back to the Court—

(i) the expiry of the period within which an appeal ("the further appeal") in respect of the Court's decision on that reference could have been brought had this Act not been passed; or

(ii) if later, the date on which the further appeal is disposed of or withdrawn.

(4) Otherwise, the application is not determined until the expiry of the period within which any party to the application would have been able to bring an appeal against the decision on the application had this Act not been passed.

(5) Any amendment made by Schedule 12 to this Act which substitutes references to a relevant Court for references to the Court is not to affect proceedings of the kind referred to in sub-paragraph (1).

Marginal Citations
M79 1973 c. 41.

PART VI

THE COMPETITION ACT 1980

Undertakings

43 (1) Subject to sub-paragraph (2), an undertaking accepted by the Director under section 4 or 9 of the [M80]Competition Act 1980 ceases to have effect on the coming into force of the repeal by this Act of that section.

(2) If the undertaking relates to an agreement which on the starting date is the subject of continuing proceedings, the undertaking continues to have effect for the purposes of section 29 of the Competition Act 1980 until the proceedings are determined.

Marginal Citations
M80 1980 c. 21.

Application of sections 25 and 26

44 The repeals made by section 1 do not affect—

(a) the operation of section 25 of the Competition Act 1980 in relation to an application under section 1(3) of the RTPA which is made before the starting date;

(b) an application under section 26 of the Competition Act 1980 which is made before the starting date.

PART VII

MISCELLANEOUS

Disclosure of information

45 (1) Section 55 of this Act applies in relation to information which, immediately before the starting date, is subject to section 41 of the RTPA as it applies in relation to information obtained under or as a result of Part I.

(2) But section 55 does not apply to any disclosure of information of the kind referred to in sub-paragraph (1) if the disclosure is made—

(a) for the purpose of facilitating the performance of functions of a designated person under the [M81]Control of Misleading Advertisements Regulations 1988; or

(b) for the purposes of any proceedings before the Court or of any other legal proceedings under the RTPA or the [M82]Fair Trading Act 1973 or the Control of Misleading Advertisements Regulations 1988.

(3) Section 56 applies in relation to information of the kind referred to in sub-paragraph (1) if particulars containing the information have been entered or filed on the special section of the register maintained by the Director under, or as a result of, section 27 of the RTPA or paragraph 10 of this Schedule.

(4) Section 55 has effect, in relation to the matters as to which section 41(2) of the RTPA had effect, as if it contained a provision similar to section 41(2).

Marginal Citations

M81 S.I. 1988/915.

M82 1973 c. 41.

The Court

46 If it appears to the Lord Chancellor that a person who ceases to be a non-judicial member of the Court as a result of this Act should receive compensation for loss of office, he may pay to him out of moneys provided by Parliament such sum as he may with the approval of the Treasury determine.

SCHEDULE 14

Section 74(3).

REPEALS AND REVOCATIONS

PART I

REPEALS

Commencement Information

I38 Sch. 14 Pt. I partly in force; Sch. 14 Pt. I not in force at Royal Assent see s. 76(3); Sch. 14 Pt. I in force for certain purposes at 11.1.1999 by S.I. 1998/3166, art. 2, **Sch.**; Sch. 14 Pt. I in force for certain purposes at 1.4.1999 by S.I. 1999/505, art. 2, **Sch. 2**; Sch. 14 Pt. I in force for certain purposes at 10.11.1999 by S.I. 1999/2859, **art. 2**; Sch. 14 Pt. I (except the repeal of Restrictive Practices Court Act 1976) in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

I39 Sch. 14 Pt. I in force at 10.3.2013 in so far as not already in force by S.I. 2013/284, **art. 2(c)**

Chapter	Short title	Extent of repeal
1973 c. 41.	The Fair Trading Act 1973.	Section 4.
		Section 10(2).
		Section 45.
		Section 54(5).
		Section 78(3).
		In section 81(1), in the words before paragraph (a), from "and the Commission" to "of this Act)"; in paragraph (b), "or the Commission, as the case may be" and "or

		of the Commission"; in subsection (2), "or the Commission" and "or of the Commission" and in subsection (3), from "and, in the case," to "85 of this Act", and "or the Commission, as the case may be,".
		In section 83, in subsection (1) "Subject to subsection (1A) below" and subsection (1A).
		In section 135(1), in the words before paragraph (a) and in paragraph (b), "or the Commission", and paragraph (a).
		Schedule 3.
		In Schedule 8, paragraph 3(1) and (2).
1976 c. 33.	The Restrictive Practices Court Act 1976.	The whole Act.
1976 c. 34.	The Restrictive Trade Practices Act 1976.	The whole Act.
1976 c. 53.	The Resale Prices Act 1976.	The whole Act.
1976 c. 76.	The Energy Act 1976.	Section 5.
1977 c. 19.	The Restrictive Trade Practices Act 1977.	The whole Act.
1977 c. 37.	The Patents Act 1977.	Sections 44 and 45.
1979 c. 38.	The Estate Agents Act 1979.	In section 10(3), "or the Restrictive Trade Practices Act 1976."
1980 c. 21.	The Competition Act 1980.	Sections 2 to 10.
		In section 11(8), paragraph (b) and the "and" immediately before it.
		In section 13(1), from "but the giving" to the end.
		In section 15, subsections (2)(b), (3) and (4).
		Section 16(3).
		In section 17, "8(1)" in subsections (1) and (3) to (5)

		and in subsection (2) "8(1) or".
		In section 19(3), paragraph (d).
		In section 19(5)(a), "or in anything published under section 4(2)(a) above".
		Section 22.
		Sections 25 to 30.
		In section 31, subsection (2) and "10" in subsection (3).
		Section 33(3) and (4).
1984 c. 12.	The Telecommunications Act 1984.	Section 14(2).
		In section 16(5), the "or" immediately after paragraph (a).
		In section 50(4), paragraph (c) and the "and" immediately after it.
		In section 50(5), "or (3)".
		In section 50(7), "or the 1980 Act".
		In section 95(1), "or section 10(2)(a) of the 1980 Act".
		In section 95(2), paragraph (c) and the "or" immediately before it.
		In section 95(3), "or the 1980 Act".
		In section 101(3), paragraphs (d) and (e).
1986 c. 31.	The Airports Act 1986.	Section 45(3).
		In section 54(1), "or section 10(2)(a) of the 1980 Act".
		In section 54(3), paragraph (c) and the "or" immediately before it.
		In section 54(4), "or the 1980 Act".

		In section 56(a)(ii), "or the 1980 Act".
1986 c. 44.	The Gas Act 1986.	Section 25(2).
		In section 27(1), "or section 10(2)(a) of the Competition Act 1980".
		In section 27(3)(a), from "or" to "competition reference".
		In section 27(6), "or the said Act of 1980".
		In section 28(5), the "or" immediately after paragraph (aa).
		In section 36A(5), paragraph (d) and the "and" immediately before it.
		In section 36A(6), "or (3)".
		In section 36A(8), "or under the 1980 Act".
		In section 36A(9), "or the 1980 Act".
		In section 42(3), paragraphs (e) and (f).
1986 c. 60.	The Financial Services Act 1986.	Section 126.
1987 c. 43.	The Consumer Protection Act 1987.	In section 38(3), paragraphs (e) and (f).
1987 c. 53.	The Channel Tunnel Act 1987.	In section 33(2), paragraph (c) and the "and" immediately before it.
		In section 33(5), paragraphs (b) and (c).
1988 c. 54.	The Road Traffic (Consequential Provisions) Act 1988.	In Schedule 3, paragraph 19.
1989 c. 15.	The Water Act 1989.	In section 174(3), paragraphs (d) and (e).
1989 c. 29.	The Electricity Act 1989.	Section 13(2).
		In section 15(1), paragraph (b) and the "or" immediately before it.

		In section 15(2), paragraph (c) and the "or" immediately before it.
		In section 15(3), "or the 1980 Act".
		In section 25(5), the "or" immediately after paragraph (b).
		In section 43(4), paragraph (c) and the "and" immediately after it.
		In section 43(5), "or (3)".
		In section 43(7), "or the 1980 Act".
		In section 57(3), paragraphs (d) and (e).
1989 c. 40.	The Companies Act 1989.	In Schedule 20, paragraphs 21 to 24.
1990 c. 42.	The Broadcasting Act 1990.	In section 193(2), paragraph (c) and the "and" immediately before it.
		In section 193(4), "or the Competition Act 1980".
1991 c. 56.	The Water Industry Act 1991.	In section 12(5), "or the 1980 Act".
		Section 15(2).
		In section 17(1), paragraph (b) and the "or" immediately before it.
		In section 17(2), paragraph (c) and the "or" immediately before it.
		In section 17(4), "or the 1980 Act".
		In section 31(4), paragraph (c) and the "and" immediately before it.
		In section 31(5), "or in subsection (3) above".
		In section 31(6), "or in subsection (3) above".
		In section 31(7), "or (3)".

		In section 31(9), "or the 1980 Act".
		In Part II of Schedule 15, the entries relating to the Restrictive Trade Practices Act 1976 and the Resale Prices Act 1976.
1991 c. 57.	The Water Resources Act 1991.	In Part II of Schedule 24, the entries relating to the Restrictive Trade Practices Act 1976 and the Resale Prices Act 1976.
1993 c. 21.	The Osteopaths Act 1993.	In section 33(4), paragraph (b) and the "or" immediately before it.
		In section 33(5), "or section 10 of the Act of 1980".
1993 c. 43.	The Railways Act 1993.	Section 14(2).
		In section 16(1), paragraph (b) and the "or" immediately before it.
		In section 16(2), paragraph (c) and the "or" immediately before it.
		In section 16(5), "or the 1980 Act".
		In section 67(4), paragraph (c) and the "and" immediately after it.
		In section 67(6)(a), "or (3)".
		In section 67(9), "or under the 1980 Act".
		Section 131.
		In section 145(3), paragraphs (d) and (e).
1994 c. 17.	The Chiropractors Act 1994.	In section 33(4), paragraph (b) and the "or" immediately before it.
		In section 33(5), "or section 10 of the Act of 1980".
1994 c. 21.	The Coal Industry Act 1994.	In section 59(4), paragraphs (e) and (f).

1994 c. 40.	The Deregulation and Contracting Out Act 1994.	Sections 10 and 11. In section 12, subsections (1) to (6). In Schedule 4, paragraph 1. In Schedule 11, in paragraph 4, sub-paragraphs (3) to (6).
1996 c. 55.	The Broadcasting Act 1996.	Section 77(2).

PART II

REVOCATIONS

Commencement Information

I40 Sch. 14 Pt. II wholly in force; Sch. 14 Pt. II not in force at Royal Assent see s. 76(3); Sch. 14 Pt. II in force for certain purposes at 1.4.1999 by S.I. 1999/505, art. 2, **Sch. 2**; Sch. 14 Pt. II fully in force at 1.3.2000 by S.I. 2000/344, art. 2, **Sch.**

Reference	Title	Extent of revocation
S.I. 1981/1675 (N.I.26).	The Magistrates' Courts (Northern Ireland) Order 1981.	In Schedule 6, paragraphs 42 and 43.
S.I. 1982/1080 (N.I.12).	The Agricultural Marketing (Northern Ireland) Order 1982.	In Schedule 8, the entry relating to paragraph 16(2) of Schedule 3 to the Fair Trading Act 1973 and in the entry relating to the Competition Act 1980, "and 15(3)".
S.I. 1986/1035 (N.I.9).	The Companies Consolidation (Consequential Provisions)(Northern Ireland) Order 1986.	In Part II of Schedule 1, the entries relating to the Restrictive Trade Practices Act 1976 and the Resale Prices Act 1976.
S.I. 1992/231 (N.I.1).	The Electricity (Northern Ireland) Order 1992.	Article 16(2). In Article 18— (a) in paragraph (1), sub-paragraph (b) and the "or" immediately before it; (b) in paragraph (2), sub-paragraph (c) and the "or" immediately before it;

		(c) in paragraph (3) "or the 1980 Act". In Article 28(5), the "or" immediately after sub-paragraph (b). In Article 46— (a) in paragraph (4), sub-paragraph (c) and the "and" immediately after it; (b) in paragraph (5), "or (3)"; (c) in paragraph (7), "or the 1980 Act". Article 61(3)(f) and (g). In Schedule 12, paragraph 16.
S.I. 1994/426 (N.I.1).	The Airports (Northern Ireland) Order 1994.	Article 36(3). In Article 45— (a) in paragraph (1), "or section 10(2)(a) of the 1980 Act"; (b) in paragraph (3), sub-paragraph (c) and the "or" immediately before it; (c) in paragraph (4), "or the 1980 Act". In Article 47(a)(ii), "or the 1980 Act". In Schedule 9, paragraph 5.
S.I. 1996/275 (N.I.2).	The Gas (Northern Ireland) Order 1996.	Article 16(2). In Article 18— (a) in paragraph (1), sub-paragraph (b) and the "or" immediately before it; (b) in paragraph (3), sub-paragraph (c) and the "or" immediately before it; (c) in paragraph (5), "or the 1980 Act". In Article 19(5), the "or" immediately after sub-paragraph (b). In Article 23— (a) in paragraph (4), sub-paragraph (d) and the "and" immediately before it; (b) in paragraph (5), "or (3)";

		(c) in paragraph (7), "or under the 1980 Act"; (d) in paragraph (8), "or the 1980 Act".
		Article 44(4)(f) and (g).

Status:
This version of this Act contains provisions that are prospective.

Changes to legislation:
Competition Act 1998 is up to date with all changes known to be in force on or before 16 January 2025. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to :

- s. 60A(10) inserted by 2023 c. 28 s. 6(10)
- Sch. 12 para. 3 repealed by 2002 c. 40 Sch. 26
- Sch. 12 para. 4(9)(10) repealed by 2002 c. 40 Sch. 26
- Sch. 12 para. 10 repealed by 2002 c. 40 Sch. 26

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 60A(10) inserted by 2023 c. 28 s. 6(10)

CT-2024-010

THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34;

AND IN THE MATTER OF certain conduct of Google Canada Corporation and Google LLC relating to the supply of online advertising technology services in Canada;

AND IN THE MATTER OF an application by the Commissioner of Competition for one or more orders pursuant to section 79 of the *Competition Act*.

B E T W E E N:

COMMISSIONER OF COMPETITION

Applicant
and

GOOGLE CANADA CORPORATION AND GOOGLE LLC

Respondents

COMMISSIONER OF COMPETITION'S RESPONDING RECORD TO THE RESPONDENT'S CONSTITUTIONAL CHALLENGE

VOLUME 1 OF 2

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