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Standing Committee on Canadian Heritage

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• (1105)

[*Translation*]

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

Good morning, everyone. Welcome to meeting number 51 of the House of Commons Standing Committee on Canadian Heritage.

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

[*English*]

Pursuant to the order of reference adopted by the House on Tuesday, May 31, 2022, the committee is meeting on the study of Bill C-18, an act respecting online communications platforms that make news content available to persons in Canada.

Today's meeting is taking place in a hybrid format pursuant to the House order of Thursday, June 23, 2022. Members are attending in person and remotely.

I want 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 on video conference, click on the microphone icon at the bottom of your screen. Then, you will be able to activate your mike.

To get interpretation, you will see a globe at the bottom of your screen. If you click on that, you can get your interpretation in English or in French, as you desire. You have the choice at the bottom of your screen of floor, English or French. For those in the room, you can use the earpiece and the desired channel.

Remember that all comments should be made through the chair.

I have one comment to make. We have had a very tragic accident with an interpreter because the witnesses were not using the required mikes. I have been asked to ensure that everyone is using the headset that has been sent to them by the clerk. It is very important to remember that, because we don't want to harm people at the other end.

Having said that, I want the committee to know that all witnesses completed the required connection tests in advance of the meeting and are using the required headsets.

We will begin.

On Bill C-18, we have three witnesses today. We have Sue Gardner McConnell professor of practice, Max Bell school of public

policy, McGill University, who is appearing as an individual. Appearing by video conference, we have Hal Singer, managing director of Econ One. We also have Philip Palmer, president of Internet Society, Canada chapter, by video conference.

Clerk, I don't see Mr. Palmer.

The Clerk of the Committee (Ms. Aimée Belmore): Dr. Fry, Mr. Palmer is in the room.

The Chair: Is he in the room? I have him down as appearing by video conference. I'm sorry. Thank you very much.

Each of the three witnesses will have five minutes to present. I will yell at 30 seconds for you to know that you have to wind up. Then, there will be a question and answer period. We will get into that a little bit later.

I'm going to begin with Ms. Gardner.

Ms. Gardner, you have five minutes.

Ms. Sue Gardner (McConnell Professor of Practice (2021-22), Max Bell School of Public Policy, McGill University, As an Individual): Thank you so much for inviting me to speak today.

I was a journalist in Canada for 10 years, working in radio, television and online. I used to run cbc.ca. I used to run the Wikimedia Foundation, which is the non-profit that operates Wikipedia. That makes me the only Canadian to have run a global top 10 Internet property. Last year, I was the McConnell professor of practice at the Max Bell School of Public Policy at McGill University.

I am speaking here in a personal capacity, based on my own knowledge and my own experiences.

I think Bill C-18 is a very bad bill for three reasons that I'm going to unpack for you.

First, Bill C-18 misdiagnoses the nature of the problem. Bill C-18 characterizes as "unfairness" that Google and Facebook have such a large share of the digital ad market. That is a fundamental mischaracterization or misunderstanding.

Imagine it's the 1920s. I make buggy whips and you make cars. Bill C-18 is the government saying that you need to give me money forever because nobody is buying my buggy whips.

The journalism industry used to be profitable because buying ads in the news was the best way—or at least a very good way—to reach audiences. That's less true today. Google and Facebook have created advertising tools that are way more efficient and more effective than the old ones. That is why advertisers are using them. Google and Facebook out-innovated the business side of the news industry. That is not a fairness issue. It's not a moral issue. It doesn't make them villains.

Ben Scott told you that the government is, in effect, “refereeing a contest between big tech and big publishers”. He urged this committee to focus on the public interest instead. I want to say the same.

My second point is that Bill C-18 will not actually support quality journalism. As the former CRTC head, Konrad von Finckenstein, told you on Friday, “If you want to subsidize news publishers, you can do it a myriad of other ways”. He characterized this bill as “unnecessarily complicated”. I think he's right.

If the government's goal is to support quality journalism, the Public Policy Forum laid out a very good path for how to do that. In 2017, the PPF released “Shattered Mirror”, which was its report on the crisis in the news industry. It recommended that the government start collecting sales tax on foreign company ad sales in Canada and that this money be used to establish a journalism fund to be administered by a body independent of the government. That would support quality journalism.

Bill C-18 may attempt to achieve the same goal, but it does it by trying to awkwardly kind of force Google and Facebook into the role of directly funding journalism themselves and that is a really tough fit. Google and Facebook are private sector Silicon Valley megacorporations. Their job is to advance their own business interests. They don't have a mission to serve the people of Canada. We don't elect them and they are not accountable to us.

The government can try to give Google and Facebook very specific direction and stand over their shoulders and try to compel them to do what it wants, but that is not the simple way. The simple way is to take their money and make a fund.

My third point is that Bill C-18 will have significant negative unintended consequences. I'm going to speak here mainly about the Internet and Internet users.

Bill C-18 will encourage the creation of clickbait and nonsense.

Bill C-18 will create an incentive for Google and Facebook to back away from news.

Finally, Bill C-18 will enshrine in law the idea that ordinary Internet linking is “taking value”, and that puts us on a slippery slope. The Internet was designed to be open and to grow organically. The ability to link freely, and not just link but to share, to comment, to annotate and to build upon is at the heart of the Internet's openness. That is well understood.

With Bill C-18, the government introduces friction to linking. That brings us closer to an Internet that is fundamentally commercial, where what we see online is going to be determined by corporate deals. That kind of change happens extremely slowly. It's the accumulated effect of many decisions that, at the time, might not

have seemed very consequential in that regard. It is one step on that bad road.

Thank you very much.

• (1110)

The Chair: Thank you very much, Ms. Gardner.

Now we'll go to the next witness, Mr. Singer from Econ One.

You have five minutes.

Dr. Hal Singer (Managing Director, Econ One): Good morning, and thanks for having me.

It's a privilege to speak to a Canadian audience, and I wish I could testify in person.

On behalf of the News/Media Alliance, a collection of news publishers, I have worked extensively on companion legislation to Bill C-18 in the United States called the Journalism Competition and Preservation Act, or JCPA, and I will speak to those efforts. The economics are the same.

Among other protections for news publishers, the JCPA would grant an exemption to antitrust laws for news publishers so they can better coordinate their dealings with the tech giants.

Before going any further, I want to be clear. Antitrust exemptions are rare, and that's a good thing. Powerful entities should not be immunized from antitrust scrutiny. In some limited circumstances, however, coordination among small suppliers when dealing with a large buyer is necessary to overcome a power imbalance that causes input prices and employment to fall below competitive levels.

This market failure is the basis for the current exemptions for farm co-operatives in particular and labour in general from the U.S. antitrust laws. It is the same basis for extending a new exemption to newspapers in their dealings with dominant Internet platforms.

That the word “preservation” appears in the U.S. legislation is no accident. The news industry has incurred losses in advertising revenue every year since 2006, according to the Pew Research Center.

The effect of shrinking advertising revenues, in part caused by underpayment from dominant platforms, is less cash flow to support journalists and a clear employment effect flowing from the exercise of monopsony power by the dominant platforms. U.S. employment among newspaper employees fell from 71,000 in 2008 to 31,000 in 2020, according to Pew. As a result of the deteriorating news media landscape, hundreds of local newspapers have been acquired or have declared bankruptcy.

Google and Facebook reframe newspaper articles in rich previews containing headlines, summaries and photos. The platforms also curate newspaper content alongside advertisements. This reframing and curation decreases the likelihood of a user clicking on the article, thereby depriving news publishers of clicks while enriching the dominant tech platforms. This appropriation of newspaper content at zero access price also decreases newspaper subscriptions. When the clicks on newspaper content eventually come from the platforms' websites, the associated advertising revenues are taxed by the platforms at excessive take rates.

The best way to correct the exercise of monopsony power is for the government to permit the news publishers to coordinate their dealings with the digital platforms over payment terms and conditions. Given the massive power imbalance, collective bargaining by itself might not be sufficient to achieve competitive payments, in which case some structured bargaining among the parties, for example mandatory arbitration with an enforcement mechanism, is needed as a backstop.

Curiously, some traditional anti-monopoly groups have stated their resistance to granting countervailing bargaining power to newspapers in their dealings with dominant platforms. In a joint statement, the American Antitrust Institute, Public Knowledge, Consumer Reports and Consumer Federation of America argued that a new antitrust exemption “will only hurt consumers, citizens, and businesses that are not invited to the negotiations that this exemption is supposed to facilitate.” It bears noting that some of these groups depend on the dominant platforms for funding.

Instead of the JCPA, these same detractors have called for greater enforcement of antitrust laws against Google or Facebook, but the conduct that is being challenged here, the mere exercise of monopsony power to achieve a reduced rate for newspaper content, is not a cognizable vertical restraint under antitrust law. Scraping, reframing and curation, and appropriation of value do not amount to violations of section 2 of the U.S. Sherman act. Unlike Europe, the United States does not have an abuse of dominance standard.

Moreover, even if one could style something else the platforms are doing as a cognizable restraint, a successful antitrust lawsuit against, let's say, Google, would provide zero relief for publishers in their dealings with Facebook. A successful antitrust lawsuit against Google or Facebook would require several years to adjudicate, and the appeals might not be resolved for nearly a decade. In the interim, newspapers would be left twisting in the wind. Given the newspapers' precarious financial state, it is not clear how long many newspapers could survive without an intervention today.

The JCPA has undergone significant amendments.

The Chair: You have 30 seconds.

Dr. Hal Singer: The current version wisely introduces baseball-style arbitration, guarantees that publishers of all viewpoints are eligible to participate in negotiations and imposes a size limit—incorrectly, in my view—to focus support on small and local outlets.

• (1115)

My last point is that a more recent amendment ensures that a significant share of the funds—65%—collected, pursuant to the JCPA,

would be allocated to news publishers based on their pro rata share of a newspaper's spending on journalists. In other words, newspapers that shed journalists would be punished under the allocation mechanism as their pro rata share of the global award would be reduced.

Thank you for your time, and I'm happy to answer any questions.

The Chair: Thank you very much, Mr. Singer.

Now I'll go to the third witness. He is with the Internet Society Canada Chapter.

Mr. Palmer, please, you have five minutes.

Mr. Philip Palmer (President, Internet Society Canada Chapter): Thank you, Madam Chair.

On behalf of the Internet Society Canada Chapter, I would like to thank this committee for the opportunity to address this important subject.

As a preliminary observation, the Internet Society supports initiatives to financially bolster news organizations as they transition to the Internet era. We believe that a broader levy applied to all social media platforms and search engines, coupled with a truly independent body to apportion funding, would have been fairer and a more reliable source of funding than the illusory bargaining scheme that is at the heart of Bill C-18.

Neither Bill C-18 nor the Australian legislation on which it's based represents bargaining based on the value of news content to news intermediaries. The bargaining process is contrived, apparent rather than real. Having stripped news intermediaries of legal protections, it is designed, under threat of excessive monetary penalties, to coerce intermediaries to agree to compensate news businesses. It withdraws the exceptions and limitations of copyright law from digital news intermediaries, while leaving those same rights in place for their competitors and for the news organizations themselves.

The government is using its legislative power to force a handful of businesses that have successful advertising-based business models to compensate an industry whose advertising-based business models are failing.

I would like to quickly make a few specific points.

First, Bill C-18 imposes significant costs on making news content through hyperlinks available to the public. Hyperlinks are the quintessential means by which individuals and businesses seek and find news content and all other information online. By imposing a cost on news intermediaries for links to news content, Bill C-18 threatens the efficiency of news retrieval on the Internet and the ability of Canadians to access news content. Bill C-18 will raise the cost, directly or indirectly, of accessing news content in Canada.

Second, the definition of “digital news intermediary” in sub-clause 2(1) raises complex questions of constitutional facts and law. Facebook and Google, for instance, are likely not subject to federal regulatory authority.

Third, the criteria in clause 6 by which a digital news intermediary must self-identify are vague and inappropriate. They are borrowed from concepts as different from each other as competition law and labour law. The legislation neither defines the relevant markets nor sets forth to what the imbalance of bargaining power relates.

We would urge the government to consider following the Australian model in this regard, in which the minister designates the intermediary according to clearer—not perfect—criteria set out in section 52E of the Australian act.

Fourth, clause 27 has a bifurcated definition of “eligible news business”. Paragraph 27(1)(a) refers to “a qualified Canadian journalism organization”, a definition for the purposes of the Income Tax Act, which requires that an organization qualify by meeting demanding criteria. As numerous intervenors have pointed out, paragraph 27(1)(b) qualifies organizations with no observable journalistic standards. Click farms and foreign agents should not be eligible news organizations. We note section 52P of the Australian legislation as a better model in this regard.

Fifth, clause 24 denies to news intermediaries any reliance on copyright exceptions and limitations. It should be deleted. It nullifies any market-based approach to the determination of the value of news content to digital news intermediaries.

The Chair: You have 30 seconds.

Mr. Phillip Palmer: Lastly, clause 51 incorporates from telecommunications law the concept of unjust discrimination and undue preference. It has no relevance to the functions of news intermediaries. This provision should be deleted. Section 52D of the Australian act seems to address these issues with far greater clarity.

Thank you very much, and I welcome your questions.

• (1120)

The Chair: Thank you very much, Mr. Palmer.

Now we will go to the questions.

The first rounds of questions are for six minutes. I would like to point out that this includes the answer. Please try to get in as many questions and answers as you can. Let's try to be as clear and quick as we can.

The first person in the round of questioning would be for the Conservative Party, Mrs. Rachael Thomas.

Ms. Thomas, you have six minutes, please.

Mrs. Rachael Thomas (Lethbridge, CPC): Thank you.

Ms. Gardner, thank you for your opening remarks and for taking the time to be with us today.

My first question is just to set the record. I'm curious as to whether or not you have received any sort of sponsorship or monetary contribution from any of the platforms.

Ms. Sue Gardner: No, I have not. I'm a completely independent voice. I used to be on the CBC payroll, until 2007, but since 2007, I have taken no money from anybody tangentially, potentially, definitely or at all involved in Bill C-18.

Mrs. Rachael Thomas: Thank you.

In your opening remarks, you referred to Bill C-18 creating what you termed a “link tax”. You talked about how assigning value to certain links over others potentially changes the entirety of the Internet in the way that it functions.

You said that it lends to the potential commercialization of the Internet. You said that this would be a gradual change, but make no mistake, it would in fact occur.

Would you care to expand on that a bit?

Ms. Sue Gardner: Yes, I can.

In my opinion, the debates about whether Bill C-18 literally constitutes a link tax are hairsplitting. They are a bit beside the point.

The whole basis of the legislation is the notion that making available material or facilitating access to it is taking value from the party that made the thing, and that notion flies in the face of the entire Internet, because the entire Internet is built on the concept of linking, sharing, annotating, commenting and building on the work of others. That is what makes the Internet fantastic. There are limits to that. We do have copyright law, but there is no need and it is not beneficial to take the position that linking or making available is taking value, because it's not.

I know that people tend to dislike the phrase “breaks the Internet”. I dislike it, too, because it always sounds like hyperbole, and I am not trying to say that if this bill becomes law, the Internet is immediately different or immediately broken, but it is consistent with breaking the Internet, and it is a step on the road to breaking the Internet.

I would like to urge the committee to take a long view on this. The Internet is still quite young. It's going to be with us for a long time. I think the actions we take today that may seem small and of little consequence will shape it and will shape how it develops in ways that I think we could come to regret, and this is one of those ways.

• (1125)

Mrs. Rachael Thomas: Are you able to break that down a bit more? If a value is ascribed to links—news links, in this case—it opens the door for value to then be ascribed to other links, which, then, yes, could lead to the commercialization of the Internet.

Right now, within television, we have cable packages, which of course people are moving away from because they're wanting more choice. They are going towards other options. If the Internet goes down this path where you're ascribing value to certain links, could it eventually go down a slippery slope of landing us in a place where essentially you are having to pay for a package of certain links that you have access to but maybe you won't have access to other links?

I guess I'm trying to wrap my head around where this does eventually take us in terms of commercialization of the Internet and giving monetary value to links.

Ms. Sue Gardner: Right, and I think what it does is that it creates the conditions in which it could be, as you say, applied to other forms of information, other forms of knowledge. I don't know that it would go down a cable television kind of road where consumers would be buying packages. When I think about the commercialization, what I think about more is the idea that the Internet—what is shown to you, what is given to you—is fuelled by commercial deals and money changing hands in backroom corporate decision-making that you don't know about, right?

What you would be seeing would be commercially motivated—it might be for good; it might be not for good—and you wouldn't have any control over it. Certainly in the origins of the Internet things were not commercially motivated at all in the beginning, whereas today we are on a road where potentially that changes, and I do think that breaks a lot of what is special about the Internet.

Mrs. Rachael Thomas: One of the things the minister has claimed with this legislation is it's based on market-based solutions. However, the bill would actually ensure the CRTC or the government intervenes significantly within the sphere of news and the bargaining process that would take place between intermediaries.

I'm wondering if you can comment on the consequences of this being the case.

Ms. Sue Gardner: I feel like in some ways this bill is the worst of both worlds. I think the minister has said he doesn't want to be in the middle between the news organizations and the platforms, but I think the truth is, if the government has policy objectives, it is in the middle. You can't escape being in the middle. This is trying to do it, like I said, in a way that is trying to force the platforms to pay a funder role and give them criteria and things they need to ensure happen. But that's not the correct role for a private sector entity. If you're trying to make policy, if you're trying to make quality—

The Chair: You have 31 seconds.

Ms. Sue Gardner: —journalism available to Canadians, there are more straightforward ways to do that than trying to do it in this way, where you're intervening in the market, but from a sideways perspective.

I'm not sure that was very articulate. I hope it helps.

Mrs. Rachael Thomas: Thank you so much.

The Chair: Thank you, Ms. Thomas. Your time has ended.

I'm going to move now to the Liberals, to Lisa Hefpner.

Lisa, you have six minutes, please.

Ms. Lisa Hefpner (Hamilton Mountain, Lib.): Thank you, Chair.

Through you, I would like to direct my questions to Mr. Singer, who is an economist.

I'm hoping you can pick up our conversation. On Friday, we heard from Facebook that news actually doesn't add value to that

platform, that the opposite is true, and that news publishers should be paying Facebook for the privilege of carrying their news.

I'm wondering what you think of this argument in your perspective as an economist.

Dr. Hal Singer: I don't give much thought to it. In fact, I've studied the issue through surveys as to how much value is being created by news publishers collectively to the individual platforms. The answer comes out to something in the billions of dollars, at least in the United States. It's probably similar in Canada as well.

There is some value returned in kind, but remember that's only when the user actually clicks on the links and follows back through. Even then, the news publisher is going to be subjected to some supercompetitive take rate or tax on those revenues.

The point is that when we get to an arbitration, the news publisher collective is going to be able to put forward a study, potentially surveys, that are going to show how much value is being appropriated by the platforms from the news publishers. Google and Facebook are going to get to hire their own economist and she or he is going to put forward a counter study. At that point, the arbitrator will have to decide whose estimate of the valuation being generated by the news publishers is fairest of them all. What's the fair market value that would emerge in a voluntary negotiation, absent the power imbalance, right? That's what we're trying to get at here. The market forces are giving a zero access fee. That's what the market has determined, and that's because Google and Facebook are just too big in this negotiation. The question is what would be the competitive rate for this access? You'll only find out through this arbitration process.

• (1130)

Ms. Lisa Hefpner: We've seen Facebook play with their news algorithms over the years. In 2020, during the U.S. presidential election, Facebook tweaked the algorithm to prioritize authoritative news over less credible news. A couple of years earlier, in 2018, the algorithm was tweaked the other way, to favour emotionally engaging content, inflammatory opinion and disinformation over straight-up news reporting.

What are your thoughts on this?

Dr. Hal Singer: I think this is a serious issue, but it might fall outside of the question we're talking about today, which is how do we come up with a structure in which we can solve a market failure and compensate news publishers for the value they're creating for the platforms. I do think the issue you raised is an important one, but I think it should be dealt with in a separate proceeding, respectfully, if that would be okay.

Ms. Lisa Hefpner: I think it's important because Facebook is deliberately changing the behaviour and consumption of its users.

I get that you're not comfortable answering that question, so I'll move on and go back to the value you attributed. You said in the billions. I think in the U.K. economists have also tallied up what they think news value is on these platforms, and it's \$1.2 billion to \$1.6 billion Canadian at Google and Facebook.

A high proportion of search activity on these platforms is for news. Can you comment on that?

Dr. Hal Singer: That's right, and that's exactly the question we're trying to get at in these valuation studies: What brought you there? What are you doing in the search? Is it news or something else?

We can perform surveys and we can use other tools to try to estimate, as best we can, the value contribution of the news publishers to the search engine or to a social media site. That's exactly what we're going to try to do at these proceedings. It's going to be incumbent on the expert for the news publishers to come up with the best estimate possible, but then Google and Facebook are going to have an opportunity as well. It's conceivable that at the baseball-style arbitration they would prevail, and the number that would come out of the outcome would be small.

No one should accept this as a guarantee that newspapers are going to win at the proceeding, but I do think that baseball-style arbitration will induce both parties to come up with the best estimate possible. After all, if you come up with an insane or very extreme valuation, if Google puts forward a valuation of zero for what newspapers are contributing to them, then the arbitrator would be inclined to go with whatever the news publishers have offered.

Ms. Lisa Hefner: Another thing we heard from Facebook on Friday was that they may just have to cut off access to news publishers in Canada. We saw the same strong-arm tactics in Australia when Australia moved forward with similar legislation. In fact, Facebook, according to whistle-blowers, deliberately cast the net wide so that they shut down not only Australian news providers but a whole swath of government and charity websites as well.

In the U.S., as you attack similar legislation, are you seeing similar tactics from the big tech giants?

Dr. Hal Singer: Oh, yes. Facebook has made similar threats to publishers here.

You know, what's ironic about this is that we're arguing that there's a power imbalance, that Facebook has monopsony power. When they behave this way with these bullying tactics, basically threatening to shut down the news, it evinces their power. Who could conceivably talk this way unless they had the power to make these threats? I feel like they're just digging themselves in a hole and highlighting the very reason we're here, which is the exercise of monopsony power that is depriving news publishers of any positive price of value that they're contributing to these dominant platforms.

• (1135)

The Chair: Thank you, Dr. Singer.

Lisa, your time is up.

I will now go to the Bloc Québécois and Martin Champoux.

Martin, you have six minutes, please.

[*Translation*]

Mr. Martin Champoux (Drummond, BQ): Thank you, Madam Chair.

I'd like to thank the witnesses who are with us today.

Mr. Singer, you're all warmed up, so I'll keep going with you, if that's all right.

In your current study in the United States, do you consider quality of content a criterion for the eligibility of businesses? Are you studying that as well?

[*English*]

Dr. Hal Singer: I apologize. I didn't hit the interpretation button until the very end of that question, which I now see is aimed at me.

Is it possible that I could have that back?

[*Translation*]

Mr. Martin Champoux: Certainly.

[*English*]

The Chair: I will pause. I think we can allow Dr. Singer to get interpretation for the question.

Thank you.

[*Translation*]

Mr. Martin Champoux: Madam Chair, I believe Mr. Singer wanted me to repeat the question, actually.

[*English*]

The Chair: Yes. I've paused, Martin, so that you can do so.

[*Translation*]

Mr. Martin Champoux: In your current study in the United States, do you consider quality of content to be a business eligibility criterion? Are you studying that as well?

[*English*]

Dr. Hal Singer: Well, in terms of quality, what we're trying to figure out in our studies is this. We ask people who are on the various platforms why they're there, what they are consuming and what brought them there in the first place. I think quality is going to be picked up in these two different measures when it comes to the allocation phase.

In the first phase, we're trying to figure out how much value is being generated by proxies, i.e., how much time is being spent consuming news and what brought them there. In the second phase, we're trying to allocate according to two measures. One, at least in the U.S., is the amount of traffic you generate, your pro rata share of traffic, which in part will be a measure of quality. Two, and most importantly, our Congress has set aside 65% of all the proceeds to be allocated in accordance with each news publisher's pro rata share of journalists under their employ. That is a direct measure of quality, right? The more journalists you have under your employ, the bigger the share or slice of the revenue pot you're going to receive.

I feel like that's a way to get at this quality issue: Make sure that the award is allocated in accordance with the number of journalists. After all, at the end of the day, what we're trying to do is breathe life back into journalism. The way we do that is by incentivizing the publishers to go back and hire journalists, just as they have in Australia and other places that have received this recent infusion of cash.

[Translation]

Mr. Martin Champoux: I find your response quite interesting, because we're discussing the possibility of tightening the eligibility criteria a little to foster quality journalism.

Do you think it would be realistic to make digital businesses responsible for the quality of news content, or lack thereof, in some cases? I'm asking because we've heard some arguments that Bill C-18 would encourage the spread of fake news, misinformation and all kinds of more or less credible content.

Is it realistic to think that online businesses could include a warning or grant certification to businesses with whom they are sharing content?

[English]

Dr. Hal Singer: I don't think there should be a certification that's created by the platforms. I think there should be criteria under which the bill rules out certain participants from enjoying the proceeds. That would be the first filter.

The second filter that I'm going to strongly suggest is that when we go to the allocation phase, don't make it's purely based on clicks. As you point out, if it were purely based on clicks, that would tend to feed those websites that don't employ journalists, but are very good at generating traffic.

You need to make sure that a big slug of the allocation gets awarded to real publishers that employ real journalists. You do that by looking at how much they're spending on journalists. That becomes the allocation criteria on the back end.

• (1140)

[Translation]

Mr. Martin Champoux: I'd like to hear your opinion as an economist and antitrust expert.

In your view, does regulating industries in the same way as the news industry, whose activities inevitably end up online, violate the principle of a free and open Internet? If so, is it utopian to still believe in the concept that the Internet should not be regulated and be

universally accessible? Do you feel it's realistic to believe that concept?

[English]

Dr. Hal Singer: This remedy would not affect the free Internet.

Here is why: Google is not going to suddenly start charging consumers for search because it now has to pay a lump sum transfer to newspapers once a year. That lump sum transfer is not going to enter their pricing calculus. It would completely destroy their business model if they said that, instead of making money off of advertising, which is the heart of their business and what they've been doing for a decade or more, they're going to start charging for search. They're not going to do that.

It's the same calculus for Facebook. If Facebook has to write a lump sum cheque once a year that doesn't vary with output and doesn't affect their marginal costs.... As a micro-economist, I can tell you that it's not going to change their pricing optimization and it's certainly not going to cause Facebook to deviate from its model of free social media in return for monetizing the eyeballs in advertising.

I hope this answers your question at a few different aspects. The part that is sticking with me is whether it is going to cause the Internet to somehow no longer be free. It is not going to affect the pricing decisions of the platforms at all.

Search will forever be free. Social media will forever be free and a lump sum transfer at the end of the year will not affect that.

[Translation]

Mr. Martin Champoux: Thank you, Mr. Singer. That was a fascinating conversation.

I have no more questions to ask, Madam Chair.

The Chair: Thank you very much, Mr. Champoux.

[English]

The next question will come from Peter Julian for the New Democratic Party.

Peter, you have six minutes, please.

[Translation]

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

[English]

Thanks to our witnesses.

I'd like to go back to you, Mr. Singer.

We've had a variety of witnesses over the last few weeks. The vast majority are strongly in favour of Bill C-18, including—and I thought this was an interesting point and kind of a watershed moment—the community newspapers of Alberta and Saskatchewan. This is where half of our Conservative caucus is found. The community newspapers in those provinces are very strong advocates for Bill C-18, though they want to see improvements in the legislation.

Certainly in my community of New Westminster—Burnaby, we've seen a hemorrhaging of local news content as a result of what so many would say is unfair competition.

I am interested in coming back to the Journalism Competition and Preservation Act in the United States. I want you to tell us a bit about what would happen if this is not put into place.

The Australian model is something that a lot of other countries are looking at because their local community news has been decimated.

What would happen without the Journalism Competition and Preservation Act? How would you see journalism evolving in the United States?

Dr. Hal Singer: Yes, it's possible that the very largest publishers will be able to extract some payments unilaterally, but that's not what the bill is about. That's not what we're trying to do.

What we're trying to do is breathe life into journalism writ large, including these community newspapers that you mentioned. There's no way that in a bilateral negotiation between a community newspaper and Google or Facebook that the newspaper is going to be able to extract any payment. The payment for access for their content is always going to be zero.

You think about what the collective is going to create, what this union, if you will, is going to create of newspapers. It's going to lift up the smallest papers in the coalition by leveraging their power and allowing them to negotiate collectively as one unit against Google and Facebook. Those are the real beneficiaries.

My critique of what I've seen abroad is that while their heart was in the right place and it's a move in the right direction, the whole purpose is to lift up the smalls, and if you can't do that, it's not even worth doing, in my opinion.

• (1145)

Mr. Peter Julian: The JCPA would do that? You sense that model will help to enhance local journalism, which has been the principle victim of big tech?

Dr. Hal Singer: That's right.

They're going to join the coalition. They're going to show up as one cohesive unit at the bargaining table. This is assuming that we don't reach a voluntary negotiation. I'm very skeptical that we will. There's a period of time in which a voluntary negotiation takes place.

If that fails, then it moves to binding arbitration. At that point, they're going to put forward one number. It's going to be the number of the value contribution by all newspapers collectively for Google and Facebook. Google and Facebook are going to have their opportunity to knock it down and put forward their own counter-studies and experts. The arbitrator will decide whose value is fairest of them all.

It's a long way of saying yes, the smaller newspapers are going to benefit because of this design. We're going to ensure that everyone's coming along. No one can be discriminated against, based on the kind of content they write or the positions they take. They're all coming along. At the back end we're going to have an allocation

that is going to be predominantly dictated by the number of journalists you have under your employ.

Mr. Peter Julian: Let's talk about timelines.

You did raise the issue of antitrust legislation and going against big tech. You mentioned in your opening remarks 10 years to work through appeals that big tech could bring to stop antitrust legislation. They have with their power the ability to stop up the works for a decade. I think all of us understand the power that big corporations have.

On the timelines around the JCPA and Bill C-18, we're currently discussing the thresholds to make sure that this actually goes through, that negotiations are compelled, there is final offer arbitration and that there is a clear movement. What do you feel are appropriate timelines?

Many have said that there should be shorter timelines of three months for a negotiated period, arbitration, then final offer arbitration. That would all be taking place in a relatively short span of time and it forces big tech companies to actually work in good faith, rather than drawing things out, as they certainly would with antitrust legislation.

How important is it that there are relatively short timelines around negotiation, arbitration and final offer arbitration?

Dr. Hal Singer: I think it's very important. The reason is the dire straits the newspapers are in.

Look, if these guys could make it another couple of years, then maybe we could afford to let this roll out for a year. We don't have years.

What I would say if I could script it is I think each of these break points ought to occur in a span of months. Set up a voluntary negotiation period. Give them a month to try to hammer something out. If they can't, then they move into binding arbitration.

When you go into arbitration, you're going to have to have discovery. There are going to be expert reports written. Google is going to get to depose the expert, presumably, before we get into the hearing room. They have to be on notice as to how your evaluation methodology is going to work. That could take some time. I think that should be a matter of months and certainly not a year. This thing needed to be solved yesterday.

The Chair: Thank you very much.

Peter, your time is up.

We're going to the second round, which is a five-minute round.

We begin, for the Conservatives, with Kevin Waugh.

You have five minutes, please.

Mr. Kevin Waugh (Saskatoon—Grasswood, CPC): Thank you, Madam Chair.

I'm sitting here smiling because Mr. Singer has no idea what Bill C-18 is all about. It's about the exact opposite of what he's talking about.

The CBC, Rogers and Bell get most of the money. The newspapers get the crumbs. We're not like the United States in this bill. We have pointed that out on this side numerous times. Small and medium newspapers get absolutely nothing.

I'm going to move to you, Mr. Palmer, because you have some recommendations.

I sit here laughing at Mr. Singer, because he has absolutely no idea what this bill is all about. It's not about the newspaper industry in this country. I've said that for months. They're getting crumbs. I believe the local CBC, the public broadcaster, should be excluded from this bill.

What are your thoughts, Mr. Palmer?

Mr. Philip Palmer: It isn't so much that I have views as to whether the CBC should be excluded. My principal concerns are with the extremely artificial circumstances under which the proposed negotiations take place.

The principal danger is that small and local newspapers or news organizations will be left in the wake of negotiations taking place on the part of the large majors—Postmedia, The Globe and Mail, etc.—that have enough resources to be able to pay for the kind of expert studies we're talking about.

The second- and third-level players in the news business don't have that kind of capacity. That's one of the reasons this bargaining process favours the large organizations over the small. I don't think that the bill as crafted will substantially alleviate the situation of community newspapers and regional newspapers.

• (1150)

Mr. Kevin Waugh: I think we heard that from Google. They already have 150 agreements, and I'm sure they don't have any agreements from the small or medium newspapers in this country. I think you would agree about that.

We've been harping on this side for months that not only Alberta and Saskatchewan, but I'm going to say a lot of newspapers in Ontario, Quebec, the Maritimes and even B.C., where Mr. Julian comes from, are excluded from this.

I have a note here from CACTUS, the Canadian Association of Community Television Users and Stations, that says they're almost going to be excluded from this bill.

There are so many exclusions in this bill that it's going to take days to get the amendments needed to make this bill even half-presentable when we do work this thing out.

What are your thoughts?

Mr. Philip Palmer: I think that's a serious problem. I think that, for instance, the approach that Mr. Singer's discussing in the United States, where all newspapers and news organizations are sort of forced into a collective and distributed that way, is a good deal more susceptible to positive outcomes than is the model in C-18, where large organizations can put themselves forward and force a collective agreement on news intermediaries without including the smaller players who have to then try to find experts, lawyers, etc., to support a bargaining process. I think that is very difficult.

Mr. Kevin Waugh: Ms. Gardner, I have little time, but I have real concerns about journalism in this country. I look at journalism schools, and I've seen half the amount of enrolment in the last five years, whether it's due to COVID or whether it's simply due to there being no future in journalism.

You used to be a journalist. I'd like to ask you about the state of journalism in this country as you see it.

Ms. Sue Gardner: It's appalling. It's terrible. I don't think anybody is arguing differently.

The state of journalism in this country.... I lived outside Canada for 11 years, and I returned about a year and a half ago. The Globe and Mail is a brochure now. The institutions, even the ones that still exist, are hollowed out versions of their former selves. They're memories of what they used to be.

That doesn't speak to the local situation, which is worse. There are news deserts now.

The Chair: Thank you very much, Kevin. Your time is up.

I'm going to the Liberals and Tim Louis for five minutes.

Mr. Tim Louis (Kitchener—Conestoga, Lib.): Thank you, Madam Chair. I'm going to address all the questions through you.

I thank the witnesses for being here. I appreciate it, whether it's in person or online.

I'll start with Mr. Singer.

The last round of questions addressed the fact that they believe you don't understand this legislation. I thought it only fair to give you a chance to respond to that.

Dr. Hal Singer: Well, I am here as an expert on the U.S. legislation, which I helped craft. I'm trying to impart some experience and some wisdom that I've learned in the process in the U.S. I don't hold myself out as an expert on the Canadian legislation. My understanding is that, on many of the tactics and aspects of the bill, it has a lot in common.

I would note that we allowed broadcasters to come in as well, although broadcasters in the U.S. don't have the same set of protections as those of newspapers. I would submit respectively that a number is going to be introduced by the coalition of newspapers, and that number is going to be the value that the newspapers contribute to each platform respectively, regardless of what the publishers put forward. So the publishers are going to go after a pot of money based on what they think they're going to be contributing at the margin, the broadcasters are going to have one pot money they're going to go after, and the newspapers are going to go after another pot.

I would submit that we shouldn't try to figure out which coalition is going to get more relative to the other. Instead, we should figure out how we get money into the hands of news publishers and how that money is allocated fairly in proportion to the quality of journalism they're putting forward.

• (1155)

Mr. Tim Louis: Thank you.

Here in Ontario, we had municipal elections last week. It was a clear example of how important local journalism is. Leading up to the election, our community turned to our journalists for the information on local candidates, important issues and election results. Canadians want to see our local stories told. We're not defending the newspapers as simply pieces of paper that are bundled together and tossed in our driveways. We're talking about legislation that supports the local media outlets themselves.

Dr. Singer, some have claimed that addressing this market imbalance, which is clear, between the tech giants and media outlets will somehow stifle innovation in the news sector. Can you speak to that claim?

Dr. Hal Singer: Yes. I think it would do the opposite. If you infuse these local newspapers with cash for the first time, this access fee that would be negotiated, I think the very first thing they'll do is turn around and invest in journalists. We've seen this happen in Australia.

Second, they're going to be incentivized. If you do the award correctly, they will be incentivized to grow their jobs in the news business, because doing so will mean that they will get a bigger slice of the pie at the next round of the allocation.

So I think they have private incentives to want to grow output and do quality journalism with an infusion of cash that comes in, but if you get this incentive right, when it comes to the allocation award, you can hyper it. You can make them even more sensitive to this duty, to this social obligation, to go out and hire journalists. That's what we want them to do. I feel that a smart, intelligent allocation design can get us there.

Mr. Tim Louis: I appreciate that.

Maybe I'll take the flip side of that. When you testified in the States, you talked about, if this legislation didn't happen, the resulting underemployment in journalism, which could cause less accountable local governments, a greater spread of partisanship, a greater spread of misinformation, a hurting of the local economies and even a reduction in the diversity of viewpoints.

Can you explain the importance of how we need to get this done quickly, because the consequence of not doing this is what happened with local journalism?

Dr. Hal Singer: Yes. In longer pieces that I've written, I've come across huge literature that shows what happens in communities after they lose their local newspaper. You've hit on all the things. Employment is the obvious one, but even beyond that, what local newspapers are doing is keeping the communities together and binding them. They create wonders for democracy. A whole host of social ills occurs when a town loses its local newspaper.

I mean, everything should be done to try to breathe life back into local newspapers. Ms. Gardner talked about a subsidy. That is one way to do it, but to me, if you find the culprit, if you find the person who's sucking out the value and taking it off the backs of the newspapers, it just makes sense that they ought to write a cheque back for the value they're appropriating. Why involve taxpayers? When it is clearly an appropriation of value from one big buyer away from a small supplier, it doesn't make sense to bring taxpayers into that equation.

The Chair: Thank you very much, Tim. Your time is up.

I'm going to Martin Champoux.

Martin, you have two and a half minutes, please.

[*Translation*]

Mr. Martin Champoux: Madam Chair, I believe we're starting the second round and you need to recognize the Conservatives first, if I'm not mistaken.

[*English*]

The Chair: No. We're in the second round. After Mr. Louis will be you, then Mr. Julian, then the Conservatives and then the Liberals.

[*Translation*]

Mr. Martin Champoux: You're quite right, this is my two and a half minute turn. I'll gladly take it. Thank you very much. It was me who got mixed up this time.

Mr. Palmer, you submitted a brief to this committee a few days ago. In it, you talk about alternatives to Bill C-18. One thing you mention is creating a fund, which I imagine would be taken directly from the reported revenue of businesses. That would restore balance, depending on the needs of the market.

How do you see a fund like this being viable, given that we have a government that tends to encourage tax avoidance and the use of tax havens by big corporations instead?

Aren't you concerned that the web giants are not actually reporting the revenue they generate in Canada?

Wouldn't this open the door to endless litigation over how much money could go into this fund?

• (1200)

[*English*]

Mr. Philip Palmer: Madam Chair, this is a key question. I think there are a number of actual benefits to a fund as opposed to a regulatory approach.

The first one, which will save an immense amount of litigation, is that the raising of revenue is clearly a federal power. It is not clear at all that the federal government has regulatory authority over Google and Facebook. In fact, my opinion would be the contrary, so I think you're on safer constitutional ground. It avoids, say, four years of litigation to get to the Supreme Court of Canada.

Second, it means that you can bring into the fold all of the groups who are deserving at once. You're not reliant upon the major newspapers, say, or news organizations getting together, going into the bargaining process on their own behalf and leaving out all the small players that don't have the resources to fully compete in a bargaining process.

I think a levy or a fund of some kind is actually a very attractive alternative to this kind of process.

[*Translation*]

Mr. Martin Champoux: In the meantime, the—

[English]

The Chair: Martin, you have 14 seconds.

[Translation]

Mr. Martin Champoux: My goodness! Those were the quickest two minutes and 30 seconds of all time. Thank you, Madam Chair.

[English]

The Chair: Thank you, Martin.

Now I'll go to Peter Julian for two and a half minutes.

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

Mr. Singer, I found Mr. Waugh's comments somewhat insulting and inappropriate, and I'd like to apologize on behalf of the committee. He needs to be understanding, I think, more importantly the role that community newspapers play, including in his community, where he's got the Saskatchewan and Alberta weekly newspapers associations asking for legislation like this.

I'd like to come back, Mr. Singer, to your comments about community news, because you are absolutely right to identify that one of the reasons why we're seeing the rise in hate in all of its toxic forms—more anti-Semitism, more racism, more homophobia and transphobia, more Islamophobia, more misogyny—is in part that those links that community journalists play, that community newspapers play, are being exploded as big tech tries to profit from hate.

As you know, in the United States, a major campaign that involves a whole range of organizations fighting back against hate is Stop Hate for Profit. Could you re-emphasize the importance of having a community journalistic sector that helps to counteract how big tech has shamelessly exploited hate to pad its bottom line, so that there is some counterbalance and we can start to re-establish community links right across North America?

Dr. Hal Singer: I certainly blame big tech for a lot of things, but I don't necessarily want to blame them for directly causing this.

Let me suggest that the effect might be indirect. In other words, their business model is hurting the local community papers and when those community papers go down, basically misinformation kind of fills the void. All the bonds that the community newspapers used to create are now shrivelled, people feel isolated and they lash out. They no longer feel a connection to their community.

Whether or not that is a scheme.... I don't want to suggest that big tech is scheming for that end and that was the objective. They're not evil, I don't think, but I do think that evil has occurred.

I think that the most important thing now is, rather than trying to castigate or throw stones, that we should just figure out how we get money back into the pockets of the local newspapers.

To me, the most efficient route to doing so is to set up a design mechanism in which the two platforms can write a cheque for the value they're appropriating. It will be determined by an arbitrator. That money should flow back to these community newspapers and hopefully they can restore all the great things they did before they were taken out.

• (1205)

The Chair: Thank you very much, Mr. Singer.

Peter, that's it.

I'm going to the Conservatives again and Martin Shields for five minutes, please.

Mr. Martin Shields (Bow River, CPC): Thank you, Madam Chair.

I appreciate the witnesses being here today.

Going to weekly newspapers in Saskatchewan and in Alberta in particular, I know that in my riding we have probably a dozen weeklies. They don't belong to that association or agree with that position because they're owner-journalists. They may have one...and they don't see the value in this. They're very clear. When it's said here that all of Alberta and Saskatchewan.... No, they don't have that same view. Let me tell you that.

They feel they've been excluded from this. They don't feel they're a part of it. They feel that this piece of legislation is going to kill them and they will be gone because there's nothing left for them.

When you talk about negotiations, they can't afford to get into negotiations. They're not part of the organizations' negotiations and the money, as we know, is almost gone.

Ms. Gardner, what are the unintended consequences for small, weekly papers with an owner-journalist? I have a number of them.

Ms. Sue Gardner: Yes, absolutely.

I would throw in there, too, the indie publishers and the digital start-ups—all the little guys, whether they're operating at a local level or not.

Originally, the indie start-up folks opposed Bill C-18. Then when it became pretty clear that it was likely to go through—and I think this has happened with a lot of entities—I think they shifted their focus to try to tweak it and have some amendments made so that they would be less disadvantaged by it.

They do not want it and it doesn't surprise that local news operations don't want it either, especially those that are explicitly excluded from it because they have fewer than two full-time journalist employees.

The unintended consequences—

I'm sorry. Go ahead.

Mr. Martin Shields: When you go to more unintended consequences, I would go to, for example, it talks about "general". I was in a newspaper shop when an indigenous paper started in the 1960s. It was one of the original ones. Are those general? Would the indigenous newspapers, because of their orientation, be left out of this as an unintended consequence?

Ms. Sue Gardner: Right. I have had those questions myself.

I think it's so important that this kind of legislation be considered in the context of what is actually happening in the news industry and not just in the context of the news industry needing dollars because one thing that has been happening in news is a fragmentation of audiences.

I'll try to keep this brief, but it used to be the case that we all watched the same television news. We all read pretty much the same newspapers. We all got the same view of the world. That was good for social cohesion, but it was also exclusionary and marginalizing for lots of different kinds of people. They didn't see themselves reflected.

What we're seeing now is a flowering of many hyper-specific and somewhat specific news operations aimed at indigenous people and aimed at people who are particularly concerned about climate change. There are start-ups aimed at, I think, Asian diaspora in North America, and millennials.

There are a lot of different kinds of operations today. This legislation wants to be and should be responsive to that. You could take a number of different views on that. You could decide that it is important that there be general interest publications for social cohesion in the sense of a country as a whole and/or you could decide to have a policy objective that follows that trend and supports smaller news operations for distinct identity groups and distinct sets of interests.

That's the kind of thing you don't get with this bill, but that should be considered in anything that is trying to support quality journalism in Canada because that's part of the question of what is quality journalism.

• (1210)

Mr. Martin Shields: Lastly, the baseball arbitrator, the sports arbitration of last.... Do you see that as part of the CRTC...what they've set up in this legislation, to be anywhere near what a sports final arbitration mechanism is?

Ms. Sue Gardner: You are asking the wrong person. I'm sorry, but I'm not a sports person. I know nothing about sports arbitration.

Mr. Martin Shields: I'll go to Mr. Palmer.

The Chair: You have 38 seconds, Mr. Shields.

Mr. Philip Palmer: Thank you, Madam Chair.

No, it's not like sports arbitration. Sports arbitration is one on an athlete versus his team. Here we're talking about what is now a partitioned group, various groups of news organizations that may coalesce or may not in approaching the bargaining process. The bargaining is going to be very different from final offer arbitration in baseball. It's going to exclude, in my view, by design, the very small players who are most in need of a top-up, if you will, at this time.

The Chair: Thank you, Mr. Palmer.

I'm going to the Liberals for five minutes.

We have Chris Bittle.

Mr. Chris Bittle (St. Catharines, Lib.): Thanks, Madam Chair.

Dr. Singer, it seems, looking to the United States, there are all sorts of conservative Republicans and very liberal Democrats supporting antitrust efforts to rein in big tech in the United States. I was wondering if you could speak to that a bit, please.

Dr. Hal Singer: They are. There's legislation in the U.S., the self-preferencing bill, for example, the ban on self-preferencing that made it through the Senate on the judiciary committee—I think it was 16 to six. By the way, the JCPA made it through the Senate judiciary committee. It was very popular. I think it was 15 to seven. It had Republican support as well.

I think Congress recognizes that there are some aspects of the platform's conduct that escape antitrust scrutiny. In particular, when you think about what the self-preferencing is doing, it's conduct that's occurring within the firm's boundaries. It doesn't cross a boundary. There's no contract to say that a supplier or a customer that's exclusionary.... The other thing, too, is that it doesn't generate an immediate short-run price effect. When Amazon steers a search to its own wares in the Amazon store, it will typically replace an independent with something cheaper, so there's no price effect to be found, either. These would be horrible fact patterns to go into an antitrust courtroom with, where judges are following case law that's looking for conduct that crosses a firm boundary and conduct that generates an immediate short-run price effect.

I would submit that in this newspaper matter as well, it would also make for a horrible fact pattern. No judge is going to recognize scraping, indexing, curation and appropriation, which is basically just flexing your monopsony muscle as a cognizable antitrust offence. It's certainly not a violation of section 2 of the Sherman act.

I think what Congress recognizes is that they're acts of aggression, anti-competitive acts by the platforms that escape antitrust scrutiny. Rather than try to force everything through an antitrust funnel, we're going to write new laws that get at these anti-competitive acts outside of antitrust, that is, to use tools that operate outside of antitrust, as we're doing for the JCPA.

Mr. Chris Bittle: There's been recent reporting by Politico on tech giant "shady lobbying" in the European Union "during negotiations on two landmark EU tech laws." Reports say that tech giants like Google and Meta "have deceived lawmakers by lobbying through smaller front organizations, leading [EU] lawmakers" to file eight complaints to their lobbying body. Someone in Canada remarked that there was so much Astroturfing in Ottawa, you'd think we're getting a major league baseball franchise.

I was wondering if you could speak to some of the tactics employed by dominant tech giants in the United States.

Dr. Hal Singer: Yes, what I see that's so unfortunate is they're not just Astroturfing randomly, but they're going after what are traditionally progressive organizations with funding, and asking them to come out and sometimes oppose these bills that would reign in the tech platforms, or remain silent.

It's one thing—and I mean this with a bunch of love delivered to libertarians—for a libertarian front to say there's no market failure here; we don't need government. It's quite another to have a progressive organization—I won't name names—to come out and say this bill is anti-consumer or it's nonsensical. It would open up a floodgate or somehow cause Google to start charging for search. That's happening. When those guys say it, when the progressives say it, they are basically used as a stalking horse, that's when the platforms can really maximize their politicking and their political leverage to try to achieve some wins.

For someone who is not paying attention to where the money is flowing, it can be very confusing, but I feel like lots of newspaper reporters, in the U.S. at least, have wised up to where the money is coming...and who is buying whom. They can suss this stuff out.

● (1215)

Mr. Chris Bittle: Thank you so much.

I don't—

The Chair: Thank you.

You have 44 seconds, Chris. You can do something with it if you wish.

Mr. Chris Bittle: Thank you very much, Madam Chair.

We heard one of the witnesses refer to legacy media and compare it to the buggy whip industry. I am wondering if you'd care to comment on that, Dr. Singer.

The Chair: You have 25 seconds.

Dr. Hal Singer: I think the tactic that Google and Facebook are using here is to try to deflect the harm that they've caused onto some bad technology. They're trying to say that this was bad business acumen and that they're almost deserving of losing their businesses, but what they're doing is deflecting from the value appropriation. They are enjoying it, so it makes sense that they would put out these buggy analogies.

The Chair: Thank you very much, Chris.

Thank you very much, Dr. Singer.

I have looked at the clock, and we have time for one further full round.

I am going to the next round, which is the Conservatives with Marilyn Gladu.

You have five minutes, please.

Ms. Marilyn Gladu (Sarnia—Lambton, CPC): Thank you, Madam Chair.

Thank you to the witnesses for being here today.

It's clear to me that Bill C-18 is not going to meet its desired goal of helping small local newspapers because we've excluded any that have less than two full-time journalists, and it's clear that Bell, CBC and Rogers are going to get the lion's share of the money.

I'm going to focus my time on amendments that we could make to the bill, because the NDP-Liberal coalition is going to force it through and I want to reduce the harm as much as possible.

Mr. Palmer, you talked about how we should delete the undue preference part of the bill because it's problematic and how 52D from the Australian act would be better.

You also mentioned another part of the bill that should be deleted, but I didn't catch that. Could you let me know what that is?

Mr. Philip Palmer: Madam Chair, I believe I was speaking about clause 24, which strips from the digital news intermediaries their ability to rely on copyright law defences. This is simply a stacking of the decks in a way that distorts and prevents people from actually looking at the value of what Mr. Singer refers to as “this appropriation”. If there is an appropriation taking place, the concept should be to determine it on market value with all the factors taken into place, including common law, at least copyright law, and other—

Ms. Marilyn Gladu: Thank you.

I appreciate your comments as well about how there's likely to be a constitutional challenge on the DNI definition as it exists.

Also, you mentioned that we could improve in the area of defining what is quality journalism, and I like the recommendation of using the Income Tax Act definitions for journalistic outlets.

One of the other ideas that I heard was from Mr. Singer, and it was about how there's a size limit that was an amendment.

Mr. Palmer, is there an opportunity for us to do something to limit the size of organizations so that Bell and Rogers and CBC don't get the lion's share and so that we actually direct that aid where we want it: at the local, smaller news media outlets?

Mr. Philip Palmer: There is certainly nothing in the legislation that does that at the moment, and it would require an amendment. Certainly, yes, at the moment the danger is that the large organizations will scoop up all the dough and that there will be nothing left for the minor players.

Ms. Marilyn Gladu: Indeed, Mr. Singer, could you let us know on which portion of the JCPA there was a size limit amendment and what that amendment was?

● (1220)

Dr. Hal Singer: What happened with the JCPA, unfortunately, is that large news publishers were excluded from participating in some of the protections. This would be like The New York Times, The Washington Post, maybe The Wall Street Journal. The rationale was that they are big enough to negotiate their own compensation, thank you very much. However, it turns out that even they, as large as they are relative to other newspapers, are atomistic with respect to Google and Facebook, so in my opinion, this was a mistake in the JCPA.

You don't want to exclude the "biggs" from the negotiation for the same reason that you don't want to exclude, for example, LeBron James from the players union. It's possible that LeBron James doesn't benefit as much as some of the rookies or veterans, but just having him in the coalition strengthens the coalition in its dealings against the individual NBA owners. I understand the politics, but I think if an economist could have designed it, the big news publishers would have stayed in, so when we go to the negotiations—

Ms. Marilyn Gladu: Thank you. I have a limited amount of time.

I have one more question for Mr. Palmer.

You talked about how it would be better in terms of determining who can benefit if the minister designated it as in section 52E of the Australian act. Can you elaborate on that?

Mr. Philip Palmer: Yes, the Canadian legislation requires a person to self-identify against criteria that is very deficient. It requires that a person come forward and say, "I have an imbalance of bargaining power in my favour. I dominate a market." There's no definition of "market". Is this the advertising market? Is this market for eyes and ears? What is it? That's very unclear.

It seems to me that it would be far better to have objective criteria and that a government official, a minister, decide who is [*Technical difficulty—Editor*]. Let them fight it if they want to, but I think it would be cleaner. It would be far more coherent, and it would lead to quicker results.

The Chair: Yes, that is the end of your time.

Thank you, Marilyn.

I will now go to the Liberals and Mr. Anthony Housefather.

You have five minutes, please.

Ms. Marilyn Gladu: Thank you.

I think that's the end of my time.

Mr. Anthony Housefather (Mount Royal, Lib.): Thank you very much, Madam Chair.

I want to start with Dr. Singer.

I had the pleasure of being in Congress. We did hearings for our interparliamentary task force on online anti-Semitism. We got to have hearings where we had Meta, Google, TikTok and Twitter.

I had a chance to talk to a lot of legislators, at least at the House level, and I found real consensus amongst Democrats and Republicans on both sides, whether it related to section 230 or to monopoly of the platforms, that there needed to be more done to deal with the practices and techniques of these tech giants.

I know that the House of Representatives antitrust subcommittee recently accused platforms like Amazon, Apple, Google and Facebook of abusing their monopoly power.

How do these tech giants consolidate their market power? What practices and techniques are they using that prompt all these concerns?

Dr. Hal Singer: That's a pretty expansive question. You're probably aware of all the antitrust litigation.

The Chair: I'm stopping for a second. There is a problem with feedback.

I would like those in the room to please mute their microphones when they're finished speaking. It would be very helpful.

Can we try that again? I've stopped the clock.

• (1225)

Dr. Hal Singer: Looking at some kind of common denominator across the various types of conduct that's being challenged, I would say that the fundamental strategy the platforms have employed is some variation of an anti-steering restraint or what's called a most favoured nations clause.

This ensures that any broker or dealer, say an app developer or a merchant on the Amazon site who wants to go off their platform and sell their wares at a lower price is barred from doing so. That is, you cannot sell at a lower price outside of the dominant platform than you can inside the platform.

Google is doing this with anti-steering provisions. Amazon achieves this with the most favoured nations clause. They are making sure that no coalition or individual or coalition of developers or merchants could support a rival platform. If they could steer by offering their consumers lower prices for going off the dominant platform, that could engender a certain amount of multi-homing and competition across the platforms, and that in turn would force Google and Amazon to lower their take rates on app developers and merchants respectively.

They figured out that, if they can stop that sort of conduct, if they can stop the steering, then they can keep artificially high take rates. These artificially high take rates, at least with respect to Amazon, have been going up over time. They all get impounded in the price of everything you buy.

There is a lot of anti-competitive things that are going on right now, but I know I don't have time to hit them all. To me, that is the highlight, and you have to attack that. I do think that squarely falls under the antitrust ambit. We should give these antitrust cases a little chance to play out on that score.

Mr. Anthony Housefather: Thank you very much. That's very helpful.

I have a very short question for you.

When Facebook was here on Friday, they repeated their threat to turn off news content being uploaded by Canadian users, which is what they did in Australia.

Have they ever threatened the United States in a similar way or do just small peon countries like Canada or Australia get threatened like this?

Dr. Hal Singer: No, don't feel bad. They threaten everyone. They threatened to do bad things in the U.S., too, when the bill, the JCPA, appeared to be on its way to getting voted on at the Senate judiciary committee.

Whether they want to admit it or not, I think Facebook and Google recognize that newspapers and quality journalism actually prevent their platforms from becoming a cesspool. Imagine if all of this stuff came out, as they're threatening to do, and they take out the quality and just leave in the low quality or the misinformation. The whole platform becomes a cesspool. That's going to cause advertisers to leave. It's going to cause users to leave.

We should take their threats seriously, but I don't think the threats amount to anything at the end of the day. They need the news publishers, but they don't have to pay for it right now because the power imbalance is so shifted in the favour of the platforms, right?

What we're asking for is to create a structure so that an arbitrator could make a call as to what the fair market value is, and then we could go on about our way. Once that payment is made, there's no link tax, respectfully; Ms. Gardner talked about a link tax. You don't pay extra for each time someone clicks or for each link that gets posted. You pay a one-time lump sum fee for access. After that, you're free to do with the content whatever you want, subject to the applicable copyright law.

Mr. Anthony Housefather: I imagine that my time is over, Madam Chair.

The Chair: Yes. You have 18 seconds left, Anthony. Thank you.

I'm going to Martin Champoux.

You have two and a half minutes, please.

[*Translation*]

Mr. Martin Champoux: I will also have the 18 seconds of speaking time that Mr. Housefather didn't use.

Thank you, Madam Chair.

Mr. Palmer, let's go back to the brief that you submitted to the committee last week.

In the brief, you talk about the definition of news content being too broad and unclear. In your view, the act could apply to podcasting services like Apple and Spotify, voice assistants like Alexa and Siri and potentially even app stores. However, you don't explain how that might be the case in your brief.

If you read section 27(1) of the bill, which specifies what businesses are eligible, how do you match these businesses with those criteria?

Can you clarify that for me?

[*English*]

Mr. Philip Palmer: Yes. Thank you. I welcome that opportunity.

As crafted, paragraph 27(1)(b) is the relevant provision. Paragraph 27(1)(a) is very precise. It follows the Income Tax Act. It incorporates by referencing the Income Tax Act definition.

Paragraph 27(1)(b) is an entirely different kettle of fish. If you had, for instance, a podcast—Joe Rogan, for instance, probably has a good deal more than two employees—

[*Translation*]

Mr. Martin Champoux: I'm interrupting you because in your brief, you're saying that voice assistants and app stores could be subject to regulations. I don't understand how they could become news businesses.

• (1230)

[*English*]

Mr. Philip Palmer: You'll have to excuse me—

[*Translation*]

Mr. Martin Champoux: Mr. Palmer, perhaps you could respond in writing later on. I have about 30 seconds left. I really have very little time.

Ms. Gardner, let's put aside our differing opinions on how appropriate Bill C-18 is.

I know that you want to protect quality journalism. However, I must tell you that I don't entirely disagree with challenging the two journalists per media outlet rule. I don't think that's true for the new journalism models that define what quality media is. Nor do I feel that's what's going to protect regional media.

Do you feel we should place more emphasis on journalistic quality criteria and base it on journalistic standards rather than the number of journalists? Would that criterion be acceptable to you?

Please take only a few seconds to respond, because I have very little time left.

[*English*]

Ms. Sue Gardner: I'm sorry. I'll try to answer quickly.

It's hard to define quality. I think that in previous meetings people talked about standards and practices, and there are ways in which journalism organizations adopt standards and practices. Perhaps that is one way to define quality.

I think that excluding the very small organizations is a bad idea, because sometimes they are the only players, and sometimes they play a very important role.

[*Translation*]

Mr. Martin Champoux: Thank you for keeping your answer short and to the point.

The Chair: Thank you very much, Mr. Champoux.

[*English*]

I'm going to Peter Julian for two and a half minutes.

Mr. Peter Julian: Thanks.

Mr. Singer, I would like to come back to what we were talking about a few minutes ago, hate and disinformation.

We have seen Elon Musk's takeover of Twitter and the deliberate promotion by him of appalling disinformation around the attack on Speaker Pelosi's husband. We have had criticisms levied against big tech for their refusal to act promptly to counter disinformation. I wanted to see if you had any comments about that growing disinformation coming from big tech.

Also, there's the other side, which is having responsible journalism. We have the crazed extremism of Fox News and we counter that with the kind of journalistic integrity, for example, that comes from the Canadian Broadcasting Corporation, which is often opposed by extremists.

To what extent does the JCPA cover public broadcasting like PBS in the United States? To what extent do you feel it's important that public broadcasting be covered by an approach, for example, like Bill C-18 that helps to counterbalance this crazed extremism we see from Fox News and the deliberate disinformation that we're seeing from Elon Musk's Twitter and from other big tech companies that seem to profit from the engagement that comes from this disinformation?

Dr. Hal Singer: What I want to say first is that I'm a defender of big tech's freedom to engage in content moderation and particularly when it comes to keeping anti-Semitism or inflammatory violence.... Hopefully, we could agree that any comments that incite violence should be under the domain of the platform and they should have the free rights to restrict and to engage in content moderation. I don't think that the JCPA at least infringes on their ability to do so. But in terms of the effect on broadcasters, I think you have a similar power imbalance where broadcasters are not being paid fair market value.

Interestingly, I would point out that broadcasters in the U.S. version of the bill did not want the same protections as the newspapers, and so the bill in the U.S. is written in such a way as to give them some mild protection, but they don't have this binding arbitration, baseball style arbitration, in which someone could actually compel a negotiation and compel a final payment to be made. That doesn't apply to the broadcasters, at least in the U.S. version.

The Chair: Thank you very much, Peter. You were right on time.

I'm going to the Conservatives for five minutes.

Ms. Thomas, please.

Mrs. Rachael Thomas: Madam Chair, before I start my time, I would like to ask a question on behalf of the committee.

Looking at the clock, I'm curious if you would entertain the idea of finishing this current round of questions and then giving 2.5 minutes to each party to ask subsequent questions.

The Chair: I will put that question after this round. Thank you.

Go ahead, please, Ms. Thomas.

Mrs. Rachael Thomas: Thank you.

What I'm hearing at the table from the Liberal members and from Mr. Singer is that big tech is bad, and therefore, big tech should pay and somehow this equals quality journalism in Canada. That is what is being argued at this table.

Ms. Gardner, would you care to comment?

• (1235)

Ms. Sue Gardner: I do agree that a lot has been brought into the room today that is not germane to Bill C-18, and is not about news organizations and their relationship with news disseminating platforms.

I think we all agree, presumably, that there are many reasons to be critical of big tech. Those do include the algorithmic amplification of inflammatory material. I think that is something that the House is intending to grapple with through online harms legislation. That's a really important issue.

I'm on the board of the Canadian Anti-Hate Network. That is what we track: anti-Semitism and hate of various kinds, and racism in Canada, including what's disseminated by the platforms. It's an important issue. I don't want to diminish or make fun of the importance of the issue.

I think your instinct is correct. There's an anti-big tech sentiment increasingly over the past, let's say, five years and it makes big tech a convenient target. I think that is some of what is happening here.

Big tech has a lot of money. I think it's perfectly reasonable to impose taxes upon big tech and, as I said, use that to fund journalism, but personally, I could live without the moral judgment because I don't think it's appropriate.

Mrs. Rachael Thomas: Ms. Gardner, it seems that, if we want quality journalism, then we have to allow for there to be innovation to take place within the news space.

Does this legislation facilitate greater creativity and innovation?

Ms. Sue Gardner: The people who are doing the creativity and innovation right now don't think so, and I think that their perspectives are probably correct, because they are the folks doing that work.

From my perspective, this bill will reward organizations that have deal-making capacity and employ lawyers and business development people, and it will reward organizations that have lobbying power and presence in Ottawa, and the little organizations definitely don't have that. They spend all of their time trying to innovate their product and sort of tweak it so that people like it more and so that they are more likely to pay a subscription for it or sign up on Patreon or whatever model the organization is using.

One thing I can tell you as someone who has run news organizations is that the more business models you have, the more complicated your life is; the more masters you have to serve and the more expertise you have to develop. When I was running the Wikimedia Foundation, we experimented with multiple business models for two years and then we doubled down on the one that was working, which was ordinary people giving us donations because they wanted to.

It's not, I don't think, a great idea to try to get start-ups to be in the business of not just pleasing their audiences and aiming, presumably, for user pay in many circumstances but getting good at negotiating with Google and Facebook and coordinating with other entities to do that and also to get good at government through local journalism funds and whatever other mechanisms the government has. That's another stakeholder and another revenue generation area.

That is a lot of complexity for something that is really small when the person doing business development is also writing the news and maintaining the website.

I think it will be bad for innovation, and I think innovation is badly needed. What we want ideally is a sustainable journalism industry, and to get there, you have to innovate.

Mrs. Rachael Thomas: Thank you, Ms. Gardner.

Mr. Palmer, comments were made by Mr. Singer around.... There seemed to be this claim that there were these two pots of money, which again points to his misunderstanding of this legislation. He pointed to the fact that newspapers are going to be able to apply for money but then other news outlets will be able to apply for money. That's not the case. Within this bill, there are not two pots of money. There's only one pot of money and, indeed, you will have smaller newspapers competing against larger organizations like Bell.

We've heard from two different individuals who came before this committee, one representing Alberta newspapers and one representing Saskatchewan weekly newspapers. Alberta newspapers said that, within that province, 50% of newspapers would not be eligible because they don't have two or more full-time journalists. Then, with regard to Saskatchewan, he said that 80% would not be eligible because they do not have two or more journalists.

If the point of this bill is truly to protect local newspapers, will it accomplish that?

• (1240)

The Chair: Thank you.

I don't think we have time for the answer, Ms. Thomas. We have moved on in your time.

Now I'm going to the Liberals for five minutes.

We have Lisa Hepfner, please.

Ms. Lisa Hepfner: Thank you, Chair.

Mr. Singer, let's pick up on that line of questioning. Can you see anything in Bill C-18 or in your American equivalent, the JCPA, that would stifle innovation in news?

Dr. Hal Singer: No, nothing would stifle innovation.

If you can figure out a way to infuse newsrooms with new-found money, it should do the opposite. It should grow innovation, and it's going to do so by inducing them to invest in journalism.

Ms. Lisa Hepfner: Would you agree that, when you encourage organizations to hire more journalists, and you have more journalists on the ground, in the newsrooms, in the city halls, in the court rooms and on the street talking to people and collecting informa-

tion, you do end up with more good journalism because you have more journalists going through the training?

Mrs. Rachael Thomas: Or you have to qualify initially.

Ms. Lisa Hepfner: Chair, I'm being interrupted by the member across the table. Maybe she could keep her voice down and whisper.

The Chair: I'm sorry.

Can you please move on, Ms. Hepfner? I would ask people to keep their voices down and be respectful to other speakers and witnesses.

Thank you.

Ms. Lisa Hepfner: Sir, do you agree that more journalists and creating an environment to have more journalists working leads to more good journalism?

Dr. Hal Singer: Of course. It leads to more journalism, more democracy, greater innovation—all good things.

Ms. Lisa Hepfner: Explain why a funding formula wouldn't be the best way to tackle the market imbalance and the risk to democracy that we face right now.

Dr. Hal Singer: Well, I think a funding formula is the best way. It's the most efficient way. I mean, the alternative is what I think Ms. Gardner was saying, that we should have taxpayers step in to fix the problem that's being caused by the platforms, and I respectfully disagree.

If you can calculate the appropriation of value that news publishers are bringing to the table by the platforms, it ought to be incumbent on the platforms to pay that value, what would be paid in a fair market, voluntary transaction absent the power imbalance. I do think that a structured bargaining with one pot of money for news publishers.... Somebody said before that I said there were going to be two pots. I was talking about a different pot for broadcasters. So, one pot for news publishers—everyone's in it together—is the best way to tackle this problem.

Ms. Lisa Hepfner: Thank you, sir. There's a lot of confusion on the other side of this table.

You have—

Mr. Chris Bittle: I have a point of order, Madam Chair.

Ms. Thomas is again.... There are outbursts in the room, which is kind of shocking, because she is the first person to jump up and demand respect, but she is the last person to give it to any member of this committee. It's really become shocking to the point of absurdity that this MP continues to stand shoulder to shoulder with Facebook and laughs at anyone who would suggest otherwise, Madam Chair. It's truly disgusting.

The Chair: Thank you, Mr. Bittle.

I would kindly ask all members of the committee to be respectful of each other when they're speaking and to be respectful of the witnesses when they're speaking. You will have your turn, and when you have your turn, you can say what you wish. Thank you very much.

Carry on, Ms. Hefner. I stopped the clock, by the way.

Ms. Lisa Hefner: Thank you, Madam Chair.

I would like to continue with your argument that the value of appropriated news is content in its initial instance, so before it's been scraped, indexed, posted, aggregated and displayed. Can you explain this concept to us further?

Dr. Hal Singer: Right. The question is what would be paid to the news publishers in a voluntary negotiation, absent the power imbalance, for access to their content so that Google and Facebook can do all the wonderful things that they do with the content today. What we can do to get at that question is see how much value is created on the platform by the news publishers, and we can go backwards in time and say if Google and Facebook would have had to pay for that in a voluntary negotiation, absent the power imbalance, what would they have paid. They pay something approximating the value that is being created. That's what the fight is going to be about when we get to the arbitration panel. It's going to be about who can demonstrate credibly the value that's being appropriated by the platforms created collectively by all news publishers.

• (1245)

Ms. Lisa Hefner: Just so it's clear for this committee, in your understanding, in Australia with the implementation of its similar legislation, it was actually the smaller publishers, in comparison, that did the best, that hired the most journalists and that got the most value. It was the smaller publishers, not the big conglomerates.

Dr. Hal Singer: I haven't done a comparison of relative hiring, but what I do know, what has been widely reported, is that money that was collected by all newspapers, big and small, in Australia has been invested, ploughed back into the investment of journalists. That, to me, is the important takeaway. If anyone doubts that's going to happen, they just need to look at the Australian experience. If you set the allocation right, you're going to create an added incentive to get the news publishers to reinvest in journalists because it's going to make their allocation, their share of the allocation, bigger on the next go around.

Ms. Lisa Hefner: Thank you.

The Chair: Thank you very much.

Lisa, your time is up.

I'm going to ask the clerk what our hard stop is.

Can we go an extra three minutes or two minutes over time?

The Clerk: Actually, I was not sent the hard stop information today, but lately the hard stop has been the hour, so one o'clock would probably be it. I'm seeing that we have about 14 minutes left on the clock, though.

The Chair: That's why I asked. If we went to a suggestion of two and a half minutes per person and went to a six-person round, that would give us 15 minutes, so we'd be going one minute over time, and I'm sure we can afford to do that.

I shall begin, then, with the Conservatives for two and a half minutes, please.

Could I have the name of the member for the Conservatives?

Ms. Marilyn Gladu: It's Marilyn Gladu. Thank you, Chair.

My question is for Mr. Palmer.

Do you think that small media organizations will be benefited under Bill C-18?

Mr. Philip Palmer: Actually, no, I don't think so. It's hard to conceive of how these small organizations can coalesce and re-source the kind of bargaining process that Bill C-18 envisages.

The principal difficulty with Bill C-18 is that it's a partitioned process. The big players can afford to enter into the bargaining process, hire the experts, the lawyers, etc., to support their positions and have them adjudicated. That's not true of similar efforts on behalf of small independent community newspapers, and so on, which we also don't have the infrastructure in place to support.

Ms. Marilyn Gladu: Would it be better, then, just to have the government charge Facebook and Google for operating in Canada, and to funnel the money into some kind of a fund that's allocated to smaller media organizations?

Mr. Philip Palmer: That's probably a better solution than Bill C-18 in terms of being able to get money into the very lowest levels of the journalistic community. I don't think the present system ensures that result.

Ms. Marilyn Gladu: Thank you very much.

The Chair: You have one minute and nine seconds left.

Ms. Marilyn Gladu: Then I'll go to my other question. You know me, I never give time back.

The Chair: Yes, go ahead, Marilyn.

Ms. Marilyn Gladu: I have a question for Ms. Gardner, the same question I asked Mr. Palmer.

Do you think that small media organizations will benefit under Bill C-18?

Ms. Sue Gardner: No, I don't think so, for the reasons I said before. I think they just don't have the bargaining power. They don't have the time, and they don't have the energy. They aren't big enough to support that kind of negotiation need.

To your second question, obviously, as I have said, I do think a fund would be better for that purpose. It's more straightforward.

Ms. Marilyn Gladu: If we get rid of Bill C-18 and put a fund in, that would be better. If we keep Bill C-18, are there amendments you would like to see to it?

Ms. Sue Gardner: Yes. I don't know if I can provide them in the time you have, but there is a piece—

Ms. Marilyn Gladu: Could you submit your ideas for amendments to the committee in writing?

Ms. Sue Gardner: Yes, I'd be happy to.

Ms. Marilyn Gladu: Very good.

The Chair: Thank you, Ms. Gardner. Please do that.

I am going to Mr. Coteau.

You have two and a half minutes.

• (1250)

Mr. Michael Coteau (Don Valley East, Lib.): Thank you very much, Madam Chair.

I want to make a quick observation.

We've had witnesses come in to tell us that there have been almost 500 media corporations that have collapsed over the last decade because of the changing structure of the business in Canada. We've also been told, and I think the Conservatives probably agree, that there is no value to the media that's being distributed on the big tech giants.

I think it's astonishing to just assume that, if you open up Facebook or you click on a Twitter link or you're on Google, the Canadian content does not have value. If we agree that it has value, then we agree that we should assess that value, as Mr. Singer has suggested. It's a very fair process. You actually determine the value of that content on that platform, how much it is being monetized by, and you pay the publisher accordingly. It's a very simple concept.

Mr. Singer, do you have any final statements or reflections on that specific point? Is there anything you'd like to comment on as we close this session?

Dr. Hal Singer: Yes, I want to take on one thing that Ms. Gardner said just a second ago, which is this notion that the small organizations aren't going to have the resources to hire a lobbyist to negotiate.

I just want to submit respectfully that the whole purpose of forming a coalition is that everyone goes in there together, represented by one lawyer, one expert. It's going to be funded as a collective. It's not going to turn on the funding capabilities of any one particular small publisher. There is no lobbying that needs to take place, or negotiation. You just join the collective, and then the collective is going to hire a lawyer and an economist. They're going to go into the room and negotiate and try to put forward the best valuation possible.

I want to dispel the notion that somehow this is being set up in such a way as to make life difficult for the small organizations. Actually, if it's done right, it should make life easy for them. All they have to do is join the coalition, and then, conditional on winning at the hearing, they're going to get their pro rata share based on traffic generation and based on employment. That's how we're doing it, at least in the United States.

The Chair: Thank you very much, Michael. I think you have only about 10 seconds left, so I would like to move to Martin Champoux.

You have two and a half minutes.

[Translation]

Mr. Martin Champoux: Thank you, Madam Chair.

Mr. Palmer, I'd like us to go back to the regulation of companies that do business primarily through online platforms. We talk a lot about Google and Facebook, but you care more about the entire In-

ternet. You care about making it easy for everyone to access and enjoy what the Internet has to offer.

Do you believe that commerce carried out by businesses should not be regulated in general, or do you primarily object to bills like C-18 and C-11?

Is your position on this general? Could you define it?

[English]

Mr. Philip Palmer: Thank you for the opportunity.

No, I think there is a great deal of work that needs to be done. My concern with Bill C-11 and with this legislation is that none of it is taking a comprehensive look at the Internet. This is piece by piece. The pieces don't necessarily all fit together. There's not a comprehensive vision on the side of the government that's proposing these various measures.

[Translation]

Mr. Martin Champoux: We need to move forward. Our journalism industry is dying and it's been in crisis for years.

Don't you think that this is a first step and that we can and should improve the law over the years as we uncover the flaws we will inevitably find along the way?

Don't you think that already constitutes a good step forward?

[English]

Mr. Philip Palmer: My problem is that I don't think it's a good first step. I think it's a bad first step, and it will be a fatal first step for a lot of journalistic organizations and news organizations. That's my concern about this.

The American model that is being suggested is to bring together a coalition of everybody who's in the news business. Bill C-18 doesn't do that. It allows for a partition between big players and small players. There's nothing that forces them into a collective. Without that, you're going to get a lot of losers and very few winners.

• (1255)

[Translation]

Mr. Martin Champoux: However, that could be fixed via amendments to this bill or in the coming years, couldn't it?

[English]

Mr. Philip Palmer: Yes, it could be, but you'd have to reshape it significantly to do that. I would be all in favour of something that would in fact force this kind of coalition that the Americans are looking at. I think that would be a very positive step.

[Translation]

Mr. Martin Champoux: Thank you, Mr. Palmer.

That's all, Madam Chair.

[English]

The Chair: Thank you very much, Martin.

I'll go now to Peter Julian.

You have two and a half minutes.

Mr. Peter Julian: Thanks very much, Madam Chair.

To come back to you, Mr. Singer, I asked specifically about public broadcasters and to what extent there is provision for them in JCPA. Of course, that's PBS, the broadcasting systems in the United States. Your answer about broadcasters generally was that they are exempt from some provisions of the act. Is there any particular attention given to the PBS broadcasting systems, both radio and television?

Dr. Hal Singer: I don't think PBS gets any special treatment under the bill. I think what happened is that the broadcasters sought and secured good-faith negotiations, but it ends there. I think they have some recourse if the counterparty is not acting in good faith, but there's no back-end binding arbitration that the newspaper coalition is going to enjoy.

Mr. Peter Julian: That helps to clarify it. Thanks very much.

Now, coming back to this issue...and of course we're considering amendments, so I'm a bit perplexed about some members around the committee who seem to say we should throw the whole bill out because there are some amendments that need to be brought forward. It's obvious that the bill can be improved. One component is around particularly small community endeavours, owner-operator newspapers or broadcasting entities such as community radio, as is often the case in smaller communities.

Can you speak to the importance of this approach that we saw in Australia with Country Press Australia representing about 150 small community newspapers across Australia and getting the important provision for funding that helped to revitalize the sector, and to the importance of ensuring that small community papers are

included? That must mean considering some amendments to Bill C-18.

Dr. Hal Singer: I think the small communities obviously did better as a coalition than they would have done had they negotiated individually. They did better. They actually secured money, and we get to see what they're doing with that money now.

I'm going to stick with my thesis. They would have done even better had they been able to negotiate as a collective with all newspapers including the large ones. I don't see a good, economic rationale in splitting off the small newspapers and telling them, "You guys go negotiate as a collective." Yes, it's better than individually, but if I could structure it, it would be everyone negotiating as one news publisher coalition.

The Chair: Thank you very much.

That's it, Peter.

We do not have any extra minutes to use in this committee this morning. We have one minute left to go.

I'm going to use that one minute to thank the witnesses for coming and answering hard questions. I think it was a very respectable meeting in my view.

Also, I want to thank you for taking the time to come and help us on this. As many members have said, hopefully out of your testimony, there can be amendments found to the bill.

I want to thank you all.

This meeting is adjourned.

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