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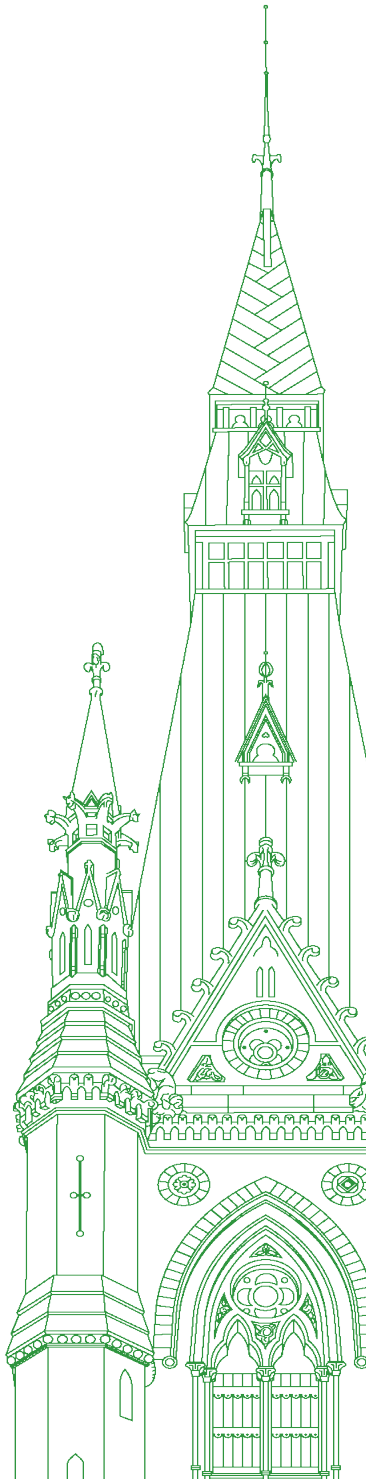

Chair: Mr. Sean Casey

Standing Committee on Health

Thursday, April 27, 2023

● (1100)

[*English*]

The Chair (Mr. Sean Casey (Charlottetown, Lib.)): I call this meeting to order.

Welcome to meeting number 64 of the House of Commons Standing Committee on Health.

Today we will meet for two hours to begin our study of the Patented Medicine Prices Review Board.

Today's meeting is taking place in a hybrid format pursuant to the House order of June 23, 2022, in accordance with our routine motion.

I'm informing the committee that all participants in the meeting have completed the required connection tests in advance of the meeting.

I will also take this opportunity to give this reminder—although I don't think this panel of witnesses needs it—that the convention we follow in this committee is that the length of an answer shouldn't substantially exceed the length of time to pose the question. If you're embarking on a long answer, you can expect to be interrupted, either by the person who posed the question or by me. If you seek to interrupt before the witness has had a full opportunity to respond with a response of equal length, you can expect that I will intervene to allow them to continue.

With that, please allow me to welcome the Honourable Jean-Yves Duclos, Minister of Health, who is joining us for the first hour.

He's joined by the following officials from the department of Health: Dr. Stephen Lucas, deputy minister, and Eric Bélair, associate assistant deputy minister from the strategic policy branch.

From the Department of Justice, we have Nessim Abu-Zahra, counsel, health legal services unit.

It's always nice to see you, Minister. Welcome to the committee. We will begin with opening remarks from you for up to five minutes. You have the floor.

[*Translation*]

Hon. Jean-Yves Duclos (Minister of Health): Thank you. Mr. Chair.

I'd like to thank the committee for this opportunity to speak about what the government is doing to improve Canadians' access to quality and affordable medicines.

With me today from the Department of Health are Mr. Stephen Lucas, Deputy Minister, Mr. Eric Bélair, Associate Assistant Deputy Minister, Strategic Policy Branch, as well as Mr. Nessim Abu-Zahra, counsel, from the Department of Justice Health Legal Services Unit.

Canada has among the highest patented medicine prices in the world, and these high prices can impact the ability of patients to access new medicines. This is unacceptable.

The Government of Canada supports and respects the role of the Patented Medicine Prices Review Board, the PMPRB, as a strong, independent quasi-judicial body that protects the interests of Canadian consumers by ensuring that the prices of patented medicines sold in Canada are not excessive.

Today, I will begin my remarks with a few words about my role with respect to the PMPRB, the role of PMPRB itself, as well as the role of Health Canada.

[*English*]

The PMPRB is an independent, quasi-judicial body that carries out its mandate at arm's length from the Minister of Health and operates independently from Health Canada.

As Minister of Health, I am responsible for the patented medicine pricing provisions of the Patent Act. These sections of the act establish the PMPRB and its authorities, as well as my responsibilities with respect to the board.

The patented medicines regulations fall under my responsibility as Minister of Health. In fact, the Patent Act sets out that certain regulations can be made by only the Governor in Council, based on my recommendation, following consultation with stakeholders, including provinces and territories, consumer groups and the pharmaceutical industry.

It is also subsection 96(4) of the Patent Act that gives PMPRB, after consultation, the authority to issue non-binding guidelines.

You will recall that following the initial publication in 2019 of the proposed amendments to the patented medicines regulations, the validity of the amendments was challenged in the Federal Court and the Quebec Superior Court. Although aspects of the amendments were held to be valid, important elements were struck down. In particular, the Quebec Court of Appeal found that two elements were unconstitutional.

On July 1, 2022, revised amendments to the patented medicines regulations came into force to provide the PMPRB with new tools to protect Canadians from excessive prices. To operationalize these amendments to the patented medicines regulations and to modernize other aspects of its existing guidelines, the PMPRB proposed new guidelines in October 2022 and posted them for a 60-day consultation period.

Subsection 96(5) of the Patent Act states that the PMPRB must consult with various parties, including the Minister of Health, before the issuance of any guidelines. This requirement to consult and who must be consulted were also highlighted in the letter published on March 3, 2023, by the former acting chairperson.

It is in that context that I provided a letter to the chairperson of the PMPRB, sharing my views with respect to the consultations on the proposed guidelines. In this letter, I respectfully invited the board to consider pausing the consultation process to allow more time for stakeholders, including provinces and territories, to fully understand the short- and long-term impacts of the proposed new guidelines.

In the interests of transparency, this letter has also been made public.

● (1105)

[*Translation*]

In my role as Minister of Health, I meet regularly with a wide range of stakeholders on many issues that touch the health of Canadians. That's also what I'm doing here. I've heard the views of industry. I've also listened to the concerns of patients, health care professionals and other stakeholders, including my counterparts across the country, about access to medicines.

It is with this in mind, in view of the importance of this issue, that I asked that the PMPRB consider a pause as a way to allow all stakeholders to engage meaningfully in the consultation process.

[*English*]

Our government has undertaken an ambitious pharmaceutical, biomanufacturing and life sciences agenda. That includes moving ahead with the regulatory amendments to the patented medicines regulations, improving access to medications, accelerating innovation and streamlining regulations and having a national strategy for drugs for rare diseases, all while supporting a vibrant biomanufacturing and life sciences industry.

We are also making progress towards establishing a Canadian drug agency, and we remain committed to tabling a pharmacare act.

[*Translation*]

To conclude, I want to underscore the fact that our government is firmly determined to improve accessibility to medicines at more affordable prices. The PMPRB will continue to play an important role in exercising its authority as an independent body to oversee the prices of patented medicines in Canada.

I'd be happy to answer your questions.

Thank you.

The Chair: Thank you, Minister.

We're going to begin the round of questions with the Conservatives.

Dr. Ellis, you have the floor for six minutes.

[*English*]

Mr. Stephen Ellis (Cumberland—Colchester, CPC): Thank you very much, Chair.

Thank you, as always, Minister, for being here.

I have a question for you. Prior to November of 2022, was the PMPRB doing their job?

Hon. Jean-Yves Duclos: Prior to which time...?

Mr. Stephen Ellis: November 2022.

Hon. Jean-Yves Duclos: I understand.

Yes.

Mr. Stephen Ellis: You think they're doing their job, but Canadians pay the highest prices for drugs, as you said in your opening remarks, the highest prices for medicines in almost the entire world.

Hon. Jean-Yves Duclos: I think it's important to remind everyone and every Canadian of that. It is unacceptable that compared to all comparable countries, we are paying much more. The only two countries in the world where patented drug prices are higher are the United States and Switzerland.

Mr. Stephen Ellis: Right, and you told us in your opening remarks that the mandate of the PMPRB is really quite simply to understand that patented drug prices need to be under control. That was the original mandate of the PMPRB, was it not?

Hon. Jean-Yves Duclos: The mandate of the PMPRB is twofold: first is a regulatory role, and then there is a reporting role. From a regulatory perspective, it is one of the many other tools and policies that are being used by the Government of Canada to bring down the cost of drugs and to increase accessibility. From an informational reporting perspective, the PMPRB also informs Canadians as to the types of prices we are facing in Canada.

Mr. Stephen Ellis: Right, so again, prices we've heard twice, and we have the third-highest prices in the world, but you still want to say they were doing their job. I guess my question is, what took you so long to intervene?

● (1110)

Hon. Jean-Yves Duclos: That's exactly why we have a broad range of policies and tools, and they are starting to make an important impact on the affordability, the quality, the appropriateness and the accessibility of drugs in Canada. This is an important part of our broader agenda, part of which is indeed around the responsibility of the new regulations introduced early in July 2022 to keep bringing these prices down.

Mr. Stephen Ellis: Great. Thank you for that.

Minister, to change gears a bit, can you tell Canadians how many times you met with drug manufacturers and drug companies—people who in the vernacular we might call "lobbyists"—in the last year?

Hon. Jean-Yves Duclos: I keep meeting lots of people who are both interested in and sometimes have an important responsibility in increasing accessibility and affordability of drugs in Canada. That includes obviously my colleagues, the health ministers across Canada, who have a very hard job to do. That also includes patient groups, researchers, scientists—

Mr. Stephen Ellis: Minister, I'm going to use the interrupter clause the chair spoke to earlier.

How many times in the last year, sir, did you meet with folks whom we would consider lobbyists from the drug manufacturing sector ?

Hon. Jean-Yves Duclos: I have met those members of the industry, including exporters, manufacturers and developers, for all sorts of reasons, including addressing the analgesics shortages that we saw.

Mr. Stephen Ellis: Excuse me, sir. Is it fair to say that it would be 20 times, 50 times or 100 times? Do you have any idea?

Hon. Jean-Yves Duclos: I have meetings with stakeholders. I'm having them today. Typically they come in groups. I would meet the patient groups, the researchers and the manufacturers together, so that we work together and exchange the same information on how we move forward on increasing access and affordability in a world in which we know access to drugs will be key to cure all sorts of diseases that are emerging, and for which we have—

Mr. Stephen Ellis: Great. I'll interrupt again through you, Chair, if you don't mind, Minister.

I agree with you. Those are great and lovely things that we want to happen here in Canada. Quite sadly, though, they're not happening. Can you tell me, sir, how many manufacturing sites we have for influenza vaccines in Canada at the current time?

Hon. Jean-Yves Duclos: Well, there is one in my own region. GSK has received a contract to produce influenza vaccines for the next years. We are investing with Sanofi in Ontario, in Toronto, in constructing a new influenza vaccine production facility. We are investing in many other parts of Canada. We have strong—

Mr. Stephen Ellis: Thank you, sir, and again, through you, Chair, I'll interrupt you: Are they actually manufacturing vaccines in those facilities in Canada?

Hon. Jean-Yves Duclos: I believe they do, and they will be increasingly doing so, because this is part of the strong $2.2-billion biomanufacturing—

Mr. Stephen Ellis: Great, sir, and I'm going to interrupt you again, through you, Chair.

Mr. Lucas, how many manufacturing facilities are actually making influenza vaccine in Canada?

Dr. Stephen Lucas (Deputy Minister, Department of Health): Mr. Chair, as the minister noted, the government has a contract with GSK. The investment for Sanofi is for a new site in Ontario.

Mr. Stephen Ellis: Yes, I guess I asked, through you, Chair, a very simple question: How many are actually making vaccines in Canada?

Hon. Jean-Yves Duclos: Again, I can point to—

Mr. Stephen Ellis: It's a simple number, sir. I don't need a long answer.

Hon. Jean-Yves Duclos: I think you need the right answer, because your question is very good, and I'm so proud, and other members are equally proud—

Mr. Stephen Ellis: Excuse me. Through you, Chair, I'm going to interrupt you one more time.

The answer is actually zero.

How many doses of influenza vaccine do we have stockpiled for the next potential pandemic in Canada?

Hon. Jean-Yves Duclos: I think, Dr. Ellis, I will offer to organize a briefing with your office and any other colleagues around this House—

Mr. Stephen Ellis: Excuse me, sir. I asked you another question. It was about stockpiled influenza vaccine for the next pandemic in Canada.

Hon. Jean-Yves Duclos: I will certainly, if you want, obviously, invite you to a briefing—

Mr. Stephen Ellis: Sir, I will interrupt you one last time.

The answer is zero. There are no stockpiles for the next influenza pandemic in Canada. The United States has 20,000,000 doses stockpiled. We have none, and so I'll answer my own question. The PMPRB was not doing its job. It took you an inordinate amount of time to intervene in that situation. I'm afraid to say you were not doing your job.

Thank you, Mr. Chair. I appreciate it.

Hon. Jean-Yves Duclos: Well, I'm going to invite my team and officials to get back to you, Dr. Ellis, because there are some inaccuracies—

Mr. Stephen Ellis: That is the end of my questions, Chair.

Hon. Jean-Yves Duclos: —in what I hear, and I would like those inaccuracies to be corrected in the right context, if that's fine, Mr. Chair.

Mr. Stephen Ellis: I don't have any further questions, Chair.

The Chair: Thank you, Dr. Ellis.

Mr. van Koeverden, you have six minutes. Go ahead, please.

Mr. Adam van Koeverden (Milton, Lib.): Thank you very much, Mr. Chair. Thank you to the witnesses for joining us. Particularly, Minister, thank you for being here.

I have three specific questions, Minister. I would ask that each answer stay within about a minute.

First, could you clarify for the committee what the role of the PMPRB is, some of its limitations, and for the benefit of those watching, the difference between a patented drug and a non-patented or generic drug? It's important to note that the PMPRB is not in charge of the prices of all drugs.

● (1115)

Hon. Jean-Yves Duclos: Thank you.

As you know and as it is important to be reminded, the PMPRB is one of the many tools the federal government uses to increase affordability and accessibility of drugs. The PMPRB is part of the Patent Act. It was created in 1987 as a consumer protection pillar in order to implement a major set of reforms to the Patent Act that were put into place at that time.

It's important, again, to emphasize that this agency—this board and the associated regulations—are just one part of the government's pharmaceutical agenda. For instance, we are moving forward with the establishment of a Canadian drug agency. We also launched, just a few weeks ago, as you know, a very important drugs for rare diseases strategy, which is going to change the lives of thousands and tens of thousands of children in particular, and their caregivers and families. We are investing, through the biomanufacturing strategy, in companies like Moderna, Sanofi and Laboratoire KABS in Quebec. AstraZeneca announced, just a few weeks ago, a very important expansion of its research and development operations in Mississauga.

Those are important aspects of the important complementary work the PMPRB also does.

Mr. Adam van Koeverden: Thank you, Minister.

You touched on some amendments, in your remarks, with regard to the regulations of the PMPRB. Can you explain, for the benefit of this committee, through the chair, what the intended impact of these amendments would be?

Hon. Jean-Yves Duclos: Thank you.

Almost exactly one year ago, in April 2022, I issued a statement that the Government of Canada would proceed with the amendments to the patented medicines regulations to provide the PMPRB with new tools to protect Canadians against excessive prices for patented medicines. The Court of Appeal of Quebec and the Federal Court of the Government of Canada upheld the constitutionality of that new regulation, the updated “basket of comparator countries”. That's why we also heard many other stakeholders and partners wanting to move forward with that important announcement.

Having done that, as a result of the coming into force of that new regulation on July 1, 2022, we are expecting the board to put into place the guidelines that will be there to support the important implementation of those strong regulations dating from July 1, 2022.

Mr. Adam van Koeverden: Thank you, Minister.

You wrote a letter to the former acting chairperson about some of these guidelines for the PMPRB. Mr. Herder has since said that the letter undermined the board's independence. Do you feel the same? How do you react to that suggestion?

Hon. Jean-Yves Duclos: First, I think it's important to express our utmost respect for the role and the difficult job that the PMPRB has as an independent quasi-judicial body within the federal government.

The federal Minister of Health is responsible for the patented medicine pricing provisions of the Patent Act, and this role must be taken seriously as set out in the Patent Act under subsection 96(5). That section says that the PMPRB must consult with various parties, including the Minister of Health, before the issuance of any guidelines.

That's why that letter was sent, in support of and in compliance with the obligation that the act imposes on the federal health ministry.

Mr. Adam van Koeverden: Thank you, Minister.

An earlier question seemed to imply that Canada is unprepared for a future influenza outbreak. Through my role as the parliamentary secretary for health, I've met with stakeholders, including Seqirus, an organization with a partnership in the United States that procures, manufactures and provides vaccines in the many millions and millions of doses for Canadians, Americans and other people around the country.

Mr. Minister, do you feel that we are prepared for any future flu outbreak or outbreak that would require such vaccines?

Hon. Jean-Yves Duclos: COVID-19 taught us many different things, including the fact that we were not as well prepared as we should have been to fight that pandemic. That's why we are preparing better for the next pandemic, because there will be a new pandemic. It's not “if”; it is “when”.

That's why we have put into place all sorts of measures, including changes in clinical trial funds to expedite and facilitate the use of clinical trials to test new drugs. That's why we have allowed rolling submissions for the assessment of drugs, again through the important regulatory improvements that were made during COVID-19. That's why we're investing in the National Research Council and the strategic science fund. That's why we're investing in a pharmacare pilot with Prince Edward Island. That's why we're investing in Moderna, Sanofi, AstraZeneca and many many other production, biomanufacturing, and research and development places and environments in Canada.

A lot of different things are moving on. We need to do that because, as you just said, there's a risk that all sorts of pandemics and epidemics, including influenza, may occur in the future.

● (1120)

Mr. Adam van Koeverden: Thank you, Minister.

[*Translation*]

The Chair: Thank you, Mr. van Koeverden.

It's now the Bloc Québecois' turn.

Mr. Thériault, you have the floor for six minutes.

Mr. Luc Thériault (Montcalm, BQ): Thank you, Mr. Chair.

Welcome, Minister.

In an organization chart published in the PMPRB's annual report, all the lines of communication and each person's responsibilities are shown.

In your term as minister, have you ever intervened directly with, or put pressure on, the organization's executive director?

Hon. Jean-Yves Duclos: The first thing I'm going to say, this time in French, is that we all need to—and I think we all do—recognize the importance of the role and the work done by the PMPRB. It's an independent quasi-judicial body, meaning that it's an organization that cannot…

Mr. Luc Thériault: That wasn't really what I was asking, Minister.

I'm talking about the PMPRB's organizational structure. I'm asking whether you have ever had direct contact with the executive director of the PMPRB and whether you pressured him to interrupt the reform process.

Hon. Jean-Yves Duclos: My answer was perhaps too lengthy. So the short answer is no.

Mr. Luc Thériault: It's no.

I'm still talking about the organizational structure.

Have you ever exerted pressure? During your term, have you ever had direct discussions with any members of the PMPRB, an organization that can hold hearings, and which has quasi-judicial power?

Hon. Jean-Yves Duclos: That's what I said in my answer to the first question. It's an independent quasi-judicial organization and there can be no political interference.

So the answer to your question is still no.

Mr. Luc Thériault: In this structure, I see that only the chairperson, in accordance with the roles identified, can assign responsibilities to board members. It can therefore not have any direct contact with you or your department, Health Canada.

Is that correct?

Hon. Jean-Yves Duclos: In such an important environment, respect for the autonomy and the quasi-judicial status of an agency like the board means that things have to be done properly.

You were right to say that…

Mr. Luc Thériault: What's your answer, yes or no? I don't have much time.

Hon. Jean-Yves Duclos: I'm taking about the same amount of time to answer as you took to ask the question.

The Chair: One moment, please.

Mr. Thériault, your question took 30 seconds, and you interrupted the minister after 10 seconds.

There is naturally some flexibility, but a certain balance needs to be maintained.

You may continue, Minister.

Hon. Jean-Yves Duclos: That's a very good question.

After having said all that, the answer is no. The only way the federal Minister of Health can contact the chairperson of the board is if the chairperson wishes to have this contact.

Mr. Luc Thériault: Had you heard that the chairperson wanted to get in touch with you?

Hon. Jean-Yves Duclos: I never received an invitation from the chairperson to do so.

Mr. Luc Thériault: During your term, you never attempted to get in touch with the chairperson, except on November 28, when you sent him a letter.

Is that what happened?

Hon. Jean-Yves Duclos: To begin with, it would have been inappropriate for me to want to contact the chairperson, unless he had set things in motion.

Secondly, the chairperson never asked to be in contact with the federal health minister.

● (1125)

Mr. Luc Thériault: Medicine prices can't be reformed without regulatory reform, which falls to your department. That means that the PMPRB takes action when there is the political will to change things. It has a duty, given its power as a quasi-judicial body, to introduce guidelines and conduct consultations in order to achieve the established goals, which means establishing reasonable prices.

Am I wrong?

Hon. Jean-Yves Duclos: The minister is responsible for the regulatory framework. That's why an new regulation came into force on July 1, 2022, to bring patented medicine prices in Canada in line with prices elsewhere in the world

The board, on the other hand, is an independent quasi-judicial body responsible for developing the guidelines needed to support the regulatory changes.

Mr. Luc Thériault: The PMPRB chairperson has two roles. In these, there can be a relationship with Health Canada for governance purposes. PMPRB board members cannot be in direct contact with PMPRB staff.

What did you have in mind when you wrote your letter of November 28? Did you want to curtail your reform? Did you feel this was a way of ending it, as suggested by Mr. Herder? Wasn't it an attempt to shelve the regulatory reform you had introduced?

Hon. Jean-Yves Duclos: For a start, the letter was sent in compliance with my ministerial obligations pursuant to subsection 96(5) of the Patent Act.

I'll ask Mr. Bélair to explain how the board operates and the kinds of dealings it can have with public servants and the minister.

The Chair: Is that your full answer?

Hon. Jean-Yves Duclos: If there are a few seconds left, Mr. Bélair could finish my response. Otherwise, we can return to it later.

The Chair: There's no time left. If you haven't finished answering, you could do so now. Otherwise, I will give the floor to Mr. Davies.

[*English*]

Mr. Davies, go ahead, please, for six minutes.

Mr. Don Davies (Vancouver Kingsway, NDP): Thank you.

Minister, on November 28, 2022, with less than one week left in a 60-day consultation process conducted by the PMPRB regarding their draft guidelines that would help lower the price of patented medicines in Canada, you wrote a letter to the acting chair asking her to halt the process. In a March 21 Globe and Mail article, you told reporters that you had no choice but to ask for this because the PMPRB did not consult with you about the guidelines, as required by law.

Minister, former PMPRB member Matthew Herder stated that the PMPRB made “repeated attempts using multiple channels” to speak with you and your office about the proposed guidelines, but all were “met with silence” whenever they were followed up on. Is that correct?

Hon. Jean-Yves Duclos: Let me start by saying that the common objective of all of this, including the other tool that I mentioned earlier, is to bring down the prices in Canada. The second objective is to make sure that the integrity and the independence of the process are supported by the work that I do and the work that my team also does. The third thing is that I have never received an invitation from the board, through its chair, to meet with members of the board.

Mr. Don Davies: PMPRB officials have confirmed that you are the only Liberal health minister, of the four ministers appointed since 2015, who has never asked for or accepted a briefing by the PMPRB on guidelines reform. Why is that?

Hon. Jean-Yves Duclos: My team—me included, obviously—follow the work of all agencies, organizations and members of the health portfolio. I receive briefings from my officials almost every day on matters of all sorts, including the—

Mr. Don Davies: Thank you, Minister. I'm going to hold you to the time I have, if I could, because I have a lot of questions to get through.

Minister, if the purpose of your intervention to halt the consultation process was to ensure that you were consulted on the guidelines, why have you resisted every attempt to be consulted by the PMPRB?

Hon. Jean-Yves Duclos: As I mentioned a moment ago, my responsibility is twofold: first, to respect the integrity, the independence of the board, and second, to answer when an invitation is sent. That wasn't sent in that case in—

● (1130)

Mr. Don Davies: Thank you.

I want to correct something. If I understood your answers to Mr. Thériault, you think you can't convene a meeting but must get an invitation from the board. Is that correct?

Hon. Jean-Yves Duclos: As I said earlier, I receive all sorts of briefings. That's important for me and my team to do my job and their jobs.

The second thing is that I must act in a way that doesn't interfere, doesn't put any political interference on the work of the independent PMPRB.

Mr. Don Davies: Minister, let me put the Patent Act to you. I'm going to read subsection 102(1) to you.

> The Minister may at any time convene a meeting of the following persons:
>
> (a) the Chairperson and such members of the Board as the Chairperson may designate;

Mr. Minister, you have the power under the Patent Act to call the chairperson of the PMPRB and any members of the board if you want to be consulted. Why didn't you do that if you wanted to be consulted?

Hon. Jean-Yves Duclos: As I said earlier, I must be very careful in not trying to interfere with the work of the PMPRB. In that context, as subsection 96(5) says, the minister has to be consulted. Therefore, that's why a letter was sent. That letter has now been public for many weeks. That requires a strong level of carefulness on my part, because I cannot be seen to act and I cannot act in a way that seems to interfere with the work of the board.

Mr. Don Davies: I understand, Minister.

The lobbying registry reveals that you and members of your political office met with pharmaceutical companies and lobbyists 15 times during the consultation period between October and December 2022 alone. Why would you meet 15 times with industry and not once with an agency in your own portfolio about these guidelines?

Hon. Jean-Yves Duclos: I meet with my partners, including provinces and territories. I meet with patient groups, with researchers. I'm having a meeting today with experts in the medical community. I meet with lots of people who are interested in and sometimes have a big role in protecting the health and safety of Canadians.

Mr. Don Davies: I understand that, Minister. I understand and respect that you met with everybody except for the PMPRB. The curious part is that you said you halted the process because the board has to consult with you, but you wouldn't reach out to the board to consult with them.

Mr. Herder, Mr. Clark and others will testify that they asked you repeatedly for these meetings. I'm not understanding why you wouldn't meet with the one body that you are statutorily required to meet with before the guidelines are issued.

Hon. Jean-Yves Duclos: As I said, I never received an invitation from the chair of the board. Had I received an invitation, I would have gladly met with the board. I must be very careful to not interfere with the board. This is critical to the independent and quasi-judicial role of the board.

Mr. Don Davies: Mr. Herder stated publicly the following:

> your "request"...[to] suspend...consultations for reasons that were...indistinguishable in form and substance from industry talking points...undermined the Board's credibility and interfered with [their] exercise of a function that goes to the...heart of [their] expertise as an independent...administrative tribunal.

Is that correct, Minister? If not, how was your reasoning different from that of industry?

Hon. Jean-Yves Duclos: The regulations that were put into place on July 1, 2022, are very important regulations. They are going to change the ability of the board to bring down the price of drugs in Canada to a level that is going to be more comparable to the level of 11 other countries in the world. These are fundamentally significant regulatory changes. That's why the board wants to implement the type of guidelines that will be supportive to the value and importance of those regulations.

In doing that, they have the difficult job of drawing up—

Mr. Don Davies: Thank you, Minister.

The Chair: That's your time, Mr. Davies. I'm sorry.

Mr. Don Davies: Thank you.

The Chair: Next is Mr. Aboultaif for five minutes.

Mr. Ziad Aboultaif (Edmonton Manning, CPC): Thank you, Minister.

The mandate of the PMPRB is to ensure that we get the best and most cost-effective drug pricing in Canada. This is not happening. We pay the third-highest prices in the world.

Do you believe that the negotiation for drug pricing is effective? If not, what can you do to improve it?

Hon. Jean-Yves Duclos: That's a great question.

I would say that we can be optimistic and supportive of what we've been seeing in the last few years, obviously in part through the big challenges of COVID-19, but this is an opportunity to, as we're doing now, build up the biomanufacturing sector in Canada through investments in Sanofi, in Moderna, in AstraZeneca, in other companies that are going to bring back to Canada lots of the biomanufacturing companies and expertise that we've unfortunately lost over the last decades.

● (1135)

Mr. Ziad Aboultaif: If the PMPRB is independent and they do their own work—and from the results that we've seen in front of us, they're not—how can you make sure that you influence their position to make sure that their mandate is fulfilled?

Hon. Jean-Yves Duclos: That's a great question.

Again, I would point to the fact that new regulations have now been in place since July 1, 2022. These regulations are supported by all stakeholders, and these stakeholders are in support of them because they know that with the work that the PMPRB will now be able to do, we're going to bring down the cost of drug prices and increase accessibility to these essential drugs.

Mr. Ziad Aboultaif: In view of the resignations that happened at the PMPRB, how do you explain the state of the morale in this organization?

Hon. Jean-Yves Duclos: You would need to speak to people, to members of the board.

As I mentioned earlier, my role is to be very careful. When I work with PMPRB, the PMPRB needs to remain independent and able to operate free of political interference, and that includes the activities and all of the environment in which they are operating.

Mr. Ziad Aboultaif: The PMPRB negotiates the pricing to get the best deal. The federal government and the provincial governments pay for these drugs. How can we make sure that we're getting the best value for the buck?

Hon. Jean-Yves Duclos: That's a great question. It's more complicated than that. Maybe, if you are interested, the deputy minister may want to add to this.

Yes, the PMPRB is key, but there is also what we call CADTH, which is the Canadian Agency for Drugs and Technologies in Health. There's also the pan-Canadian Pharmaceutical Alliance, which is supported by the federal government. Many other agencies and partners reinforce each other's activities so that overall, at the end, we end up with a system that is supportive of Canadians.]

Mr. Ziad Aboultaif: Minister, you've been the minister for the last three years, if I'm not mistaken, or maybe longer. Can you please name one or two incidents in which an effort was made by you and your department to make sure that we get the best value for the dollar as far as medicine costs go?

Hon. Jean-Yves Duclos: Well, I can speak for quite a few minutes on that.

I mentioned earlier the drugs for rare diseases strategy, which we announced just a few weeks ago, a $1.5-billion investment over the next three years. This is going to give Canadians with rare diseases—including thousands and tens of thousands of children, their caregivers, their families—access to those essential drugs that can be life-saving and can certainly help them to live a life that is as normal as possible.

That is not mentioning the Canadian drug agency that we are setting up, which is going to bring prices down through a national formulary, through bulk purchasing—

Mr. Ziad Aboultaif: I want just one high-cost item. Would you be able to name just one that we made an improvement on and reduced the cost of the drug?

Hon. Jean-Yves Duclos: I can give you all sorts of examples.

Again, the drugs for the rare disease strategy—

Mr. Ziad Aboultaif: I just want one, if you can name one for me, please.

Hon. Jean-Yves Duclos: Let me speak to.... Unfortunately, there won't be enough time.

Some hon. members: Oh, oh!

Hon. Jean-Yves Duclos: The deputy minister, who is—

Mr. Ziad Aboultaif: How much time do I have left?

The Chair: You have 30 seconds.

Mr. Ziad Aboultaif: Just one.

Dr. Stephen Lucas: As the minister indicated, the Patented Medicine Prices Review Board addresses excessive prices, and their findings and actions are matters of public record.

The pan-Canadian Pricing Alliance, which was originated by the provinces and territories, and in which the federal government participates through our drug plans, does negotiate the prices of drugs. For example, they have a framework for the prices of generic drugs as well as specific patented drugs, for which over $3 billion of savings have been achieved to date—

Mr. Ziad Aboultaif: Just one—just name one, please.

The Chair: That's all the time.

Ms. Sidhu, you have five minutes, please.

Ms. Sonia Sidhu (Brampton South, Lib.): Thank you, Mr. Chair.

Thank you, Minister and officials, for joining us for a very important study.

Minister, I want to start by giving you an opportunity to give an overview of why it's important for the PMPRB to get those guidelines right. We know they're so important for Canadians.

Hon. Jean-Yves Duclos: Thank you, MP Sidhu.

I would like to start by again mentioning the very important work you are doing in the fight against diabetes. We were asked just a moment ago how we are able to access available and affordable drugs to treat diabetes and eventually to cure diabetes. Through the framework that you helped develop, we're going to get there faster and better. This is a condition that impacts millions of Canadians, not to mention their caregivers, families, spouses and friends. Thank you for pointing to that.

I point to the PMPRB as one of the key agents that are going to be able to help increasingly, through the dollars and partnerships we're putting into place with lots of stakeholders. I have been visiting hospitals, research organizations and university labs over the last few weeks and months. I've seen the vast quantities of drugs that they're going to be able to develop, in part through artificial intelligence, linking biological treatments to the ability of cells to evolve and be cured, and genetic treatments that are increasingly being developed. That's thanks in part to the work and investments that we're making through Health Canada.

This is promising, but it needs continuing support. This is not an environment that we can take for granted. We're in competition with many other researchers, companies and countries outside of Canada.

Again, the fortunate thing is that technological and medical advancements are extremely promising. We can be proud of the hard work of loads of researchers in Canada.

● (1140)

Ms. Sonia Sidhu: Thank you, Minister.

One concern that some stakeholders have communicated is about striking a balance in regulations so that Canada remains an attractive country in which to conduct research and development. Could you talk a bit about how you are supporting pharmaceutical innovation in Canada and ensuring that Canadians have access to the drugs they need?

Hon. Jean-Yves Duclos: That's very good.

I'm not sure, Deputy Minister, if you're prepared to be even more explicit than I would be.

One example is having a more agile regulatory world. During COVID-19, we were able to streamline the regulations for drug approvals and clinical trials. We've been able to work with companies that are now investing strongly in Canada to invest even more in research and development. That is absolutely essential to reduce the cost and increase the availability of drugs. As you said, it's a balance. We need the two. We need drugs to be affordable, but we also need drugs to be developed and accessible to those who need them.

Through the strategic fund for innovation and the strategic fund for sciences, we're making parallel and incremental investments in the value of science and, equally importantly, in the importance of scientists in building a world, society and country in which people have access to not only the drugs of now but also the drugs of the future.

Ms. Sonia Sidhu: Thank you, Mr. Chair.

I will cede the rest of my time to MP van Koeverden.

Mr. Adam van Koeverden: Thank you, Mr. Chair.

Thank you, MP Sidhu.

The previous questioners were asking for examples of when the Patented Medicine Prices Review Board as well as the pan-Canadian Pharmaceutical Alliance were able to provide lower prices to Canadians. I think most MPs would recall a period of time in which we were all advocating for Trikafta, a cystic fibrosis drug, which is now available to Canadians at a fair cost because of the process that it went through.

In my riding, I have a young guy named Liam, who is getting stronger and stronger by the day. He's an incredible young man. He's an author. He's an advocate for those living with cystic fibrosis. That pan-Canadian Pharmaceutical Alliance was responsible for negotiating prices on—

The Chair: Mr. van Koeverden, please get to the question, because we're almost out of time. We want to make sure they have some time for a response.

Mr. Adam van Koeverden: I will. I wanted to provide either Mr. Lucas or Minister Duclos with an opportunity to elaborate more on why it's so important for the PMPRB to get the regulations right for Canadians.

The Chair: Respond briefly, please, Minister.

Hon. Jean-Yves Duclos: That's why we need and want to understand the broad context in which drug pricing and accessibility operate. The pan-Canadian Pharmaceutical Alliance is key when it comes to speaking about the specific pricing and accessibility of drugs in specific provinces and territories.

The PMPRB is a pricing regulatory board, so it deals with the pricing of patented drugs. However, when those regulations are made, then the drugs and the treatments need to go through CADTH and pCPA. Eventually, they can be used by clinical specialists and patients.

● (1145)

The Chair: Thank you, Minister.

[*Translation*]

Mr. Thériault, you have the floor for two and a half minutes.

Mr. Luc Thériault: Earlier, Mr Davies said that the PMPRB had tried on several occasions to contact senior officials or the minister at Health Canada.

When I look at the organization chart, I see the chairperson at the top. According to the structure—that is your structure, is it not—is the executive director authorized to be in direct contact with Health Canada to request a meeting?

With so many requests, how come you weren't aware of them? Perhaps the deputy minister could tell us. Does he have the answer to that?

Hon. Jean-Yves Duclos: I already gave my answer, but Mr. Bélair could no doubt add some clarification and details.

Mr. Eric Bélair (Associate Assistant Deputy Minister, Strategic Policy Branch, Department of Health): The executive director of the PMPRB is a public servant, and has the support of his team. My team at Health Canada maintains working relations, and exchanges information with, members of his team. We make sure that we are not working in isolation and exchange information about the work each of us is doing.

Mr. Luc Thériault: So the PMPRB is not just a quasi-judicial tribunal. The staff also do research and handle other tasks. I would imagine that there are also operational discussions. So there's a dual mandate.

When you look at the roles and responsibilities of the PMPRB, it's clear that the chairperson needs to have considerable discretion.

The Privy Council guidelines for departments state the following:

> Ministers must not intervene, or appear to intervene, with tribunals on any matter requiring a decision in their quasi-judicial capacity, except as permitted by statute.

So they can't appear to intervene on behalf of any person or entity.

Now the minister is responsible for the PMPRB. He has to consult with the chairperson occasionally. There have to be communications from time to time.

Did the executive director ask to communicate with the minister? Did you get wind of that? If so, why did the minister not receive the requests?

The Chair: Mr. Thériault's speaking time is over, but we would like a response from the minister, without interruption.

You have the floor, Minister.

Hon. Jean-Yves Duclos: Thank you.

As I said earlier, I have to be extremely cautious in my direct relationship with the chairperson of the board.

As Mr. Bélair said just now, and as you correctly mentioned, Health Canada officials need to collaborate with board officials, but the work is done at their level.

The Chair: Thank you, Minister.

[*English*]

Next we have Mr. Davies, please, for two and a half minutes.

Mr. Don Davies: Thank you.

Subsection 96(5) of the Patent Act says, “Before the Board issues any guidelines, it shall consult with the Minister”.

Section 102(1) says, “The Minister may at any time convene a meeting of the following persons: (a) the Chairperson....”

You're saying that we had to halt these because the chair didn't ask you to consult and you didn't ask the chair to consult. Do I have that correct?

Hon. Jean-Yves Duclos: I have an obligation, and the board has an opportunity. My obligation is to follow, as you just said, the requirements of section 96(5). In that context, I had the obligation to provide my views, and I invited the board to consider extending and suspending the consultation period.

The opportunity is for the board, and the chair of the board in particular, to invite me to meet them if they want that to happen.

Mr. Don Davies: Thank you.

I might have time. Have you had that consultation with the chair to date?

● (1150)

Hon. Jean-Yves Duclos: I haven't received an invitation from the chair until now.

Mr. Don Davies: In the acting chairperson's letter of November 30, in response to your letter of November 28 to her, she said she was extremely surprised to learn of your concerns with the consultations on the guidelines because she had understood from multiple meetings between Health Canada and PMPRB officials that the department was, in her words, comfortable with and supportive of the approach.

Why did you wait until a week before the consultations closed to advise the PMPRB of your concerns if your officials were comfortable with the policy approach?

Hon. Jean-Yves Duclos: I sent that letter, which is public and which Canadians and people listening to us can read easily.

In that letter, I invited the board to consider extending or suspending consultations because I felt that my colleagues in provinces and territories, patient groups and other important stakeholders needed to have more time.

Mr. Don Davies: Didn't provinces and territories have every opportunity to submit their views on the draft guidance in the 60 days, as Quebec did?

Hon. Jean-Yves Duclos: As I said, my role is to respect the independence and the quasi-judicial role of the board. My role is also to make sure that the health and safety of Canadians is—

Mr. Don Davies: Have you consulted with the provinces and territories to date?

Hon. Jean-Yves Duclos: I have had many engagements, obviously through COVID-19, on the importance of increasing access and—

Mr. Don Davies: No, I mean on the guidelines. You said you wanted to halt these because you wanted to consult the provinces and territories on the PMPRB guidelines. Have you had those consultations with the provinces and territories?

Hon. Jean-Yves Duclos: I have had conversations, and I believe that the board will probably want to have its own consultations with these important stakeholders and partners. We're all in the same boat. We all want to reduce the cost of drugs—

Mr. Don Davies: It's six years later, Minister, and not a single reform has been put in place in six years. Are you not concerned about that?

The Chair: I'm sorry, but that's all the time.

Do you want to respond to that briefly, Minister?

Hon. Jean-Yves Duclos: On July 1, 2022, just a few months ago, we introduced very important regulations that will help bring down drug prices in Canada.

The Chair: Thank you, Minister.

Dr. Kitchen, go ahead, please, for five minutes.

Mr. Robert Kitchen (Souris—Moose Mountain, CPC): Thank you, Mr. Chair.

Thank you, Minister.

The unfortunate part of being near the end is that people have already asked a lot of the questions that I wanted to ask you. Apparently we've received a lot of non-answers, so maybe I'll try the questions from a different angle and see if we can get answers.

Minister, your press secretary said in an email statement that you've never received a formal invitation to be briefed by the former PMPRB board chair, Mr. Herder, yet Mr. Herder stated that the PMPRB made repeated attempts using multiple channels to reach your office and was met with silence.

You've indicated that you've published a letter that you put out there to be transparent. Would you, then, provide for this committee the correspondence and any interactions that you've had with PMPRB?

Hon. Jean-Yves Duclos: Thank you.

Again, my role—and I take it very seriously—is not to interfere with the board. The board is independent and quasi-judicial. That is essential for the board to do its job appropriately.

I have not received an invitation from the chair of the board. Had I received such an invitation, I would have accepted.

Mr. Robert Kitchen: I take that as a “no” to my question.

Hon. Jean-Yves Duclos: On the question of exchanging information, the letter that was sent to the board is available on the Internet. We can easily access it. Google it and you'll find it immediately.

Mr. Robert Kitchen: Thank you, Minister. I appreciate that.

You've been in your role since 2021, and yet Mr. Herder has stated that “This is the only minister of health to be appointed under the Liberal government who has not had a briefing on proposed changes to our guidelines.”

Why have you not taken a briefing?

Hon. Jean-Yves Duclos: Of course I have had briefings on these matters, as well as on many other matters in Health Canada. These briefings occur every day. I follow closely the work of the board.

My responsibility is to be protective of the independence of the board. I cannot interfere in the work of the board, although I follow it closely. I have to be extremely careful in my relationships with the board.

Mr. Robert Kitchen: I'm taking that to mean that you have not heard from the PMPRB and that therefore Mr. Herder is misinforming us that you have not taken a briefing from the PMPRB.

Hon. Jean-Yves Duclos: I have briefings with my officials. Mr. Bélair—

Mr. Robert Kitchen: The question was about the PMPRB.

Hon. Jean-Yves Duclos: That includes on the PMPRB, obviously, and Mr.—

Mr. Robert Kitchen: I mean with PMPRB.

Hon. Jean-Yves Duclos: You questions are excellent. I just need a bit more time to answer them.

If you want to know more, in detail, Mr. Bélair could, at his level, brief you on the type of work that he does with the board members and with the officials, because there are about 100 people working at the PMPRB.

● (1155)

Mr. Robert Kitchen: I'm not asking for the officials' meetings with the PMPRB. I'm asking for yours.

Hon. Jean-Yves Duclos: When I meet with the board members, it has to be under the invitation of the chair. In matters that are sensitive, I need to be very careful to protect the integrity and independence of the board members. That's why I provided the answer that you heard earlier.

Mr. Robert Kitchen: Minister, lobbying records show that you and your staff met with representatives from pharmaceutical companies at least a dozen times this fall. I suspect from what I'm hearing today that you had a lot more meetings than just that.

Ultimately, you've been unable to meet with the former PMPRB board chair to receive that briefing, as we just talked about. The PMPRB falls under your purview as minister, so why could you manage to meet with big pharma reps but not with the PMPRB?

Hon. Jean-Yves Duclos: I must have met with thousands of stakeholders and partners over the last year. We've been through COVID-19. We are in a world in which health and health care are one of the biggest challenges of humanity. This is the challenge of the next generation of researchers and manufacturers, just like fighting against climate change and recognizing technological innovation, diversity and inclusion and the geopolitical situation in the world. These are big challenges.

I meet with lots of people, patient groups, researchers, experts—

Mr. Robert Kitchen: Thank you, Minister. Again, you haven't met with PMPRB.

I see that I'm running out of time here.

One of my colleagues questioned you to give just one example of one medication that might be out there. I'm going to give you one chance again to give us that one example.

Hon. Jean-Yves Duclos: We'll send you hundreds of examples of drugs that—

Mr. Robert Kitchen: I just want one right now, Minister.

Hon. Jean-Yves Duclos: I'll give you thousands, if you want.

Mr. Robert Kitchen: I want one, Minister.

Hon. Jean-Yves Duclos: In the last year—and it will be even better in the next few years—we have invested immensely in biomanufacturing.

Mr. Robert Kitchen: I'm counting—

Hon. Jean-Yves Duclos: I will invite you to visit me in hospitals and clinical settings and research environments in which—

Mr. Robert Kitchen: My four-year-old granddaughter can count to 10. Can you give me one?

Hon. Jean-Yves Duclos: Things are moving forward at a pace for which we should all be grateful.

Mr. Robert Kitchen: The answer is no.

Hon. Jean-Yves Duclos: Researchers and scientists are putting so much of their work and talent into providing better access and lower prices for large numbers of drugs, which I will be happy to give details to you on.

The Chair: Thank you, Minister.

The last round of questions for this panel will come from Dr. Powlowski, please, for five minutes.

Mr. Marcus Powlowski (Thunder Bay—Rainy River, Lib.): I'm trying to understand the nature of the controversy and the timelines here.

The PMPRB issued draft guidelines on October 22 and they wanted to bring these into effect in December, right? There is a requirement for consultation.

It would seem to me that if you issue guidelines in October and you have basically the month of November, that isn't a lot of time to consult with various stakeholders. Does that not seem to be the case with you as well?

Hon. Jean-Yves Duclos: Yes. You correctly point to an important connection between the importance and the timing.

The regulations that were put into place on July 1, 2022, are significant regulations. We're changing completely the basket of countries to which we want to compare our drug prices in Canada. This is a fundamental change in the ability of PMPRB to decrease prices and increase the availability of drugs in the next years and decades.

That's why we know that PMPRB will need to take the time and put in the efforts needed to draft and to issue the guidelines that are essential to support those regulations.

It's correct to say that the PMPRB has a big responsibility to assume and considerable work to put into place. We have full confidence in them. However, as you pointed to, I issued a letter in which I encouraged the board to consider taking more time to get those guidelines right.

Mr. Marcus Powlowski: That wouldn't seem to me to be the wrong thing to do.

Where we're going from here in terms of.... I think we're focusing on one part, but this has been an ongoing process. In 2017, there were other guidelines issued. The issue went to court. The court decided that part of those guidelines weren't within the mandate of the PMPRB. They came out with these other guidelines. I think you probably quite correctly said that there ought to be more consultation on this process.

In this ongoing process, where are we going from here?

● (1200)

Hon. Jean-Yves Duclos: That's right. Again, the board is independent, quasi-judicial. It has the ability, the talent and the support needed to write those guidelines. How exactly it will do that is for them to decide.

If you are interested, you can probably invite any of them—I think you will be speaking to some of them today and next week—to ask them about the ways in which they want to proceed to get those guidelines right.

These guidelines, as I just said, are essential. We need to have them right if we want the regulatory power of the changes that were put into place in July 2021 to be maximized.

Mr. Marcus Powlowski: The Canadian public ought then to expect in the coming months or year that further guidelines will be issued and that there will be ongoing consultation before guidelines that everybody is aware of are arrived at, including the ministry.

Hon. Jean-Yves Duclos: That is correct. That's right.

It's a fair question to ask, and I would invite you to ask it to the appropriate board leadership.

Mr. Marcus Powlowski: This question is not necessarily for you, Minister.

In Mr. Herder's letter of resignation, one of the things he mentioned was that we failed to appeal the Quebec Court of Appeal decision that struck down certain parts of the guidelines. Can someone in your group answer as to why we decided not to appeal that decision?

Hon. Jean-Yves Duclos: It's a great question. I will turn to Mr. Abu-Zahra, who is here and very talented.

Mr. T. Nessim Abu-Zahra (Counsel, Health Legal Services Unit, Department of Justice): Thank you.

Just briefly, the decision as to why this appeal wasn't sought is quite well laid out in the regulatory impact analysis statement. That's the statement that traditionally accompanies the regulatory amendments.

In June 2022, when the Governor in Council repealed the amendments, the RIAS contained a nice explanation about why the decision was made at the time to not pursue the litigation. I direct people to that, but the high-level explanation is that, as is stated in the RIAS, the decision about the evolving pharmaceutical landscape was a policy decision that the Minister of Health made, certainly informed, as set out, by the court decisions. However, I think the Governor in Council's rationale for the repeal was focused on that evolving landscape, which, again, was really set out quite well in the RIAS, which I won't take you through.

The Chair: Thank you, Dr. Powlowski.

To you, Minister and to your officials, thank you so much for being here with us today.

I know the format is difficult, but time is the currency of Parliament, and it's hard to divvy up currency in a manner that satisfies everyone. We appreciate your patience and we appreciate your service to your country. We thank you very much for being with us.

Colleagues, we're going to suspend while we allow the witnesses to take their leave and we bring in our next witness of the day.

Thank you all. The meeting is suspended.

● (1200)

_____(Pause)_____

● (1210)

[*Translation*]

The Chair: We are now reconvening the meeting.

In the second part of the meeting, we are welcoming Ms. Mélanie Bourassa Forcier.

Ms. Bourassa Forcier, thank you for having taken the time to appear before us today. You have five minutes for an opening address. I know that you were in attendance during the appearance of the last group of witnesses, and so I trust that you are comfortable with how we operate here.

You have the floor.

Ms. Mélanie Bourassa Forcier (Full Professor, As an Individual): Thank you, Mr. Chair.

I'd like to thank the members for having invited me to testify here today.

My name is Mélanie Bourassa Forcier. I'm a lawyer and a full professor in law at the Université de Sherbrooke. I have a Masters degree in international health policy, majoring in pharmacoeconomics and health economics. In the course of my studies, I focused on several international models for the regulation of innovation and for controlling medicine prices.

I also have a doctorate in law, and my thesis was on Canada's pharmaceutical patents policy. I studied the theory of rational choice and how this interest affected the formulation of public policy and the behaviour of interest groups. Also in my thesis, I addressed various innovative pharmaceutical industry policy strategies, which among other things made it possible to amend the Patent Act on two occasions.

As a professor, I give courses on pharmaceutical law and policy, on health systems governance and on accessibility challenges, particularly among Canada's indigenous communities. As a researcher, I am directing several research projects, one of which is on the social responsibility of the pharmaceutical industry, and on equitable access to patented medicines and vaccines in a pandemic. I have also worked on several occasions on governance, ethics and listening to stakeholders.

I was an ethics and regulatory commissioner for Quebec's Commissaire à la santé et au bien-être, an independent body that is part of Quebec's ministère de la Santé. I am also a member of the Commission de l'éthique en science et en technologie du Québec.

I am here before you in my capacity as a former member, vice-chairperson and acting chairperson of the PMPRB. I was appointed to this position by the Governor in Council in June 2019. I resigned on December 5, 2022.

I'd like to use these few minutes available to me to give you my vision of the board and to make a few recommendations that we might discuss during the round of questions.

I believe that the board is a key organization. Its impressive research division does thorough work. The studies from this division are an excellent source of information for the scientific community.

My view is that the board's quasi-judicial role should be completely separate from its operational role. Its members should only deal with the quasi-judicial sphere, which in turn should be limited to reviewing excessive prices for patented medicines.

As the chairperson is the only person in contact with staff, the minister and the stakeholders, he ought not to sit during hearings. The operational role of the board should be more flexible and allow for innovations in both policies and practices.

The board's mandate should also be clarified. I would ask you the following question: is its only mandate to control excessive pricing of patented medicines, or is its role to ensure accessibility to patented medicines for Canadians?

To ensure effective governance, a serious review of the internal operating rules is required. The board should establish clear and transparent operating procedures for itself. It should also, moreover, provide independent external protection and support for members appointed to the body.

With respect to guidelines, if the board were to keep its mandate as it is, its members should have timely access to the contents of submissions presented in consultations.

More comprehensively and broadly, in terms of innovation and accessibility to medicines, I recommend creating a registry that would monitor the rate of penetration of medicines in Canada as compared to other countries; to review the definition of research and development and to promote research and development being carried out in Canada; and to promote medical innovations, with a capital "I". I further recommend that the Government of Canada maintain a public registry of innovations resulting from public funding, whether solely or in partnership with industry, and that it ensure that what it is funding becomes available in the Canadian market. I further recommend that it establish a fund that will could provide independent financing for groups of patients.

Lastly, this consultation being carried out as part of your study pertains to the quasi-judicial functions of this organization, as well as the rules and decisions of its members acting in that capacity.

● (1215)

Although these members are subject to confidentiality requirements, I will make an effort to answer your questions to the best of my knowledge, with due regard to these requirements.

Thank you.

[*English*]

The Chair: Thank you, Dr. Bourassa Forcier.

We will now begin with rounds of questions, starting with the Conservatives for six minutes.

Go ahead, please, Dr. Kitchen.

Mr. Robert Kitchen: Thank you, Mr. Chair.

Thank you, Madam Forcier. I apologize if I pronounced that wrong.

[*Translation*]

I only speak a little French.

Ms. Mélanie Bourassa Forcier: That's okay.

[*English*]

Mr. Robert Kitchen: Anyway, thank you.

I appreciate your comments, and thank you. We have your letter, which is in front of us. We've had a chance to review it.

I'm wondering if you could, just for those who are watching.... Ultimately, your role basically was as vice-chair and then acting chair. Mr. Herder was chair, but there is a bit of a difference. Can you explain briefly what those differences are between the two?

[*Translation*]

Ms. Mélanie Bourassa Forcier: In fact, I was appointed by the Governor in Council as a member and vice-chairperson of the PMPRB. The board has five members appointed by the organization, and they are the vice-chairperson, the chairperson and three other members.

Mr. Herder was one of these members. So I was the vice-chairperson and member, and there was the chairperson, who left that position at the end of the term. Accordingly, it remained unfilled until there was a new appointment. I want to point out that I never put my name forward for the position of chairperson; I acted on an interim basis while waiting for a new chairperson to be appointed.

[*English*]

Mr. Robert Kitchen: Thank you for that.

With regard to the roles, basically there are members of the PMPRB who do the investigation, correct? Then we have members who are the five who sort of “overview” things, correct?

[*Translation*]

Ms. Mélanie Bourassa Forcier: It's a complex organization. If you look at the organization chart, There's the personnel side, which includes an investigation division and a research division, which I spoke about. The investigation division is responsible for reviewing the prices of medicines. When the investigation division concludes that the price of a patented medicine may be excessive, the pharmaceutical company is advised, and it can challenge the determination. In the event of a challenge, there may be a hearing, which would be attended by two members of the board, appointed by the Governor in Council.

So that's one of the roles of the members. As Mr. Davies mentioned earlier in exchanges with the minister, another role of the members is to work on developing guidelines and to handle the consultation process, as provided in section 96 of the Patent Act. That applies only to the members.

● (1220)

[*English*]

Mr. Robert Kitchen: Thanks for that clarification.

The minister—who is separate, whoever that minister may be—is there to.... Ultimately, it's the issue of transparency and making certain that they are transparent as they move forward, but ultimately, the minister needs to know what the PMPRB is doing, correct?

The minister indicated earlier today that he has met with lots of pharma companies but that he has not met with the PMPRB. Is that unusual?

[*Translation*]

Ms. Mélanie Bourassa Forcier: I did that in an acting capacity starting in November 2021. All I can tell you is that I never met the minister during that period. There were times when I would have like to meet him, but having already worked at the provincial level, I'm well aware of the fact that the reporting structure within government organizations must also be complied with.

I was told that to meet the minister, I would have to wait for him to invite me. I therefore never met him because I never received an invitation.

[*English*]

Mr. Robert Kitchen: Thank you.

You never received an invitation. Mr. Herder has stated that the PMPRB made repeated attempts to reach the minister's office using other channels, yet they never got any answer back. Would you find that unusual from any minister, with the years that you've been there?

[*Translation*]

Ms. Mélanie Bourassa Forcier: Once again, I think it's a matter of following the government reporting structure. Mr. Bélair talked about that. I joined in 2019, and was the most recent PMPRB appointee.

[*English*]

Mr. Robert Kitchen: Thank you.

Very quickly, could you describe the morale of the staff?

[*Translation*]

Ms. Mélanie Bourassa Forcier: The officials basically met with colleagues at the same level. To my knowledge, the executive director, in keeping with tradition, met Mr. Bélair, and the PMPRB chairperson met with deputy minister Lucas or the assistant deputy minister. As I had very few meetings, it's difficult for me to talk to you about them. I recollect meeting with Mr. Bélair and Mr. Lucas once or twice. So it's a matter of the reporting structure.

The Chair: Thank you.

I know that you were a little concerned about the breakdown of the speaking time between the witnesses and the members, but I must inform you that members are entitled to interrupt you if your reply is taking too long. That said, I think that they would give you more latitude than they would for the minister. You can answer in any way you wish, but if the members find that you're taking too long, they are entitled to interrupt.

Ms. Mélanie Bourassa Forcier: All right. Thank you.

The Chair: As I was saying, the members are usually a little more aggressive with ministers than other witnesses.

Ms. Mélanie Bourassa Forcier: I'm happy to hear that.

● (1225)

[*English*]

The Chair: Mr. van Koeverden, go ahead for six minutes, please.

[*Translation*]

Mr. Adam van Koeverden: Thank you, Mr. Chair.

We are fortunate here today to have someone as knowledgeable as you with us, Ms. Bourassa Forcier. Thank you for the work you've been doing and for having come today.

Are you in agreement with the version of events that Mr. Matthew Herder put in his letter of resignation?

Ms. Mélanie Bourassa Forcier: I have read and reread my former colleague's letter of resignation and to be honest, it's difficult for me to state a preference for any single version of events. So it's difficult for me to answer your question.

Can you tell me what, specifically, you are alluding to?

Mr. Adam van Koeverden: Yes.

Do you believe that the minister and the government undermined the independence and credibility of the board, as Mr. Herder stated in his letter?

Ms. Mélanie Bourassa Forcier: As I wrote in my letter to explain my resignation, which I published on March 3, 2023, I never felt personally that there was any interference by the minister following his official request to us to suspend the consultation process.

As Mr. Davies pointed out, section 102 of the Patent Act gives the minister the power to intervene pursuant to section 79 and the following sections. That therefore includes section 96, which is applicable to the PMPRB consultation period. The minister added that as a stakeholder pursuant to subsection 96(5), he could do so.

Mr. Adam van Koeverden: Thank you.

In your letter, you said that you had the impression that the board had not satisfactorily fulfilled its consultation duties.

What other specific obstacles did you encounter with respect to consultations?

Ms. Mélanie Bourassa Forcier: Do you want me to talk about obstacles in connection with the consultation period or, more generally, those related to the fulfilment of our mandate?

Mr. Adam van Koeverden: I'd like you to talk about the obstacles that prevented you from counteracting the stakeholders and officials.

Ms. Mélanie Bourassa Forcier: I'd rather explain it without talking about obstacles.

Earlier, there was a brief discussion of the Quebec Court of Appeal's decision, which was very clear about the importance of observing areas of jurisdiction.

We even received, during the various consultation periods preceding the final one, a significant number of submissions from groups of patients who were very concerned about access to medicines. It therefore struck me as important to take the time to meet our legal obligations pursuant to subsection 96(5) and to conduct a significant consultation process.

Not only must we meet with and listen to the stakeholders, but also make sure that the guidelines we are going to introduce will survive any court proceeding that might subsequently be initiated.

Mr. Adam van Koeverden: Thank you.

Do you agree with the Quebec government's decision on areas of jurisdiction?

● (1230)

Ms. Mélanie Bourassa Forcier: Are you asking me whether I agree with the Court of Appeal's decision?

Mr. Adam van Koeverden: Yes, that's right.

Ms. Mélanie Bourassa Forcier: I'm a lawyer. My way of thinking is strictly legal.

As I mentioned in my letter of resignation, at the interview that led to my appointment as vice-chairperson, the reform had already been announced and I had some doubts about the constitutionality of certain parts of the reform. I was therefore not surprised about the Quebec Court of Appeal's decision.

Mr. Adam van Koeverden: Thank you very much Ms. Bourassa Forcier.

[*English*]

The Chair: Thank you, Mr. van Koeverden.

[*Translation*]

Mr. Thériault, you now have the floor for six minutes.

Mr. Luc Thériault: Thank you, Mr. Chair.

Thank you, Ms. Bourassa Forcier.

Is there a document about the code of conduct for members of the board, given that they have quasi-judicial power that assigns them obligations, including with respect to neutrality or impartiality, and which would regulate their capacity to do certain things? If so, could you send a copy to the committee?

Ms. Mélanie Bourassa Forcier: When I joined the board as a member and as vice-chairperson, I was sent a document of revised Guidelines for the Conduct of Members of the Patented Medicine Prices Review Board. I did some research to see if there was another code that might be applicable to the organization, apart from the one applicable to officials, and whose purpose was to prevent conflicts of interest.

I'd be happy to send a copy to the committee.

Mr. Luc Thériault: Excellent. Thank you.

Does it explain why you responded that way on March 3, 2023? The starting point, meaning the letter from the minister on November 28, 2022, triggered a sequence of events, including your resignation on December 5, 2022.

What happened that would lead a person as competent as you are, in view of your background, to resign at that point?

Ms. Mélanie Bourassa Forcier: As I explained in my letter of resignation, when I became a member of the PMPRB, I thought that I had been recruited because of my expertise and knowledge of policies pertaining to innovation in, and access to,medicines, and because of my publications on the joint development of public policy and consultation processes.

Whether professionally or personally, my reputation is usually that of someone who takes action, and I try to conduct my research projects that way as well. I'm known as someone who can bring together parties that are opposed at the outset. I try to find things that people can agree on in order to move things forward at a societal level.

Mr. Luc Thériault: Excuse me for interrupting, but that's a bit long.

Ms. Mélanie Bourassa Forcier: I realized that I couldn't achieve that objective and therefore resigned.

Mr. Luc Thériault: The approach or direction taken by the chairperson was challenged, but by whom?

Ms. Mélanie Bourassa Forcier: I wouldn't say challenged, but rather that people had a different view of things.

Mr. Luc Thériault: This realization shook you to such an extent that you no longer felt comfortable there.

Is that it?

Ms. Mélanie Bourassa Forcier: That's right. I felt that I couldn't make a contribution.

Mr. Luc Thériault: What did the minister's letter of November 28, 2022 trigger internally at the board that led you to resign?

Ms. Mélanie Bourassa Forcier: I'd like to rectify something. I didn't resign as a result of the minister's letter. It was really because I had come to the conclusion, as I said in my letter, that it would be impossible to move forward.

Mr. Luc Thériault: All right.

Do you feel that the current guidelines comply with the areas of jurisdiction and the Court of Appeal's decisions?

● (1235)

Ms. Mélanie Bourassa Forcier: Are you talking about the PMPRB's proposed guidelines?

Mr. Luc Thériault: Yes I am.

Ms. Mélanie Bourassa Forcier: I'm speaking here today as an individual. The proposed guidelines could have involved a risk from the legal standpoint. They could even have made it possible to indirectly do things that could not be done directly. That's why I felt it was appropriate to take the time to read them closely.

Mr. Luc Thériault: The Court of Appeal ruled that the second and third points initially planned were unconstitutional. You told us that the guidelines currently being studied would accomplish directly what these two points would have done.

Is that right?

Ms. Mélanie Bourassa Forcier: I don't know. It's something that would have to be looked at in depth., Hence the importance of holding consultations on the subject.

Mr. Luc Thériault: You've been saying that the PMPRB's mandate needs to be clarified. What do you mean by that?

Ms. Mélanie Bourassa Forcier: As I said in my presentation, is the PMPRB's role strictly to ensure that the price of patented medicines is not excessive, or is it a body that ensures access to medicines at a price that is not excessive? There's a big difference there.

To give you a short answer, please read the briefs presented during the last or second-last consultation period. Some briefs implied that imposing a price that was too low might have a very significant impact on access to medicines in Canada. That's why this part of the mandate needs to be looked at carefully, because it might be viewed very differently by parliamentarians or even by people at the PMPRB.

[*English*]

The Chair: *Merci beaucoup.*

Mr. Davies, go ahead for six minutes, please.

Mr. Don Davies: Thank you.

Madame Bourassa Forcier, do you support the minister's decision to suspend the PMPRB consultations on the guidelines in order to do more consulting with stakeholders?

[*Translation*]

Ms. Mélanie Bourassa Forcier: I support that decision.

[*English*]

Mr. Don Davies: Okay, thank you.

[*Translation*]

Ms. Mélanie Bourassa Forcier: It's important. You need to take the time to meet the various parties, whether in the consultation process or otherwise, and see if it might be possible to extend it.

[*English*]

Mr. Don Davies: I have your answer. Thank you.

In a briefing note from you to the minister dated December 8, 2021, you said that the PMPRB spent over 110 hours meeting with industry stakeholders alone during the previous round of consultations on guidelines reform in 2019 and 2020, but that the industry steadfastly refused to engage on the substance of the changes.

Do you stand by that statement?

Ms. Mélanie Bourassa Forcier: Yes.

Mr. Don Davies: In that same briefing note, you said that after five years, myriad policy proposals and many hundreds of hours of consultation, it would appear that the pharmaceutical industry is simply not amenable to any measure that would further constrain its ability to sell patented medicines in Canada at free-market prices.

Do you stand by that opinion?

Ms. Mélanie Bourassa Forcier: Yes.

Mr. Don Davies: In the letter you posted in LinkedIn on March 3, explaining why you resigned from the board, you described the PMPRB's consultations on new guidelines as a “dialogue of the deaf”. Is that correct?

[*Translation*]

Ms. Mélanie Bourassa Forcier: Yes, that's right.

[*English*]

Mr. Don Davies: But you think that we should have more consultations.

[*Translation*]

Ms. Mélanie Bourassa Forcier: Yes I do.

[*English*]

Mr. Don Davies: Okay, but with the pharmaceutical industry?

[*Translation*]

Ms. Mélanie Bourassa Forcier: Consultations are needed with all the stakeholders, not just those from the pharmaceutical industry.

[*English*]

Mr. Don Davies: We have a little bit of what I would call a Mexican standoff here.

Subsection 96(5) of the Patent Act says,

> Before the Board issues any guidelines, it shall consult with the Minister....

Then section 102 of the act says,

> The Minister may at any time convene a meeting of the following persons:
>
> (a) the Chairperson and such members of the Board as the Chairperson may designate;

You have testified that you were waiting for the minister to invite you. Is that correct?

Ms. Mélanie Bourassa Forcier: Yes.

Mr. Don Davies: The minister says that he didn't think it was appropriate to contact you. Did you hear that testimony?

Ms. Mélanie Bourassa Forcier: Yes.

Mr. Don Davies: It seems a little bit hard to figure out how such a consultation will occur when the two people who have to consult don't think that either of them can talk to the other.

The confusing part is that in your letter of March 3—these are your words—PMPRB staff failed to follow up on my request to meet with the Minister of Health, “despite my insistence”.

● (1240)

[*Translation*]

Ms. Mélanie Bourassa Forcier: Yes, that's correct.

[*English*]

Mr. Don Davies: I thought you said that you were waiting for the minister to invite you, but your letter says that you were trying to meet with the minister.

Can you explain that?

[*Translation*]

Ms. Mélanie Bourassa Forcier: So I'm expecting as much time as it took you to ask me the question. Thank you.

I'll explain the situation.

The rule said that I couldn't meet with the minister. I was told that my position was equivalent to that of a deputy minister reporting to a minister and that I had to wait to be called by the minister to meet him. It wasn't necessarily linked to the consultation period. When I realized that there was a communications problem between Health Canada and the PMPRB, I wanted to get in touch with the minister to re-establish a dialogue. I asked to meet the minister, but was told that I was not following the proper reporting structure.

[*English*]

Mr. Don Davies: Who did you ask?

[*Translation*]

Ms. Mélanie Bourassa Forcier: I had asked my secretary.

[*English*]

Mr. Don Davies: It was your secretary. Okay.

[*Translation*]

Ms. Mélanie Bourassa Forcier: I will conclude.

I asked to meet him. I didn't get a reply.

I officially asked to meet the minister in connection with his letter of November 28, 2022. You'll see my request in the letter of November 30, 2022 that was addressed to him. This led to a meeting on November30, 2022, not with the minister, but with Mr. Lucas, the Deputy Minister of Health Canada.

[*English*]

Mr. Don Davies: I don't want to stop you, but I think that's enough time.

Minister Duclos' spokesperson, Guillaume Bertrand, told reporters in an email statement “that the minister never received a formal invitation to be briefed on PMPRB activities by the PMPRB...chair.”

If you wanted a meeting and the statute requires you to consult with him before the guidelines go forward, and you're the chair of the board and you report directly to him, why didn't you simply send him a formal request to meet?

[*Translation*]

Ms. Mélanie Bourassa Forcier: I made the request internally, but it wasn't followed up.

[*English*]

Mr. Don Davies: It was through your secretary.

[*Translation*]

Ms. Mélanie Bourassa Forcier: Yes, that's right.

[*English*]

Mr. Don Davies: Okay.

In your letter, you stated that not extending the consultation period entailed risks that you personally did not want to take as acting chair of the PMPRB, including withdrawal and/or non-marketing of medicine or, in the future, vaccines in a pandemic.

Did you ever hear of any direct or implied threat from the pharmaceutical industry, its representatives or its lobbyists that proceeding with PMPRB reform might jeopardize pandemic vaccine availability for Canadians?

[*Translation*]

Ms. Mélanie Bourassa Forcier: Do you want to know whether I received threats directly or if I had heard about any?

[*English*]

Mr. Don Davies: Yes, either one.

[*Translation*]

Ms. Mélanie Bourassa Forcier: I think we've all heard about threats of this kind in the media.

[*English*]

Mr. Don Davies: Well, you're the chair of the PMPRB. I think you're certainly in a different position from all of us.

You said you were concerned about that—that if we proceeded with PMPRB reform, maybe—

[*Translation*]

Ms. Mélanie Bourassa Forcier: Yes I was worried about that.

[*English*]

Mr. Don Davies: —pharmaceutical companies might withhold vaccines. Did you ever hear that from any pharmaceutical lobbyist or representative, directly or indirectly?

[*Translation*]

Ms. Mélanie Bourassa Forcier: I would ask you to read the submissions that were made in connection with the last consultation period. They are available online. They show the various concerns that were expressed, including from groups of patients. There was also a peer-reviewed scientific paper on the subject.

[*English*]

The Chair: Thank you, Mr. Davies.

Dr. Ellis, go ahead for five minutes, please.

[*Translation*]

Mr. Stephen Ellis: Thank you, Mr. Chair.

I apologize for interrupting the meeting, but I'm going to introduce a motion that I think is really important. There is no disrespect towards the witnesses, but I think this motion is very important.

[*English*]

The motion, sir, as written is:

> That pursuant to Standing Order 108.1, a) that the committee order the production of all inter- and intra-departmental communications related to the cancellation of the PMPRB consultation.
>
> These shall include: (a) emails, (b) text messages, (c) memoranda, and (d) messages sent on platforms including (but not limited to) WhatsApp, and Signal.
>
> The information is to be provided to the committee no later than May 9th, 2023.

Again, I apologize to the witness, but there's so much back-and-forth here that I find it very confusing and absolutely necessary to understand exactly what the communication was.

Thank you.

The Chair: Thank you, Dr. Ellis.

The motion is in order and the debate is on the motion.

Go ahead, Mr. van Koeverden.

Mr. Adam van Koeverden: Thank you, Mr. Chair.

I would move to adjourn debate on that motion out of respect for the witness and to complete the periods of questions we have before us.

● (1245)

The Chair: A motion to adjourn debate is not debatable, so we'll go straight to a vote.

Shall the debate be adjourned?

(Motion negatived [*See Minutes of Proceedings*])

The Chair: The debate is on the motion.

Go ahead, Dr. Kitchen.

Mr. Robert Kitchen: I'd like a clarification there, please. Are we debating the motion at this point in time?

The Chair: That's correct. There was a vote to adjourn debate, which was defeated, so we'll pick up the debate.

Mr. Robert Kitchen: We've heard from the minister today. We've heard throughout that there's been correspondence answered or not answered. At this point in time, we don't have any of that. We have someone's word, so we need to get copies of the correspondence that's been done so that we can determine what exactly was said and not said, and basically whether what was said was actually transpiring or not. Without that information, we are crippled in that manner.

I think it's important that we do that and I support getting this motion passed.

Ms. Sonia Sidhu: I have a point of order, Mr. Chair.

Can we suspend briefly to review the motion while it is circulated, especially for members online? I don't have a copy yet.

The Chair: The motion will be emailed to you, Ms. Sidhu. We're going to continue.

Next on the speakers list is Mr. Doherty.

Mr. Todd Doherty (Cariboo—Prince George, CPC): Thank you, Mr. Chair.

I have sat quietly throughout both the minister's testimony and Ms. Forcier's testimony. I can appreciate Ms. Forcier's position on this matter, and I think it's very difficult. I have read extensively about how, when you were asked to come on to the PMPRB, you felt that your expertise and your background were going to be used, and I can see the frustration that it has caused. I think Madame Forcier has provided some heartfelt testimony today.

I think the question needs to be answered. I have said all along, whether it is this minister or other ministers, that it is the responsibility of a minister to do the job. Earlier today we had the minister, who couldn't answer simple questions.

There is a lot of discussion out there. There's a lot of direction that there were emails sent, and the minister is going back and forth and saying that he did not receive a request, although we know there were some. I think emails and text messages are germane to this study, and this motion captures that.

I would hope that our colleagues would all support this motion. It would clear up some of the concerns we have. It would probably put to rest some of our witnesses' concerns as well that they did indeed do their jobs.

I think it's only fair to be able to have that information, as parliamentarians, if we're truly going to make a difference on this file.

The Chair: Are there any further interventions on the motion?

Go ahead, Monsieur Thériault.

[*Translation*]

Mr. Luc Thériault: I made a mistake, Mr. Chair. I voted to adjourn the meeting, and then said that I was voting against the motion. You had asked me whether I was opposed to it. I have it in front of me here.

Nevertheless, I think it's a bit much to request all the messages that were sent out on different platforms, like WhatsApp. The Conservatives always look for a way to derail serious matters. To the best of my knowledge, the witnesses are now testifying sincerely and honestly. We're unlikely to find many items of correspondence, because nobody writes to anyone anymore.

I believe this motion should be moved once we have heard everyone's testimony and when we are wondering whether we need more information. That might perhaps lead to another round of questions. If I propose an amendment before withdrawing the portion of the amendment that requires the production of messages sent on platforms like WhatsApp and Signal, then I'm convinced the Conservatives will vote against it and end up in an endless discussion.

I'd like my Conservative colleagues to consider the idea of moving this motion once we have seen all the witnesses, because we won't have the time required, between the end of today's meeting and the beginning of the next, to obtain the information being sought in this motion. It would be a shame to approve a motion that is not serious. We need to take this issue seriously. That's why I'm asking my colleagues to take all of that into consideration. Otherwise, because a motion to adjourn cannot be debated, I'm going to move another one.

● (1250)

The Chair: Just to be absolutely clear, Mr. Thériault, would you like to move a motion to adjourn debate?

Mr. Luc Thériault: Yes, that's right.

The Chair: So it's a new motion whose purpose is the same as for the previous one.

[*English*]

Okay.

We have before us another motion to adjourn debate. It is not debatable.

The question for the committee is whether the debate shall now be adjourned.

All those in favour of adjourning debate—

Mr. Stephen Ellis: I have a point of order, Mr. Chair.

I'd like to challenge the ruling of the chair. There is already a motion on the floor. I'm unsure whether another motion can be brought forward, so I would like to challenge the chair.

The Chair: All right.

As I understand it, what's being challenged is my decision to allow the dilatory motion—

Mr. Stephen Ellis: That's correct, sir.

The Chair: —and your feeling is that I should have ruled that out of order.

Mr. Stephen Ellis: That's correct, sir.

The Chair: The question for the committee now is whether the ruling of the chair be sustained.

The chair has ruled the dilatory motion to adjourn debate to be in order. The question for you is whether that ruling shall be sustained.

To be clear—

Mr. Stephen Ellis: Excuse me, sir. I would request a recorded division.

Thank you.

The Chair: Okay.

The question for the committee is whether the ruling of the chair shall be sustained. If you vote in favour, we will proceed to a vote on whether the debate shall be adjourned. If you vote against, there will be no vote on the motion to adjourn the debate, because it will be considered out of order.

I hope I haven't confused you.

The question for you is whether the ruling of the chair shall be sustained. I will ask the clerk to conduct a standing vote.

● (1255)

Mr. Don Davies: Mr. Chair, I have a question before we vote.

I am wondering if we can ask the clerk for his advice. To me, this is not a question of a majority vote. A motion to adjourn is either in order or it's not in order at any time during the meeting. As much as I might sympathize with the purpose of my Conservative colleagues, I believe a motion to adjourn is always in order. It's always happening in the middle of something.

I wonder if the clerk can give us some guidance on whether his view is that a motion to adjourn can be made when there is a current motion being debated, because to me, that's almost always when motions to adjourn occur.

The Chair: That's what I thought, too, which is why I ruled as I did.

I'll have the clerk answer the question.

The Clerk of the Committee (Mr. Patrick Williams): A motion to adjourn the debate is a dilatory motion. By definition, its purpose is to prevent an ongoing debate. It can also be called a "superseding motion" in the sense that it is essentially a layer on top of the main motion.

My advice to the chair would be that a motion to move to adjourn debate would be in order in this circumstance.

Mr. Don Davies: Thank you.

The Chair: We will proceed with the standing vote on whether the ruling of the chair shall be sustained.

Go ahead, Dr. Kitchen.

Mr. Robert Kitchen: Thank you.

There was already one that was put forward on this, which was defeated. The clarification is this: Can they be put forward two, three or four times?

My understanding is that just once moved the debate on, but can I get some clarification, please?

The Chair: The answer to that question is yes. There can be multiple motions to adjourn debate.

If you want to hear from the clerk on it, Mr. Clerk can answer.

The Clerk: It's a difficult question. Typically, the principle is that if there is an intervening proceeding between the moving of the motions, then the motion can be moved a second time.

The question is how much of an intervening proceeding is required and whether questions asked to a witness can constitute an intervening proceeding or whether another motion would have to have been moved. That is a grey procedural area, so it's a difficult question to answer.

The Chair: Go ahead, Mr. Aboultaif.

Mr. Ziad Aboultaif: Thank you, Chair.

Mr. Thériault changed his mind after he voted on the first motion to adjourn. Procedurally, in order for him to change his mind, is there a way to change that? How does the mechanism work?

He said he changed his mind because he made a mistake, but he was aware of the question and he voted in full capacity. All of a sudden, he changed his mind.

The Chair: He presented a motion to adjourn debate, which I ruled to be in order—

[*Translation*]

Mr. Luc Thériault: Mr. Chair, I had raised my hand at the same time as the people on the other side of the table, but you didn't notice it. I thought you had. When you asked me whether I was in favour of the motion, I had the notice of motion in front of me and said that I was opposed. I voted on it. What I was in favour of was to adjourn debate, as I just explained.

I allowed my colleagues to withdraw their motion and said that we would move another motion to adjourn. I didn't make a mistake. The chair should have seen my hand raised when I initially voted. In any event, the end result is the one I wanted to avoid, which was that we would come to the end of the meeting without the witness having had the opportunity to speak within this hour-long period.

[*English*]

The Chair: We're now at the standing vote on—

Ms. Sonia Sidhu: I have a point of order, Mr. Chair.

● (1300)

Mr. Adam van Koeverden: On a point of order, Mr. Chair—

The Chair: Ms. Sidhu, go ahead, and then Mr. van Koeverden. There are two points of order.

Ms. Sonia Sidhu: Mr. Chair, can we please release the witness? Can we let Ms. Bourassa Forcier go, as it is already 1 p.m., and we can bring her back again?

The Chair: Mr. van Koeverden, go ahead.

Mr. Adam van Koeverden: I would recommend the same. This debate has greatly chewed into the time available for us to ask the witness questions. I would ask that if she's available, she be asked to rejoin the meeting on Tuesday.

The Chair: Can we take things in order here?

The first thing we need to deal with is the challenge to the chair. After that, we can move on these points of order as to whether we invite the witness back on Tuesday.

Dr. Ellis, go ahead.

Mr. Stephen Ellis: Sir, if it might be simpler, we're certainly agreeable to asking Madame Forcier to return. I think it's reasonable to allow her to leave now on a friendly basis. We're happy to do that.

The Chair: Dr. Bourassa Forcier, I apologize on behalf of the committee for having put you through this and I want you to know that you're welcome to come back on Tuesday if you wish. If you wish, there is one hour from 12 until one o'clock that is not spoken for. It's up to you. It appears that the committee would be interested in allowing you to continue to answer questions if you wish.

For now, you're welcome to stay, but you're free to leave.

Mr. Davies, go ahead.

Mr. Don Davies: Thank you.

I support releasing the witness.

However, we do have to figure out the time. Madame Bourassa Forcier had 45 minutes. We had gotten through the entire first round. I don't think giving another hour for this witness is fair.

Also, it's my understanding that on Tuesday the meeting is scheduled to be two hours. We have two meetings, and the two-hour meeting would be for Mr. Herder and Mr. Clark, to balance off those two hours from this perspective. There are two hours for that, not just one hour. If we were to limit Mr. Herder and Mr. Clark to one hour and then have Madame Bourassa Forcier back for another hour, that would not be a fair allocation of the time.

The Chair: Can we deal with the motions that are in front of us and then deal with this? I didn't expect it would be controversial. I should have known better.

We'll have a standing vote on the challenge to the chair, please.

(Ruling of the chair sustained: yeas 7; nays 4)

The Chair: The ruling of the chair is sustained. We now proceed directly to a vote on whether to adjourn debate. It's not debatable.

All of those in favour of adjourning debate, please raise your hand. All those opposed...?

(Motion agreed to)

The debate is adjourned.

We're now at the hour. Is there another motion?

Go ahead, Mr. Davies.

Mr. Don Davies: I move that the meeting be adjourned.

The Chair: Do we have consensus to adjourn the meeting?

(Motion agreed to)

The Chair: Thank you. The meeting is adjourned.