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Chair: Mr. Joël Lightbound





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• (1535)

[*Translation*]

**The Chair (Mr. Joël Lightbound (Louis-Hébert, Lib.)):** Good afternoon, everyone. I'm happy to see you again.

I call this meeting to order.

Welcome to meeting number 62 of the House of Commons Standing Committee on Industry and Technology.

Pursuant to the order of reference of Wednesday, November 30, 2022, we are studying Bill C-288, An Act to amend the Telecommunications Act (transparent and accurate broadband services information).

Today's meeting is taking place in a hybrid format, pursuant to the House order of Thursday, June 23, 2022.

We have with us today, by video conference, Reza Rajabiun, who will testify as an individual in his capacity as an expert on competition policy and telecommunications strategies.

From the Commission for Complaints for Telecom-Television Services, we have Howard Maker, commissioner and chief executive officer, and Josée Thibault, assistant commissioner for Operations and Business Services.

Finally, from OpenMedia, we have Erin Knight, senior campaigner, also joining us by video conference.

I thank all the witnesses for being with us today.

Without further ado, I would like to give the floor to Reza Rajabiun for five minutes.

[*English*]

**Dr. Reza Rajabiun (Competition Policy and Telecom Strategy Expert, As an Individual):** Thank you and good afternoon.

My name is Reza Rajabiun. I'm a researcher and consultant in the area of competition and telecom policy. My research explores how the design of telecommunication policies and the strategic behaviour of network providers shape the evolution of Internet connectivity that people experience within Canada and internationally.

In my consulting practice, I have served organizations such as the Ontario Ministry of Infrastructure and the CRTC as a subject matter expert on broadband policy issues. I have also represented rural municipalities and consumer advocacy groups before the CRTC and have assisted communities across Canada to identify private broadband service gaps and devise strategies for improvement. I appear before you in my personal capacity as an individual.

My views do not reflect those of any organizations with which I have been affiliated.

I will briefly provide some background on the underlying economic problem that motivates this deal, what I see as its weaknesses and offer some suggestions for potential amendments.

First, the basic problem that the bill is trying to address is a common one. The market convention has been to specify broadband speeds in terms of a maximum theoretical “up to  $x$  megabits per second” and to use “best effort” retail contracts. However, actual Internet speeds and reliability vary widely, and this variation negatively affects the user experience and access to vital services and applications.

Telecom regulatory authorities in other advanced economies have developed policies that aim to address the same problem as this bill does. In addition to examples from Australia, the U.K. and the U.S. discussed previously by the bill's sponsor, I note that the transparency and retail contract regulations regarding both minimum and normal or typical Internet speeds are key elements of the European Union's “Open Internet” regulations adopted back in 2015.

This bill does not go as far as the European Union regulatory framework in terms of strengthening quality commitments in standard form retail contracts. Nevertheless, what the bill proposes to do is broadly consistent with trends in other jurisdictions trying to address the same fundamental quality signalling problems in broadband service markets.

Second, in terms of regulatory history, it's relevant to note that concerns about gaps between advertised and actual speeds that certain providers deliver have come before the CRTC for at least a decade, in my recollection. The CRTC, however, has been reluctant to take on the issue. Notably, in the development of the CRTC's 2019 Internet Code, the CRTC explicitly excluded advertised speeds and service quality issues from the scope of discussions in the proceeding. The CRTC did not provide reasons for doing so.

As such, the bill will help mitigate what can be viewed as an error in developing the Internet Code a few years back. More broadly, unanimous support in the House for this bill has the potential to enhance the incentives of the CRTC to prioritize competition and consumer interests in its future policies.

Third, I would like to note that in practice, gaps between service speeds providers advertise and those they deliver depend, among other factors, on how much particular providers invest in network capacity as demand grows over time. In relatively high-income urban centres of Canada, private sector incentives to increase capacity and deliver higher speeds tend to be relatively strong. In these areas, some providers may in fact be delivering the speeds they promise, as suggested by CRTC's broadband test data.

However, where network investment incentives are relatively weak, on the edges of wireline cable and fibre networks outside of urban centres, the problem tends to be more pervasive and undermines the business case for rural fibre deployments, as expected take-up rates are reduced. In this context, the bill has the potential to promote incentives for service providers to invest in reliable high-speed broadband technologies and to make sure providers keep up with growing demand and enhance digital equity.

In summary, if implemented in an effective manner by the CRTC, the bill has the potential to achieve its stated objectives of better informing consumers and promoting competition. However, the bill does not go far enough in terms of enforcement, contractual accountability of suppliers and remedies for consumers who end up not receiving what they are paying for.

- (1540)

I would advise the committee to recommend additional language that makes suppliers more accountable for the quality and reliability of services they deliver to their customers, potentially via reforms to the Internet Code.

Thank you for the opportunity to appear. I look forward to answering questions the committee may have.

[*Translation*]

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

I now give the floor to Ms. Thibault or Mr. Maker from the Commission for Complaints for Telecom-Television Services.

[*English*]

**Mr. Howard Maker (Commissioner and Chief Executive Officer, Commission for Complaints for Telecom-Television Services):** Thank you, Mr. Chair.

I'm Howard Maker, commissioner and CEO of CCTS, the Commission for Complaints for Telecom-Television Services, and with me today is my colleague Josée Thibault, our assistant commissioner of operations and business services.

CCTS is Canada's national organization providing free service to consumers to help them resolve complaints about retail Internet, wireless TV and local phone services under a structure and mandate approved by the CRTC, thus ensuring that our governance and operations are independent of the industry.

In simpler terms, we're the industry ombudsman and we have dealt with over 150,000 complaints since inception. We deal with complaints about billing, service quality, adherence to contracts and credit management. We're here to ensure that service providers meet their contractual obligations to their consumer and small business customers. We have an enviable track record in assisting Cana-

dian customers, facilitating the resolution of nearly 90% of all complaints, often within 30 days. Indeed, we have the authority to require our 400-plus participating service providers to fix customer problems and to compensate customers when appropriate. Our decisions are binding on those providers.

We also report on what drives consumer complaints, regularly publishing aggregated data about the issues we see to ensure that consumers, the industry and the regulator are fully informed about the issues that cause complaints and to drive positive change in the industry.

In addition, we administer the CRTC's four consumer codes of conduct, which we use as benchmarks for service provider conduct when we are investigating complaints.

**Ms. Josée Thibault (Assistant Commissioner, Operations and Business Services, Commission for Complaints for Telecom-Television Services):** Internet is the second most complained about service, and complaints about insufficient Internet speeds fall within our mandate. We track these speed complaints under a category we call "quality of service", which is a basket of issues that includes complaints about slow Internet speeds as well as other service issues, such as service outages.

Quality of service is the problem most most frequently raised by Internet customers, accounting for about 17% of all Internet problems raised last year. In a recent audit, we found that complaints specifically about Internet speed accounted for about 25% of all of the quality-of-service concerns raised by Internet customers. In these complaints, customers told us they weren't getting the speeds they thought they had contracted for or that they didn't understand that the speeds displayed in their plans were the maximum speeds that might be made available to them.

In most of these complaints, we also found that the provider actually offered a lower-tiered plan that might have better suited the customer, considering the actual speeds available to them.

CCTS's mandate is to determine whether the service provider met its contractual obligations to the customer. When investigating a complaint, we review the provider's obligations to the customer, which are contained in their terms of service; their policies; the customer's contract and the CRTC codes of conduct.

We note that the CRTC codes do not contain any obligations with respect to speeds or performance and that currently there's no requirement for service providers to include any speed metrics in customer contracts. When investigating a complaint, we also consider what disclosure was made to the customer about speed guarantees and performance expectations when they subscribed to the service. If we find a discrepancy between expected and actual speeds, we look at whether the customer is on the best plan for their needs.

For example, if a customer is on a 100 megabits per second plan but is only getting 25 megabits per second, we'll examine the service provider's tier of plans and propose a more appropriate plan in light of the actual speeds the customer is receiving and require the provider to reimburse the customer for the difference between the two plans.

• (1545)

**Mr. Howard Maker:** With regard to Bill C-288, we've said publicly and regularly that being fully informed is really the best protection that a consumer can have.

CCTS is not a policy-making or a regulatory body, nor do we advocate for either industry or consumer interests, but given the number of Internet service quality complaints that we see, it seems reasonable to conclude that making service metrics available to customers when they subscribe to an Internet service would be a step forward in ensuring that they understand what they're getting and in achieving our objective of full disclosure. In our work, we regularly see complaints that arise when customers think they're buying something but wind up getting something different. Disclosure of service metrics might very well help to avoid this situation.

For these reasons, you can appreciate why Bill C-288 is of interest to us.

We thank you for the opportunity to appear before you to discuss it. Of course, we're happy to answer any questions you may have about our work.

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

I'll now turn to Madame Knight for five minutes.

**Ms. Erin Knight (Senior Campaigner, OpenMedia):** Thank you.

Good afternoon. My name is Erin Knight. Today I'm calling in from New York City, which is the traditional homeland of the Lenape.

Thank you for the chance to speak today on behalf of the OpenMedia community, comprising nearly 300,000 people in Canada. OpenMedia is a non-partisan grassroots organization that works to keep the Internet open, affordable and surveillance-free.

It's my sincerest pleasure to be here today in full support of Bill C-288. OpenMedia was very pleased to see all the parties come together to advance this bill to the committee stage, because—let's be clear—Bill C-288 is not a controversial piece of legislation. We can all agree that it serves to empower everyday people, support their right to high-quality connectivity and protect them from shady business practices by big telecom. Improvements to the status quo will benefit every person in this room and people in Canada writ large.

With that said, I'm happy to share some of the specific reasons that parliamentarians on all sides should be eager to pass this bill.

I will begin by sharing an important statistic: According to a September 2022 survey for Globalive, people in Canada view our telecom sector more negatively than any other industry. It's no wonder. If you talk to the average Canadian, they'll tell you that big telecom is very good at squeezing customers on not only pricing but also the value received for services purchased.

I'm referring, of course, to advertised Internet download speeds versus the actual speeds customers receive on average. Over the years, members of the OpenMedia community have raised concerning discrepancies between the two. In general, the problem goes something like this: ISPs might advertise a certain speed for a particular plan. A customer subscribes to that plan, believing that is the speed they are paying for, only to discover their connection is far slower than that speed during the times they actually need to use it. This is because the service agreement says their plan only goes "up to" the advertised speed, but there are no promises. This information is not plainly shared with customers, but instead hidden in the fine print.

To illustrate this, I will take a moment to share the experience, in their own words, of Angela, a low-income member of the OpenMedia community: "Two and a half years ago, I signed up for Internet 600 with Shaw.... I have never once received the actual Internet speed I was paying for. It has always been artificially capped at around 300 Mbps or sometimes even 200 Mbps.... Trying to upgrade to the newer, faster option...would carry a bigger price tag with no guarantee or even any reason to believe they would actually deliver on the improved service. The prices are always going up and the service is unreliable and falsely advertised. These problems have existed across the board with all the big Internet companies."

Bill C-288 tackles this issue clearly and concisely. When you sign up for an Internet plan, you deserve to know what you're paying for before you pay. This legislation will make it so. At the end of the day, it's about truth and transparency. If an Internet provider is advertising certain speeds, consumers have the right to know, before they buy, whether those speeds accurately reflect average performance.

There's a fundamental reason that we need this to come in legislative form, rather than relying totally on the regulator. I want to make clear the difference between the new CRTC policy direction and Bill C-288, and how the direction needs to work in tandem with legislation like this if we hope to see any of the protections we're discussing today implemented.

The policy direction tells the CRTC how to interpret cases in front of them in a way that promotes competition, affordability and consumer interest. It's a framework that will only apply to future CRTC regulatory decisions moving forward. The direction can only help the commission interpret what is in front of them. There is no CRTC proceeding explicitly taking place right now that is related to broadband speed advertising, so there is nothing on the topic for the commission to apply the policy direction to. Without the application component, we will not see this issue move forward at the CRTC.

Bill C-288 is that legislative application. The bill directly mandates the CRTC to hold public hearings on this issue. That means the bill would immediately put the broadband speed advertising item in front of the commission, giving the CRTC the opportunity to apply the policy direction framework.

In closing, I'd like to remind us all where Bill C-288 sits in the wider scope of the transformative changes we need to urgently make in telecom in Canada. If I can be frank, this is the lowest-hanging fruit. If we can't do this simple, uncontroversial, pro-consumer move that other countries have already done, I'll be deeply concerned about our ability as a country to make the changes we so desperately need.

Thanks, and I look forward to your questions.

• (1550)

**The Chair:** Thank you very much for your testimonies.

We will now open the discussion. Mr. Williams, you have six minutes.

**Mr. Ryan Williams (Bay of Quinte, CPC):** Thank you very much, Mr. Chair.

Thank you to our witnesses for joining online today. This is a very important discussion.

Ms. Knight, thank you for being here. We share your values. An open, affordable and surveillance-free Internet is very important. I know you summarized some of the direction to the CRTC. This seems to be one of the major points of dissension among the groups.

We talked about this bill three weeks ago. Some members suggested that Minister Champagne's February 13 announcement on policy to the CRTC made this bill unnecessary.

I know you have already touched on this, but do you agree with that sentiment?

**Ms. Erin Knight:** I'm happy to reiterate that the new CRTC policy direction on its own will not address the broadband-speed advertising issue at hand that we're discussing. As a regulatory framework, the policy direction doesn't go far enough without a corresponding legislative application, which this bill, in particular, will provide. That's why Bill C-288, in my opinion, is complementary to the policy direction and not contradictory to it, and that's all the more reason why Bill C-288 is not controversial.

**Mr. Ryan Williams:** Thank you.

Just to also reiterate, is Minister Champagne's policy directive binding on the CRTC? Without this bill, does the CRTC have to act on his recommendations?

**Ms. Erin Knight:** The CRTC has to use the policy direction as a framework when it makes its decisions on cases that are in front of it. That's why I mentioned in my testimony that putting those cases in front of the CRTC is going to be really key to making sure there is actually an enforceability element to the policy direction as is.

That was one of the major concerns OpenMedia had with the policy direction. How is this going to be implemented, and how is this actually going to affect Canadians day to day? This legislative application is a really good example of how we apply that enforceability mechanism.

**Mr. Ryan Williams:** Great.

Just to reiterate, does it make it more important that we pass this bill to make the CRTC direction binding?

**Ms. Erin Knight:** Absolutely.

**Mr. Ryan Williams:** Thank you.

As remote working and schooling looks to remain a permanent piece of society—and we certainly saw that during COVID-19—do rural Internet speeds that are less than advertised and often inadequate for online video streaming deny rural Canadians equality or opportunity?

**Ms. Erin Knight:** I'm sorry. Was that a question for me?

**Mr. Ryan Williams:** Yes. I'm sorry. All of these are for Ms. Knight, yes.

**Ms. Erin Knight:** No problem.

Yes, rural and remote households are absolutely affected the most—or anyone who relies on low-cost Internet services, particularly rural and remote households.

For most of us, high-speed Internet underperformance is going to be irritating and will still be a huge problem, but when lower-speed Internet of the kind you would get in a rural community underperforms, it's effectively denying people an essential service. It's a difference between getting an average speed of 75 megabits per second on a plan that's advertised as 100 versus, if you're in a rural community, getting 2 megabits per second on a plan advertised as 15. The latter is something that actually stops you from using the Internet effectively in 2023.

I really need to stress that ensuring transparent and accurate broadband services is non-negotiable in closing the digital divide in rural and remote Canada.

**Mr. Ryan Williams:** I want to touch upon that. That segues into competition. In the last year or so, we've seen bigger telecommunication companies buying up smaller providers. One of the only independent wholesalers left is TekSavvy. We've had them at this committee before.

What does a reduction in competition mean for rural and remote Internet customers?

**Ms. Erin Knight:** For anyone in Canada, the reduction of competition is a huge problem, and we are seeing right now an extinction event for independent Internet service providers. That really goes back to the dysfunction happening right now in the wholesale access system, as you've mentioned.

Wholesale high-speed access rates are clearly inflated, and the wholesale fibre-to-the-home access system has not been functionally implemented to date. That dysfunction is causing the mass extinction of independent Internet providers, and that in itself is preventing meaningful reduction in retail Internet pricing for all Canadians, including rural and remote customers. That also has implications for network build-out as well.

OpenMedia is really pleased to see that the CRTC is looking at reviewing the wholesale market, but it does remain to be seen what the CRTC does with that. We hope it will choose to side with Canadians and not side with big telecom yet again.

• (1555)

**Mr. Ryan Williams:** With regard to the recent announcement of a policy decision or a plan to reduce the wholesale rates by 10%, is that enough to help the few remaining smaller local ISPs compete?

**Ms. Erin Knight:** I can't speak to whether that number itself is enough. We have heard from independent ISPs that immediate relief was really critical, so we are happy that immediate relief did come. I will wait to see what the CRTC does with its review.

OpenMedia will, no doubt, bring forward the opinions of our close to 300,000 community members and those of Canadians who have a stake in this issue.

**Mr. Ryan Williams:** In terms of helping new ISPs get off the ground, do you have any recommendations on how we can help a larger number of smaller companies compete?

**Ms. Erin Knight:** First, we know that ISED is looking at reforming the Competition Act. There are a number of things they could do to lessen the force that monopoly powers play in our economy, and reducing the clout of monopoly powers in Canada is certainly going to improve things for smaller companies.

Then, in itself, the wholesale access review, as I mentioned, is a critical part of paving the way for smaller companies to enter the Canadian market and also thrive in the Canadian market. Right now, those conditions are causing those companies to be unsustainable.

**Mr. Ryan Williams:** Thank you very much.

[*Translation*]

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

Mr. Erskine-Smith, the floor is yours.

[*English*]

**Mr. Nathaniel Erskine-Smith (Beaches—East York, Lib.):** Thanks, Joël.

I want to start with OpenMedia and Ms. Knight.

First, thanks for the advocacy. I look forward to a bigger conversation around privacy reform when it comes to our committee, which in many ways will be a more substantive conversation.

This bill is important nonetheless. It's a short bill. There's not a ton to it, other than a requirement to really formalize the direction to the CRTC right now, which is a good thing—formalizing it through legislation, I think, ultimately.

Are there any amendments that you would like to see to the legislation as it is?

**Ms. Erin Knight:** We did hear from some other folks in talking about this bill that there are possibilities to strengthen the bill to empower consumers. We would be happy with any sort of further strengthening that would empower consumers and protect consumers from being abused by big telecom in the ways that they are and the ways that we have heard for decades.

I don't have a specific thing that I would like to see in this bill, but if something would improve the ability of consumers to achieve recourse, as I believe Reza mentioned, for issues they're having with this discrepancy in speed advertising, we absolutely would be happy to support something that empowers consumers.

**Mr. Nathaniel Erskine-Smith:** Interesting.

I don't know, Reza, if you want to pick up from there. On my reading of the bill, it's a pretty straightforward requirement for transparency. It doesn't get into remedial measures in any way whatsoever. It would be a little bit different if we were to amend the bill with a measure like that.

Did you have anything in mind in terms of how we might go about strengthening this bill, or is it straightforward—just pass the thing and go on to the next thing?

**Dr. Reza Rajabiun:** Well, the transparency part is a good step forward, but I was trying to highlight that there is another aspect to this, and I think the CCTS can probably expand on it.

All the retail contracts say that your speeds may vary. There is no guarantee or no binding commitment from the supplier. For example, right now somebody is trying to put together a class action lawsuit in Manitoba around broadband speeds not being delivered in rural areas, but that contract element is.... I'm not sure if they are going to get certified, because the standard form contract allows the supplier to deliver whatever they want.

I was trying to point out that this is a step forward, but it's not as strong as, for example, the European Union regulations, which are trying to specify concrete performance measurements in retail contracts. If somebody goes through the—

• (1600)

**Mr. Nathaniel Erskine-Smith:** I appreciate that.

Ms. Thibault or Mr. Maker, do you want to weigh in on what has just been expressed in terms of strengthening, if not in this bill, a regime overall in terms of demanding not only transparency but also some accountability to consumers?

**Mr. Howard Maker:** I'll follow on Mr. Rajabiun's comment, which pretty much took the words out of my mouth.

From our perspective, we are an organization that looks at the commitment and the contractual responsibilities that service providers have to customers. I think you've done the right thing in this bill in terms of providing the authority to the CRTC to do all the detail work and to decide what metrics should be made available and so forth. I think what we would add to that is that if we come to that proceeding, which we would, we would like to see those metrics as part of the contract so that they become in some way enforceable. We could look at them and know exactly what the service provider has offered to provide and what the consumer has agreed to accept.

**Mr. Nathaniel Erskine-Smith:** I will say that as a consumer, I have never in my life done a speed test that has ever met the stated speed, whether upload or download, that I am paying for. Has any one of you ever done the speed test and hit the speed that is listed and advertised?

**Mr. Howard Maker:** That's a bit challenging. I know I'm not here to speak personally, but you did ask a personal question. The answer is that I've done that lots of times, because I'm always curious.

I had a recent experience. I'm on a 150 mbps package. In the past I have exceeded the 150, but I was dealing with my own ISP. I had one of their reps in my office right here. When I said, "Let's go to one of these speed test sites", we did that. It then depended on which server we connected to. One of them said I was getting 130 and another one said I was getting 80.

I don't know what an average consumer is supposed to do with that. In particular, if I have an "up to 150", my service provider has met its commitment. They've given me up to 150, whether it's 80 or 130. That, I think, is the problem with the "up to" advertising.

**Mr. Nathaniel Erskine-Smith:** I take the view from all of the witnesses, it sounds like—and if anyone disagrees, please be heard—that this is a bill that should be passed. It's a bill that does strengthen the transparency regime for consumers. We could strengthen the accountability mechanisms and we could look to the EU, potentially, for doing so, but as it stands, this is something that we should pass as is and get the CRTC to do its work.

Speak now or forever hold your peace.

We have one. Go ahead, Mr. Maker.

**Mr. Howard Maker:** There is an accountability mechanism now. It's the CCTS.

**Mr. Nathaniel Erskine-Smith:** Yes.

**Mr. Howard Maker:** I thought I should point that out, because the problem is whether we have enough tools to apply the accountability. That's the question, and that's what I think this bill would help us with.

**Mr. Nathaniel Erskine-Smith:** Thanks so much.

[*Translation*]

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

Mr. Lemire, go ahead.

**Mr. Sébastien Lemire (Abitibi—Témiscamingue, BQ):** I thank the witnesses for their contributions to this study, which seems to be important, especially in rural areas.

Mr. Rajabiun, you talked about investments in the regions, outside urban centres. I think discussing that would be beneficial, and I would like you to elaborate on it.

Is the problem that the investments to help reach the promised speeds are not being made? Would it really be impossible to achieve these types of speeds in the regions? If so, that type of package should not be made available to people in rural areas.

[*English*]

**Dr. Reza Rajabiun:** Plans that are offered to rural subscribers tend to have lower speeds because of the technological differences. The issue, as you noted, is the weakness of investment incentives. If somebody deploys a new network today, they may be able to deliver those 50/10 speeds to the population in a small town or something, but as demand grows over time, that capacity will start getting constrained. The difference between a small town and a more competitive urban core is that the incentive to reinvest in capacity is limited in the small town.

One of the problems you see with the rural broadband programs that were adopted around 10 to 15 years ago with the fixed wireless is that they didn't really account for that demand growth. Lots of public subsidies went out 10 to 15 years ago to develop these rural wireless networks, but there was no accounting for demand growth. Some provinces even were saying that they had solved the rural connectivity problem. Then COVID hit, and the fact that the emperor has no clothes exposed itself.

There's one problem that I've been seeing with a lot of rural broadband projects across the country, both in development and in reviewing them. One problem you see with rural fibre deployments is that it's already hard enough for a new fibre provider to justify investing. You get some subsidies from upper-tier governments, hopefully, but the problem is that when you are competing against lower-speed services that advertise higher speeds, it reduces your expected take-up rate as an investor in that project. Rural fibre deployments that are networks that can deliver their promises on the speeds they deliver are undermined.

That's what I mean by that signalling problem. It's the lemons problem. Consumers cannot really assess the quality. There is uncertainty in the quality. That undermines the incentives for the higher-quality networks and investors to come into the market, because they can't signal the quality of their new products as well as they should and get as much revenue as they need to sustain the business.



That's why I was trying to emphasize the particular importance of this bill, if implemented properly by the CRTC, for rural areas and remote communities and also for some low-income urban centres where there isn't that much incentive to invest and people are still relying on old legacy copper networks.

If you cannot justify the revenue in the business case for these processes, even if you get all the subsidies to deploy the network over time, you will not be reinvesting in the network as demand grows, so we're going to see this problem.

This is not short term. I think this bill can be a long-term solution for improving accountability and efficiency of the market.

• (1605)

[*Translation*]

**Mr. Sébastien Lemire:** Thank you very much.

In fact, we very rarely see companies themselves investing in rural areas, as profitability is more difficult to achieve there. That's why governments make investments—either the federal government, through the CRTC or through budgets of the Department of Industry or, in some cases, provincial governments.

Are there sufficient demands on network builders to provide customers with quality service and equipment, update that equipment and maintain it? Is what is required of these builders sufficient to ensure quality services?

[*English*]

**Dr. Reza Rajabiun:** Right now you're talking about maximum speeds and advertised speeds, but another angle on all of this is a minimum service quality standard. This has been in front of the CRTC for many years. They actually adopted a minimum service quality standard in many proceedings, and also a method to measure the standard. With regard to the measurement question Mr. Maker was raising, there was a methodology that the CRTC developed, but it was never implemented in practice.

For example, all of the rural subsidy programs.... I advocated that when you give out subsidies, you should put minimum service quality standards that are legally binding into the subsidy contracts. However, as far as I know, nobody has really done that. Essentially, subsidies are going out and there's going to be monitoring built in, but nobody is going to be looking at what the quality of service is going to be in a few years. With the adoption of minimum standards in contracts, on the contractual side you would have to specify the normal or typical speed plus the minimum speed in the contract.

Different regulators have different ways of measuring it. I was just looking at what the Dutch regulator is doing on this. There are definitions: You are not getting the normal speed that you were promised if eight out of 10 tests over a week do not meet that threshold, and this can be specified. If those standards are not met, consumers can go to the CCTS or join a class action lawsuit. There are very practical ways of dealing with this, and the minimums are very important.

• (1610)

[*Translation*]

**Mr. Sébastien Lemire:** Exactly.

Thank you very much.

[*English*]

**The Chair:** Thank you.

We'll now turn to Mr. Masse for six minutes.

**Mr. Brian Masse (Windsor West, NDP):** Thank you, Mr. Chair, and thank you to our witnesses here today.

It's almost like predicting the weather in terms of Internet speeds and services. It's almost like a daily or hourly excursion for people. This has also become a cottage industry for some businesses.

What we're looking at here is not necessarily whether we can make changes through this legislation at this moment; what we're looking at is accountable practices for advertising and in many respects false advertising that is sucking in consumers.

My first question is to Ms. Knight, looking for amendments that you may have or suggestions on penalties or repercussions for those who.... There will be good actors, hopefully, who will be able to be practical and predictable and will go about it in a responsible way. However, there might still be those who in the past used to write off fines and penalties as a business-related expense.

That's one of the things we were able to change here. It was a loss leader for the company. It was part of doing business. That's why I worry a bit with this legislation. We'll have some good actors come in, but then others will continue to do misleading practices, because that will just be the cost of doing business.

**Ms. Erin Knight:** Yes. When it comes to misleading practices, I think we're already seeing that today, and I really can only see it improving with this legislation. I don't see this legislation's doing anything that would make anything worse.

I think when you're talking about penalties and such, looking to the other examples in other countries, there are probably good and bad. I think other witnesses on the panel today would be able to speak to that a bit more than I can.

I have been looking at the broadband labelling that the FCC has introduced. If you're a consumer, you would be looking at that label to see things like typical download speed, typical upload speed and latency. I think having all that information available up front is really critical, as you mentioned. I don't want to get away from that at all. I want to make sure that it's clear to everyone that we are talking about making information transparent to people. That's fairly uncontroversial.

When it comes to penalties for big telecom, I don't think there presently exists a good penalty for them. I think penalties could be significantly improved in many ways. Enforceability mechanisms includes going past that cost of doing business. In what way could they actually deter companies from behaving in shady ways to the customers? I hope to see the CRTC look at this in terms of the misleading sales practices aspect, which came to them and then left, and nothing really happened about that. I hope to see more happen on that.

In particular, we have seen some folks advocating the private right of action for telecom consumers, meaning the right to do telecom class action lawsuits. That is something that could help as well.

In terms of amendments to this particular bill, I don't have any for you in this regard.

**Mr. Brian Masse:** Fair enough.

I want to move to Mr. Maker.

One of the things I worked on before was microbeads. Banning microbeads was supported by the industry and by Environmental Defence. We got them together and we got 90% agreement on banning microbeads. There were then, at that time, a number of different players that wanted to get to better practices, but they were being undercut, again, by some bad actors in the process.

In the complaints that you get and the ones you're able to resolve, do you have a couple of bad actors? Is it universal in terms of the problems that you deal with, or is it disproportionate to a couple of organizations in particular? Give us a little snapshot of what you get there, because if we were able to get the industry on board as well—because this is to be a helpful process for everybody, at the end of the day, in consumer accountability—it would be far stronger.

That's where we ended up. We ended up with the union of the environmental people and the chemical producers and the plastics association, and we got unanimous conjecture in the House of Commons and finally a vote that was lived up to.

What are you getting, and how is it reflective of the broader industry?

• (1615)

**Mr. Howard Maker:** I'm going to try to answer what I think are a few questions wrapped up into one there, if I may.

What I always say is that we have over 400 participating service providers across the country and we resolve almost 90% of customer complaints. I think that number by itself is an indication that once something comes to us, we get pretty good co-operation from the industry. Otherwise, we would have a much lower resolution rate.

In terms of which companies are generating complaints, we publish all of that data regularly, so it's all in the public domain.

Josée may have some more detailed stats at her fingertips, but the large providers—I think it's the top five, or is it the top 10, Josée?—account for about 80% of the complaints. It's pretty typical to vary by size of service provider.

I hope that answers your question.

**Ms. Josée Thibault:** I think the only thing I would add is in terms of the volume. In the last calendar year, there were over 1,200 complaints about the quality of Internet service. That's a fairly significant number, given that in order to get to us, customers are generally at their last stage of trying to get something fixed. We really represent the end stage of complaints for them, so it's a fairly significant number.

CCTS has been around for 15 years. Both Mr. Maker and I have been around for pretty much the entirety of that time. I can say that I don't think I have ever come across any situation where we haven't felt that service providers can always do better to make sure that customers understand what they are getting, what's included in their service and what the limitations are, and that disclosure of information is really key to ensuring a good consumer experience.

**Mr. Brian Masse:** Thank you.

I'm running out of time.

I think Ms. Knight said it best: If we can't do this, then we really can't do anything, quite frankly.

This is a good piece of legislation. That should be universal across all political parties in the House and so forth. It's a start for public accountability, I think. If we can't get the industry on side for this, then it's just a fist fight all the way through.

Thank you, Mr. Chair.

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

Mr. Perkins, the floor is yours.

**Mr. Rick Perkins (South Shore—St. Margarets, CPC):** Thank you, Mr. Chair.

Thank you, witnesses.

I'm going to do a little prop thing again, because there are hopefully people out there watching who want to understand exactly what we're talking about. We're talking about the marketing that's done by the Internet service providers on what you're buying. You can go to their websites and see that marketing.

Mr. Maker mentioned buying a package that's 150 megabits per second going through a server, which means it probably has some sort of boost that's done through business or whatever, but he's not getting 150. In fact, Bell's 150 costs \$110 a month, and the next step down, the 50, costs \$90. I believe it is possible that a consumer is paying for much more than they get.

Mr. Maker, not that this is your personal case, but I just wanted to confirm with you that this is what you see. It's that people are basically paying for a level or two up and actually getting a level of service down when they look at the performance.

**Mr. Howard Maker:** As Ms. Thibault mentioned in our opening comments, that's right. We do often see that. We try to take care of that mismatch by re-rating the plan as if the customer had been on the proper plan from the get-go.

Yes, the issue is that in many cases people are not getting the speeds they thought they were getting and not understanding that what they bought was the maximum quote.

**Mr. Rick Perkins:** It's just a small percentage of consumers who actually check their speed. I think most people probably pay the bill every month.

I think the telecommunications companies have sales practices whereby you buy a phone for a two-year package at a rate of  $x$  dollars, and after two years, when you've paid for the phone, for some reason they don't automatically reduce your cellphone bill because you've already paid for the phone. If you continue to keep the phone, they keep charging you at the same rate.

Shouldn't it be, Mr. Maker or the other witnesses, that the Internet service providers who are monitoring the service you're getting are required by law to actually automatically reduce what you're being charged each month if you're paying too much?

• (1620)

**Dr. Reza Rajabiun:** Technically and theoretically, you could develop a system that does that, but I think that it could be very complex in practice.

**Mr. Rick Perkins:** Thank you for that.

I will continue with a question for you. In your "Lemons" paper in 2015, you mentioned that you didn't think it was possible to set minimum speeds.

If I understood you correctly from the questioning earlier by Mr. Erskine-Smith, you actually do believe that you can set minimum performance standards now. Is that correct?

**Dr. Reza Rajabiun:** I'm sorry. I'm not sure if that was mentioned in that 2015 paper. It was a while back.

Yes, definitely, and minimum service quality standards are being implemented in various countries. The CRTC already has worked on this issue to some extent in their technical committee. They have a good understanding of what it could be, but they just haven't implemented it.

**Mr. Rick Perkins:** I have a question on that.

Before I ask that question, could you table a document later, if you have one, that we could have as evidence that shows what other countries are doing on that?

**Dr. Reza Rajabiun:** It would be a big research project to go through the different countries and put it together, but I can direct you to the European Commission's regulations, article 4.1(d) and 4.1(e), if you like.

**Mr. Rick Perkins:** Thank you.

I'm running out of time. I just want to ask one more question of Ms. Knight.

Ms. Knight, given that this is clearly going on and most Canadians are oblivious to it, do you think this is intentional false advertising by these companies?

**Ms. Erin Knight:** I see it like this: If you talk to a telecom company, I'm sure they will tell you they believe they are giving you the service quality you're paying for. Many of them will say that to you if you talk to them. However, in my opinion, if there's nothing wrong with their average network performance according to the telecom company, they have nothing to fear from a bill that makes that network performance data transparent and publicly available.

Customers win in either case or direction. They get good-quality service and empowering information, or, in the other direction—if it turns out it's true that people are not getting what they pay for, customers win in that scenario as well. They get more information about what they're paying for and there's more onus on the telecom companies to deliver the services they're advertising.

**Mr. Rick Perkins:** I still have 30 seconds.

I have one more question for Ms. Knight or any of the other witnesses.

Do we have any idea of the percentage of Canadians who actually understand or know the speed they're getting? Is there any research out there that shows whether or not Canadians are knowledgeable about what they're getting?

**Ms. Erin Knight:** I'll let Reza take this one.

**Dr. Reza Rajabiun:** Over the past few years, there has been a lot of progress in this area, especially in rural areas, where there has been lots of Internet testing, because official data about access... They say that this many people or this percentage of the population has access to 50/10 megabit-per-second packages that you see in the universal service debates. Those are all based on advertised speeds. Areas that advertise speeds higher than that benchmark are not eligible for funding. Therefore, a lot of rural communities have been doing their own speed tests or community testing, using different platforms to better understand it.

There has been quite a bit of progress on that. People know when they're not getting the speeds they're paying for. Nothing is a problem as long as it's working; everybody has knowledge when they're not getting what they're paying for.

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

Mr. Dong, the floor is yours.

**Mr. Han Dong (Don Valley North, Lib.):** Thank you, Mr. Chair.

I'm very happy the witnesses coming forward are giving us their insight, especially the CCTS.

I will start my questions with Ms. Thibault and Mr. Maker.

In my experience as a provincial member in Ontario, there's something called Tarion for developers or builders. It's an insurance program. It's mandatory to enter into it. If a building falls flat, the owner can take it to Tarion. What happens is that this will affect their insurance rate for the next year. Usually builders rush to fix the problem—whether it's a door, sink, drain or whatever—so they can avoid further escalation to Tarion.

I'm bringing this up because I see that the CCTS, in its original establishment, was created as an independent, industry-funded resolution centre for consumers. However, what's the incentive for providers to join and fund you, knowing you're going to be a watchdog over their shoulder? I'm trying to learn a bit more about the CCTS.

• (1625)

**Mr. Howard Maker:** Mr. Dong, to answer your question, service providers are required by the CRTC to participate in the CCTS. They join because they are required to. It's true that we have to drag some of them on board a bit, but it is a regulatory requirement.

The other incentive, I suppose, is that in our experience, we've found that larger service providers in particular are very concerned about the numbers we report publicly in terms of who had how many complaints filed by their customers with the CCTS. They're very sensitive to that, so there's a disincentive to not resolving those problems.

Certainly there's a financial disincentive, because part of the funding formula requires them to pay for each customer complaint that comes to us.

**Mr. Han Dong:** Oh, I see. That makes sense. You spend the most resources on the providers that have the most problems, so they have to pay more to cover this.

**Mr. Howard Maker:** That's right—or they need a team of staff to work on those complaints as well.

**Mr. Han Dong:** Right.

This bill, Bill C-288, will “require Canadian carriers to make easily available certain information in respect of the fixed broadband services that they offer”, which means that this information right now is not available to consumers. If that's the case, how do you resolve a case or how do you prove to the providers that they haven't delivered what they promised?

**Mr. Howard Maker:** Josée, do you want to respond to that one?

**Ms. Josée Thibault:** Sure.

When we're handling a complaint, we're going to look at a number of things. One of the main things we're going to look at is this: What was the customer advised when they agreed to take the service? We do that by looking at terms of service, contracts and those sorts of things. We then require the provider to engage in troubleshooting and technical tests, if they haven't already done so, or sometimes we require them to do it again. Then they submit to us the results of those tests.

We can then see and compare what a customer was expecting to get and what they're actually getting. If there's a difference between those two things, then we can make that right for consumers and require the provider to reimburse them, say, for the cost difference. We also have the authority to issue additional compensation to the customer.

That's generally how we approach these things. This is also why in our comments we mentioned that having speed information directly in contracts is a useful tool for an organization like CCTS as well, because it makes it clearer in terms of what the customer is supposed to get.

**Mr. Han Dong:** That's great.

How could this bill, if passed, potentially help in your work? Would it make your work easier in terms of getting a resolution?

**Ms. Josée Thibault:** Again, I think it makes it clearer in terms of what the customer could expect, so absolutely that makes our job easier. I would also suggest, though—and I'm not saying anything new, as we've been saying this for many years—that providing that information at the point of sale, before a customer agrees to the contract, is key. Generally for consumers that is the ideal situation, but for consumers who find themselves faced with a bill or a service situation that they didn't anticipate, having speed information or any other parameters of what was promised to them clearly indicated in their agreements is absolutely helpful for us to help resolve those complaints.

• (1630)

**Mr. Han Dong:** I'm very supportive of the spirit of this bill. At the same time, I'm also surprised that there isn't a regulatory framework that allows you to use regulations, whether the CCTS or the CRTC, just to make those requirements.

**Dr. Reza Rajabiun:** If I may, there is a regulatory framework. Parliament has already provided a regulatory framework. The CRTC has the authority to do this, but they have not done it. For example, in 2019, when they were adopting the Internet Code, they explicitly excluded what this bill is trying to do. They didn't even consider it. They have the authority, but they have been unwilling to do it.

**Mr. Han Dong:** If the bill passes, would there be any conflict between the regulatory power and the legislative power, in your view?

**Dr. Reza Rajabiun:** No. You're essentially complementing and giving direction and democratic accountability over one element of the regulatory authority that you have provided to the CRTC, but the CRTC has forborne from applying its authority for some reason or another; we don't know why.

**Mr. Han Dong:** Thank you.

[Translation]

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

Mr. Lemire, you now have the floor.

**Mr. Sébastien Lemire:** Thank you, Mr. Chair.

Ms. Knight, I would like you to talk about recommendations.

As Mr. Rajabiun mentioned, one potential solution is to make the measures more coercive. That way, companies would be penalized for not providing the services that people paid for.

Do you think that is a potential solution that should be strengthened? Would that be applied through a refund to consumers or a requirement to provide the advertised service?

Is there anything to explore on that front?

[English]

**Ms. Erin Knight:** For me, nothing is off the table when it comes to giving recourse to consumers, or giving empowerment, in that sense, to consumers.

I don't think that I am in a position to tell the CRTC what they should be doing with this case that comes in front of them, but I really think it's important for this legislation to put this item in front of the CRTC so they can do their job. They can figure that part out.

That being said, yes, there can absolutely be many mechanisms of enforcement that improve things for consumers and put money back into the pockets of consumers. At the end of the day, this is an affordability issue.

[Translation]

**Mr. Sébastien Lemire:** I think we can agree that companies have the means to get information about the services they provide. That data is readily available to them, but it's not available to the consumer. The consumer is not really aware of what they are actually getting for what they are paying.

Would it be necessary for companies to be more transparent with their consumers by providing this information, so that, as a result, their rates would be better aligned with the services they actually provide?

[English]

**Ms. Erin Knight:** Absolutely. Transparency could have a really positive effect on pricing when it comes to the lack of affordability that we see, both in.... We're talking about broadband. If we're talking about telecom in general, people in Canada are still paying to this day some of the highest prices in the world on both cellphone and Internet services, so yes, the more transparent information can be made available to consumers....

This is a positive step for competition. If we're asking providers to compete on actual speeds and service quality, yes, absolutely. This is great for innovation. This is great for competition. In all respects, our parliamentarians should be looking at improving competition. This is one part of that greater conversation. I won't say it will solve the entire competition problem, but yes, it would absolutely have a positive effect.

[Translation]

**Mr. Sébastien Lemire:** Thank you very much.

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

Mr. Masse, go ahead.

• (1635)

[English]

**Mr. Brian Masse:** Thank you, Mr. Chair.

Mr. Rajabiun, you had it correct with the CRTC. I don't think it's a coincidence that the minister has finally written a letter that's a bit more pro-consumer than ever before.

I just did a quick search of CRTC press releases, and they're full of all kinds of contradictions that they have done in the past, including slowing down the protection against fraud and robocalls when it gave extensions when a known process could have protected Canadian consumers from fraud.

This is, basically, at the end of the day, as you're saying, just cementing a best practices model. We don't have to wait around on bended knee for either the minister or the CRTC to shake out what people should get when purchasing something with their own money.

**Dr. Reza Rajabiun:** On the question of the fraud calls, I want to correct you on that. One of the problems with the implementation of all of those anti-fraud systems is the false positives they create. It's true that they can stop certain fraudulent calls, but one has to be very careful about not blocking legitimate communications. That is a technical issue. The technology wasn't ready, and the telcos weren't ready for it.

Besides that, on the question of the new policy direction that we see with very good words about consumers and competition, it's important to recognize that this is the second policy direction this government has issued. The first one actually did the exact opposite. It was essentially trying to roll back a lot of the progress that had been made in trying to create a more competitive environment with the CRTC regulations between 2012 and 2016. The government essentially issued a policy direction that forced the regulator to reverse course. It's now reversing course again. That is a key problem with giving policy directions to an independent regulator. You are creating this dynamic inconsistency in a policy.

In my view, the act that Parliament has set out is very clear about its objectives in promoting affordability, quality of service, and universal access. The problem with this policy direction is that it essentially tries to.... At one point, the industry puts a lot of pressure on the government, and the government gives direction to the CRTC to not do too much. You have to be very careful not to get away from the legislative framework you have set out already. That's the key, I think.

**Mr. Brian Masse:** Essentially, though, if you want this done, do it this way and it's done. If not, we wait around for whenever from the CRTC and just see what happens.

**Dr. Reza Rajabiun:** Well, maybe there will be a cultural change. There was a cultural change that was happening at the CRTC for a few years. Then it was reversed, unfortunately, and that's why we've ended up with the highest prices in the world.

**Mr. Brian Masse:** I've been here during the Maxime Bernier years and before that, so I could go on.

Thank you, Mr. Chair.

**Dr. Reza Rajabiun:** Maxime Bernier's policy direction was the start of this process. Then the previous government, by the end of their term, realized that this was a mistake and tried to reverse course.

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

I'll now turn to Mr. Vis.

**Mr. Brad Vis (Mission—Matsqui—Fraser Canyon, CPC):** Thank you, Mr. Chair.

Thank you to our witnesses for a very comprehensive meeting thus far.

In advance of Bill C-288 coming before our committee, a number of the telecommunications companies wrote to my office and stated that MP Mazier's bill is unnecessary and, in their view, unworkable. They cited two key reasons, one being their commitment under the wireless code to communicate with customers in a way that is clear, timely and accurate, and that uses plain language. That's under the wireless code.

The second reason they gave was the Internet Code. They said that under the Internet code, "A service provider must communicate with customers in a way that is clear, easy to understand, timely, accurate, and accessible and that uses plain language." They also cited some rules under the Competition Act about deceptive advertising and they outlined that the CRTC has conducted two studies about wireline Internet speeds, and the findings by an independent company were that wireline ISPs generally provide the speeds that they advertise.

I'll go to Erin first.

Erin, I'm not going to outline which companies wrote me on this, but would you agree in general? What do you think of the comments I just made? I'll leave it there.

• (1640)

**Ms. Erin Knight:** I feel like I have a great idea of who wrote that to you.

Let me say that I am not in the business of taking big telecom's talking points at face value. Let me be clear about that.

I can say that it's obvious why these monopolized companies don't want a bill that would reveal to customers that average speeds might not live up to the package that they were sold. Either customers will want to downgrade to cheaper plans or the plans would have to more accurately reflect the actual service speed customers are receiving. Both of those things would interfere with big telecom's ability to unfairly profit off Canadians, but—

**Mr. Brad Vis:** That's very helpful. Let me interject right there.

According to your expertise, are the wireless code and the Internet Code not sufficient to do what this bill is seeking to do?

**Ms. Erin Knight:** Absolutely not: Without question, current legislation is not sufficient. It's not working.

I would say that big telecom has some flagrant disobedience and some exploitation of loopholes. That's been carefully documented by the CRTC, the federal government and civil society. It's obvious

that we need clear, precise and enforceable requirements to hold these companies accountable, and presently it's not happening.

**Mr. Brad Vis:** I'll turn that question over to Mr. Rajabiun.

Do you believe that the wireless code, the Internet Code and the current regulations are sufficient to ensure that customers know what they're getting?

**Dr. Reza Rajabiun:** This bill has nothing to do with wireless services. That's just an obfuscation. This is about fixed networks. As you've heard and as I've explained, as has Mr. Maker, the Internet Code does not incorporate any elements against misleading advertisements or service quality levels. As I mentioned, the CRTC explicitly excluded putting those in the Internet Code. They're not in there.

On those two points, the first one about wireless is tangential and not related to this bill, and the second one is factually incorrect.

**Mr. Brad Vis:** Thank you. I will change course here.

Mr. Maker, you mentioned some of the statistics and the ability of the commission to deal with complaints put forward by customers from across Canada.

I live in and represent a riding and an area that has major problems with accessing Internet as a basic service, so I'm just curious: On behalf of my constituents, what percentage of your complaints came from rural Canada and what percentage came from urban Canada? Second, what was your percentage rate on solving the issues in rural Canada versus the issues that you were able to deal with in urban Canada?

**Mr. Howard Maker:** I'm not sure we have any specific data on that. I know we had a quick look at some of the stats after receiving your invitation to appear here.

Josée, do you have any line of sight into that?

**Ms. Josée Thibault:** On the first point, unfortunately I can't really talk about the resolution rate for rural Canadians versus urban Canadians, but I do have some information in terms of the proportion of complaints that come from rural Canadians versus urban Canadians.

When we take a look at all complaint types—not just Internet service issues but all Internet, all wireless, all home phone—we see that the proportion of complaints coming from rural Canadians is about 10%. When we zero in on Internet quality-of-service issues, that jumps up to 20%. There's definitely a disproportionate number coming from rural Canadians.

**Mr. Brad Vis:** That's very helpful.

Mr. Chair, how much time do I have remaining?

**The Chair:** You can go a little longer if you want, but you're out of time.

**Mr. Brad Vis:** I think I'm good.

Thank you.

**The Chair:** MP Gaheer, you have five minutes.

**Mr. Iqwinder Gaheer (Mississauga—Malton, Lib.):** Thank you, Chair.

Thank you to all of the witnesses for their contributions to the committee thus far. My first question is for CCTS.

What recourse do consumers currently have if the speeds that are being provided to them don't match expectations? What is the whole gamut of what they can do?

**Mr. Howard Maker:** The first thing that we encourage them to do is contact their service provider and see what the problem is and whether it can be sorted out. Most of the providers have troubleshooting policies and tools that they apply to make sure that they're delivering, under the circumstances, the best service they can to that particular customer.

If they are unable to give the customer what they believe they're entitled to, the customer is welcome to file a complaint with CCTS, and we'll examine it based on the information that's available to us related to that particular complaint. That's how it would work within our process.

As you heard previously, Ms. Thibault described the process for how we look at those complaints and how we process them.

• (1645)

**Ms. Josée Thibault:** On a practical level, in terms of your question about what specific recourse we can offer consumers, it looks like getting to the bottom of what the issue is. It looks like crediting any overage charges.

I think I gave an example in our opening remarks. If a customer is on a plan for 100 megabits per second and they're getting 25, and the provider actually offers an up-to-50 plan, we would look at the difference between those costs and we would require the service provider to compensate for that difference. We could also provide additional compensation for up to \$5,000 to consumers above and beyond that crediting of the billed amount.

**Mr. Iqwinder Gaheer:** Great. Thank you.

My next question is for Ms. Knight.

You mentioned similar initiatives put in place by other countries. How does Bill C-288 compare? Could it be stronger? If so, in what ways?

**Ms. Erin Knight:** That's a good question.

I think I'll answer a little bit of that and maybe throw that to one of the other panellists who might have a little bit more background on it.

I can mention the FCC's broadband labelling approach. As I mentioned, when you subscribe to an Internet plan in the U.S., you would be provided with things like typical download speed, typical upload speed, typical latency—things that are not presently on advertising materials in Canada if you were to subscribe to an Internet plan here.

That's the same type of thing that this bill is talking about. It's talking about making that network performance data available to the consumer at the point of sale, as CCTS has mentioned. It does

follow that. I am in favour of that. I think it's a great approach. We want to make sure that people are empowered at that point of sale.

If there's someone who wants to jump in and talk more specifically about some other examples, feel free, but that's what I have to share.

**Mr. Iqwinder Gaheer:** It doesn't look like anyone else will take you up on that.

My next question is generally open for the panel.

This bill would require the CRTC to hold public hearings to determine how an Internet service would be required to publicly provide service quality and other metrics.

What kinds of metrics would you like to see come out of those hearings?

Anyone can answer.

**Dr. Reza Rajabiun:** Well, you have speeds. I think the point that we should also mention is that the reliability of services has become more important. Speeds are important, and bandwidth, but there are also things like latency and jitter, these technical terms that enable video streaming. The U.S. is adding latency.

You might remember Rogers' big outage a few months back. Another element that could be added, which usually exists in some business contracts, is service being operational continuously. You can have some minimum thresholds for service being out, but some compensatory mechanism and information about commitments to keeping the service up can be useful. For example, in retail business contracts in certain markets in Canada, the supplier, the service provider, guarantees a minimum service quality objective for you, but you can't do that in the retail residential market or outside of urban cores.

These are aspects of the contract and the signalling between buyers and sellers that could be put in there, but the more information you put in there, the more confusing it gets. You need to stick with some key performance indicators, which are up-and-down speeds and latency.

**Mr. Iqwinder Gaheer:** Great. Thank you.

[*Translation*]

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

Mr. Gagné, the floor is yours.

**Mr. Bernard Gagné (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, CPC):** Thank you, Mr. Chair.

Ms. Thibault, since you have a beautiful French name, I will speak to you in French, if you don't mind. I assume you speak French.

• (1650)

**Ms. Josée Thibault:** I speak French well enough, but I am more comfortable in English.

**Mr. Bernard Gagné:** Okay.

Pardon my ignorance, Ms. Thibault, but is the Commission for Complaints for Telecom-Television Services, CCTS, part of the CRTC?

**Ms. Josée Thibault:** No, it's not. It is an independent agency. Its mandate comes under the CRTC, but the CCTS is independent.

**Mr. Bernard Généreux:** Okay.

I'm curious about your funding sources.

Are you funded through the CRTC, since you are under its authority?

**Ms. Josée Thibault:** No, we are funded directly by industry.

We charge service providers for each complaint received by the CCTS to recover our costs of handling those complaints.

**Mr. Bernard Généreux:** In that case, aren't you in a bit of a conflict of interest? Your funding comes from all your clients. Aren't you something of a judge and jury in this case?

**Ms. Josée Thibault:** Not really, as it's about billing. Service provider clients look to the CCTS to resolve their problems. We resolve them. After that, we bill the service provider directly.

I cannot comment on the CRTC. There are other funding options, such as taxes on Canadians or on the sector from which the complaints come from. At some point, a decision was made to recover our costs directly from industry, since we deal with complaints from industry.

**Mr. Bernard Généreux:** Earlier, you said that 17% of the complaints—a good portion—were related to service quality. Out of 100 individuals, that accounts for 17 people; but if we do the math on 5,000 individuals, that's a lot more people.

How many complaints do you handle annually?

**Ms. Josée Thibault:** Last year, we handled approximately 13,000 complaints.

It is important to note that the CCTS is usually the consumer's last resort. This is not to say that consumers have to get to that point before they file a complaint with the CCTS. However, the majority of Canadians wait before filing a complaint with the CCTS.

I would like to clarify that this 17% represents consumer complaints about the quality of Internet service.

We deal with complaints about wireless, Internet and television services. Of all the complaints from Internet consumers, 17% concern the quality of Internet service.

**Mr. Bernard Généreux:** Do you think that, if my colleague's bill were passed, you would have even more complaints because of the transparency that the legislation would bring?

**Ms. Josée Thibault:** It's hard to say. The number of complaints we receive depends on many factors. So it is impossible to know whether that would result in more complaints.

Measures whose purpose is to ensure that consumers receive precise and accurate information about the services they purchase are the most important measures to us.

**Mr. Bernard Généreux:** What are the time frames for processing a complaint?

We see that 17% of 13,000 complaints is more than 2,000 complaints, just for quality of service.

In the transportation sector in Canada right now, complaints take years to process. Is the situation the same in your organization?

**Ms. Josée Thibault:** No, not at all.

Nearly nine out of 10 complaints are resolved, and the majority of complaints are resolved within 30 days or less.

**Mr. Bernard Généreux:** I'm sorry, I didn't understand the first part of what you said.

**Ms. Josée Thibault:** Nearly nine out of 10 complaints we receive are resolved to the satisfaction of the consumer. The majority of complaints are resolved within 30 days.

**Mr. Bernard Généreux:** Okay.

I understood, earlier, the \$5,000 figure. Can your organization impose potential penalties on companies? Did I understand correctly?

**Ms. Josée Thibault:** No, it's not a penalty for the company, it's compensation for the consumer. We can actually require telecommunications companies to compensate consumers up to \$5,000.

• (1655)

**Mr. Bernard Généreux:** Give me a concrete example of someone who has filed a complaint.

You still say that, nine times out of 10, the complaint is resolved. However, there is not necessarily compensation in nine cases out of 10, as I understand it.

**Ms. Josée Thibault:** No, it does not mean that there is compensation in nine cases out of 10. It means that the case is resolved to the satisfaction of the consumer. Sometimes, it is simply a matter of correcting a billing error, which does not require compensation.

**Mr. Bernard Généreux:** Are any of the telecom companies that are your clients at fault more often than others?

I don't want to ask you to provide confidential information, but that data should be publicly available.

**Ms. Josée Thibault:** I want to make a clarification. Our clients are not service providers, but the consumers who file complaints against service providers.

We help fix problems and we also give a roadmap to service providers. We speak out about what causes consumers to file complaints and what service providers could do better to avoid complaints. That is our role at the Commission for Complaints for Telecom-Television Services.

**Mr. Bernard Généreux:** I will rephrase my question.

[English]

Who's the bad kid on the block there?



[Translation]

There are only four or five companies in Canada.

**Ms. Josée Thibault:** It won't surprise you that the largest service providers generate the most complaints. That's not surprising.

We file an annual report every year. You can always see the complaint data there. The information is well laid out in the report, where you will find the number of complaints against each service provider.

**Mr. Bernard Généreux:** I think you mentioned earlier that people living in rural areas are more likely to complain than people living in urban areas, even though there are many more people in cities than in rural areas.

Are complaints from rural areas proportionally more significant?

**Ms. Josée Thibault:** It's not that there are more complaints. Rather, it's that 10% of the complaints that come to the Commission for Complaints for Telecom-Television Services are from rural consumers, but that number rises to 20% for Internet services and their quality.

**Mr. Bernard Généreux:** Ms. Knight, if I understand correctly, OpenMedia is an independent company. You are not associated with any telecommunication company, as I understand it.

[English]

**Ms. Erin Knight:** Absolutely not. We are a grassroots community-led organization, explicitly non-partisan and explicitly not linked to any industry player.

[Translation]

**Mr. Bernard Généreux:** You are completely independent.

I understand that you were still pretty, how shall I put it—

[English]

**Ms. Erin Knight:** We are a civil society organization that's led primarily by our community members. If you're asking as to our relationships with our funders, etc., I'm happy to follow up with you directly, but it's not really my area of expertise.

[Translation]

**Mr. Bernard Généreux:** I'm not worried. I'm going to end by saying that you should be in politics, Ms. Knight.

Thank you.

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

I will now give the floor to Mr. Fillmore for five minutes.

[English]

**Mr. Andy Fillmore (Halifax, Lib.):** Thanks, Chair.

Thank you for the illuminating discussion so far.

I want to focus my questions on the costs to consumers and the fees they pay. To start with, I want to go back for some clarification.

Ms. Thibault, you mentioned in response to an earlier question that you are able to go back as a result of a complaint and adjust the bill of a consumer. I want to know if that was a one-bill-only thing.

Do you fix it for that one month when the consumer had a complaint, or does it adjust the bill in perpetuity to reflect the actual service that consumer is receiving?

**Ms. Josée Thibault:** It depends on the circumstances.

If the customer is on a plan that provides them up to 100 megabits per second and they're regularly getting up to 25, and we find that there's a plan available from this provider that's up to 50, then we will usually require that provider to compensate the customer for the difference between those two plans for the months that the customer was paying for them. If it was for 10 months, then it's for 10 months. We would propose to the customer to consider going down to the 50 megabits plan if that's more suitable to them. It's up to the customer to decide whether they wish to do that or not.

• (1700)

**Mr. Andy Fillmore:** It's looking backwards, in other words, and not forwards. That's fine.

The example that comes to mind is electricity. I think all of us pay an electricity bill in our homes. We pay for the power at the rate at which we consume it. It doesn't do it now on electronic things, but the old meters used to spin around, and you could see how much power you were using. You knew your bill was going to go up because the thing was going fast.

Right now, I think when we look at plans.... My plan is 100 megabits per second, and it's \$100 per month. The provider is placing a value on that higher speed. The 50 megabit per second rate is \$50, so obviously that's worth less.

Consumers are paying the highest rate and getting a much lower-speed product. They're consuming at a lower rate, so they should be paying less. It's almost like a pay-as-you-go model, perhaps. I wonder how the witnesses today would respond to that kind of system.

I was hoping to draw a comparison between that kind of option versus something that I don't see explicitly in the bill as it's drafted now, a guaranteed minimum speed. The big boldface number that you think you're getting is the minimum speed. You'll pay for that, and if you don't get that speed, then there would be a reduction in price.

Those are two different ways of looking at how consumers could pay for what they're getting. I'd love to hear your response to that. Do you feel that there's room for amendments in this bill to accommodate either of those?

**Dr. Reza Rajabiun:** The minimum speeds would be easy to incorporate into this bill.

**Mr. Andy Fillmore:** Would it be in such a way that the invoice would be adjusted downward when those speeds were not provided?

**Dr. Reza Rajabiun:** You could have minimum speed and then advertised speed, because they're not the same thing. Speeds vary. It's a dynamic.

It's not like electricity that you're being charged for by volume. The electricity model you used.... Telecom providers would love nothing better than to use that kind of meter billing. They were doing that before, but now with bit competition, we are towards unlimited. You're not paying for the volume of what you're using like you do with electricity; you're paying for the size of the pipe, which is the bandwidth of your speed plan. It's a different market in that sense.

**Mr. Andy Fillmore:** That's even if the pipe is half empty half of the time. I understand.

Do you think that in that model, if the minimum advertised speed was not reached on an average basis, it would be incumbent on the provider to lower the bill for that month? It would be a downward adjustment. What happens in other countries and jurisdictions?

**Dr. Reza Rajabiun:** They have different approaches.

Some countries have a regulator like the CRTC. In Germany, they have kept the power themselves. The CRTC of Germany deals with complaints at the individual level and moves towards systematic fines when it doesn't happen in a systematic manner. Individual cases don't really incentivize bad actors to do better, because they are very small fines, essentially. Sometimes it might have to go towards more monetary penalties.

Some other countries have a system like ours, in that essentially the regulators have outsourced enforcement and compliance with the codes of conduct to a third party organization. In some countries, the competition authorities deal with this, so it's not the telecom regulator directly.

**Mr. Andy Fillmore:** Thank you very much for that.

Ms. Knight, do you have any reflections on this line of questioning and how we might better tie fee to service for consumers?

**Ms. Erin Knight:** That's a really good question. As a consumer advocate, what I would say is that people are going to be in favour of whatever we can do legislatively to allow them to get more affordable services, to get money back in their pockets. What I will say is that I don't know if this bill is the place to do it. It seems like it might be needlessly complicating something that is, again, fairly uncontroversial and fairly simple to do. I might break those two apart, but I would never say not to go after something that's going to help Canadians.

• (1705)

**Mr. Andy Fillmore:** Okay.

For the CCTS, is there anything from you on this?

**Mr. Howard Maker:** I'm looking at the bill. It's quite clear, you know. You're asking the service providers to make metrics available around service quality during peak periods, whatever that means—typical download and upload speeds during peak periods, so that's all very simple and plain and clear—and then for any other information that the CRTC thinks is in the public interest, which gives a lot of scope for the CRTC to do what it thinks is best.

My sense is that the CRTC is the place that has the technical expertise on this issue. I recognize that there are many who are uncomfortable with the approach that the CRTC has taken in the past. I don't have any opinion on that, but I do think that the CRTC is the

place where the technical expertise on this lies. They have the option to hear from consumer groups and from industry at the same time for an appropriate review of the evidence, and the policy can be had. I would caution against over-complicating this bill any further.

**Mr. Andy Fillmore:** Okay. I understand.

If we do wind up in a “minimum advertised speed” situation, what happens, then, when that speed is not reached? What do you think the policy regimen should be? I mean, if we just change the way that the plans are advertised and people understand better what they're paying for, when the promised speed is still not reached, it feels like there should be an automatic monthly downward adjustment to the bill so that it doesn't have to go through the complex appeal and complaint process. Do you think there's room in the bill for that, or is that needlessly complicating things?

**Dr. Reza Rajabiun:** That's something that the CRTC can figure out, the implementation of it. The problem is that the transparency, as you mentioned, goes only so far, so whatever target is advertised as minimum, the verification process has to be set up.

For example, for the CCTS to validate the complaint, it can have a rule—CRTC can impose it or CCTS can come up with it themselves—so that you have to show that your contract says “100 megabits” and you've done 10 tests: One of them shows 100 megabits and nine of them show 50 megabits. Does that constitute a violation of your contract?

Those standards can be created later on.

**Mr. Andy Fillmore:** Okay.

I think the chair might give me 30 seconds if anybody wants a final remark.

**Mr. Howard Maker:** I was going to say that I admire your creativity here and your desire to make sure we capture all the requirements that are needed. I think we should be careful, and I urge you to be careful about over-complicating this. I think the details should be left to the detail people.

**Mr. Andy Fillmore:** Thanks very much.

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

[*Translation*]

Mr. Lemire, you have the floor.

**Mr. Sébastien Lemire:** Mr. Chair, my questions are for Ms. Thibault or Mr. Maker.

I imagine that many of the complaints you receive must get resolved when the speed problem a consumer complains about is due to the equipment they have. If they don't have a good modem, for example, the speed they get on their computer will be significantly reduced.

Are there cases where the speed provided by the company is still good, but when it is processed by the consumer's modem, the consumer realizes that the problem has more to do with their equipment than with the company providing the telecommunications services?

[English]

**Mr. Howard Maker:** It is a complicating factor. There's no question that a customer's equipment can impact the speed they're receiving and that the way their network is configured can also have an impact on it. That's a challenge for us, I would say, because we don't have very good visibility into what the consumer is running in their premises. We can ask questions, but it's pretty hard. We don't have a team of engineers to go out and measure the speeds at customer premises.

[Translation]

**Mr. Sébastien Lemire:** At that point, shouldn't the company provide equipment that would guarantee a good connection and adequate speed inside the device itself? Whether it's a phone or a computer, isn't that part of the chain that should get to the device?

• (1710)

[English]

**Ms. Josée Thibault:** One of the things we do when we get a complaint is make sure that the service provider has engaged in troubleshooting. That's not just about their own facilities; it's also helping the customer figure out things: What modem do you have? How old is your modem? How far is your modem from your equipment? Are you using it plugged in, or are you using it over Wi-Fi? Our expectation is that service providers are going to work with their customers in order to figure that out.

In many of the models, we see that when service providers provide Internet service, they also provide the equipment, so there's an obligation there to also look into that and make sure that the equipment is appropriate in those circumstances.

[Translation]

**Mr. Sébastien Lemire:** Overall, do problems resolve themselves? What percentage of complaints are really related to the individual's equipment as opposed to the connection provided by the provider?

**Ms. Josée Thibault:** I do not have the data to answer that question.

Nonetheless, I can say that sometimes the resolution of the complaint does depend on the equipment and the device, which requires a change of equipment. Ensuring the quality of services is work that happens between the consumer and the provider. However, that is not always the case.

Unfortunately, I don't have any data on that.

**Mr. Sébastien Lemire:** Thank you very much.

By the way, your French is excellent. Don't hesitate to use it.

**Ms. Josée Thibault:** Thank you.

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

Mr. Masse, you have the floor.

[English]

**Mr. Brian Masse:** *Merci.*

Monsieur Lemire has brought up an interesting point that hasn't been raised before, actually, in all of our telecom studies. I want to follow up on that with Ms. Thibault. It's on the equipment issue.

I've been through it myself, when it's not working right and your telco provider doesn't tell you that you need a new modem. I found out that my modem was about five years old and hadn't had software updates or whatever and hadn't done the right download it was supposed to and so forth. There was no notification. I just kept on paying and assuming it was okay.

Is there a lot of this happening? Obviously it became a problem, which is why we started raising the issue. However, it would almost seem that it would be to the advantage of the provider at that point to have me suffering and not getting the best service I could. In the meantime, they don't have to replace my equipment and they also could actually expand other speeds elsewhere.

I'm just wondering whether there's something on the consumer advocacy front that we have to do so they will have to notify people about equipment updates as well.

**Ms. Josée Thibault:** Again, I don't have statistics I can share with you about that. What I can say is that it is very common for service providers to take a look at the customer's equipment when they are troubleshooting issues. That's been our experience. When we're working with complaints, that is our expectation, and we follow up on that and get reports on what was found.

That's what I can tell you. That's what I can speak to. As for the rest of it, it's a little bit more about informing consumers of their rights. Again, we're always big proponents of making sure that consumers are as educated as possible and that they understand how to navigate the system.

**Mr. Brian Masse:** Thank you.

Quickly to Ms. Knight, do you think that's maybe something we should be looking at, in terms of at least being responsible for notifying customers about when they should actually upgrade equipment and whether they're eligible for that? I only found out by accident.

**Ms. Erin Knight:** I can say that I wish my ISP would tell me that information, personally. Yes, that falls under a lot of what we talked about today. A lot of great ideas are coming out as to how we can help empower consumers to actually get what they pay for and have good-quality service in ways that are currently not protected. Absolutely, we can explore all these ideas. I don't think this bill is the place for that, but yes, I would never shut that down. I think that's a great idea.

**Mr. Brian Masse:** Thank you. Thank you to the witnesses.

Thank you, Mr. Chair.

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

That concludes our official rounds of questions, but given that we have more time, I will open the floor to anyone who wants to ask questions.

Go ahead, Mr. Perkins.

**Mr. Rick Perkins:** Thank you, Mr. Chair.

I have a couple more questions. I won't prolong the meeting too much.

In his opening, the sponsor of the bill, Mr. Mazier, who is here today, talked about how complaints to the regulatory bodies have actually gone down where this has been implemented, I think primarily in Europe. I wonder, Mr. Maker, if you have or have seen any data on that.

• (1715)

**Mr. Howard Maker:** I have not seen any data on what's going on in other countries that have done this. It seems that the complaint environment is different in different countries, so I would hesitate to draw any direct comparisons.

However, that's the objective here. The objective is to try to reduce the number of complaints as a result of customers being informed about what they're getting and having nothing to complain about.

Now, we don't live in nirvana. We know that there are always going to be problems, and sometimes there's the opposite effect when providing disclosure makes customers actually understand what they're not getting. It's really very difficult to predict what will happen in terms of complaint numbers, but we're hopeful that something like this would cause them to go down.

**Mr. Rick Perkins:** Ms. Knight, I have the same question for you. I don't know if you have access to any data or are aware of that at all.

**Ms. Erin Knight:** I don't think I'm the best to speak on that. If you want me to speak on how our community responds to this type of thing, I would say that, yes, we've had a wider conversation with our community for more than a decade about this type of issue, through several iterations of Parliament, about the unfair power that big telecom has over people in Canada. When we hear the service quality sentiment from our community, it's often embedded within a wider conversation about things like the Rogers-Shaw merger. People dislike that, and some of the reasons they give are that these big companies already abuse us. These big companies already hurt us, so why would we want them to get even bigger?

That's the kind of thing we hear from our community, and I don't have stats to share with you. I'm always happy to report more on what our community thinks about this type of thing.

**Mr. Rick Perkins:** I appreciate that.

I have one more question, Dr. Rajabiun.

There has been expressed a concern that if you say that it's possible to have a regulated minimum speed within these packages, the companies—unless you're very specific—will just use zero as the minimum speed, as they do now. What would be your suggestion about how we, either through this bill or any other mechanism, make sure that doesn't happen?

**Dr. Reza Rajabiun:** The CRTC has already established a 50-millisecond minimum service quality standard. It's not implemented, but they have established it.

That minimum needs to be low. It cannot be too high, because speeds are going to vary. You could set a minimum. Let's say it's 5 megabits per second. You could have a baseline for what you want

that minimum to be. For example, the 50/10 basic service standard that is part of the universal access process says that this is supposed to be a speed, a capacity, that's enough for a household with multiple people to be running multiple applications at the same time. That's why the CRTC adopted it, but people are adopting higher-speed packages because they really cannot use the services they need with 50/10.

A much lower minimum that enables people to use very basic service—say at 5 megabits per second, up and down—can be a standard that can be used. It could be something like that.

**Mr. Rick Perkins:** Sorry. I am going to back up and say that I have one more question, even though the last one was the last question.

Ms. Knight, on that minimum speed issue, I think in your submission you actually had 3, 5 and 10 megabits per second. Is it meaningful to have a minimum standard that low, especially when some of the packages are saying that they're going to offer as high as 8 gigabytes per second? Is it meaningful to say that 10 is an adequate minimum?

**Ms. Erin Knight:** I don't think I can tell you what the adequate minimum should be.

When I think about service quality standards in Canada, I'm always looking to the future. The speed standard we're shooting for in Canada is 50/10. At OpenMedia, we always talk about future-proofing, so we're looking into, say, 50 years from now. When does 50/10 become obsolete? If our communities are getting insufficient service today, how are we looking forward to make sure that in the future, we're not getting them bits and pieces, and later on they have the same problem and we're just kicking the can down the road?

I don't think I can tell you what a particular minimum should be. Shoot for the stars, I guess. We can look to the gold standard of connectivity in a lot of communities, which is fibre Internet. We can look at types of technologies being required in public funding for Internet infrastructure and making sure those are available to communities, regardless of where they are. I'm a believer that we shouldn't be funding too many satellite services when things like fibre are available.

• (1720)

**Mr. Rick Perkins:** Just to summarize, the idea is that as technology changes, somehow there should be a mechanism that should be part of this process, annually or maybe even faster, that says the CRTC, the government, ISED or whoever it is has to do an annual review to say that technology has moved ahead and therefore we should move to a higher minimum standard at some point. Just letting it sit there for five years is probably silly. It will all be obsolete, as you say.

Is that essentially what you're saying?

**Ms. Erin Knight:** I'm saying that future-proofing should always be a part of figuring out any sort of minimum service standard for any reason. I don't know if that's a legislative application or a regulatory thing. Absolutely, it can't just be one and done forever.

**Mr. Rick Perkins:** Great.

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

Thank you to all of our witnesses today for sharing your time and your insights with us.

Thank you also to MP Mazier for bringing this important bill forward.

[*Translation*]

I thank the interpreters, the analysts, the clerk, the support staff and the political staff.

I wish everyone a good evening.

The meeting is adjourned.

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