



ISSN 1180-5218

**Legislative Assembly  
of Ontario**

Second Session, 40<sup>th</sup> Parliament

**Assemblée législative  
de l'Ontario**

Deuxième session, 40<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

**Wednesday 9 October 2013**

**Journal  
des débats  
(Hansard)**

**Mercredi 9 octobre 2013**

**Standing Committee on  
General Government**

Wireless Services  
Agreements Act, 2013

**Comité permanent des  
affaires gouvernementales**

Loi de 2013 sur les conventions  
de services sans fil

### **Hansard on the Internet**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

### **Le Journal des débats sur Internet**

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

### **Renseignements sur l'index**

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

---

Hansard Reporting and Interpretation Services  
Room 500, West Wing, Legislative Building  
111 Wellesley Street West, Queen's Park  
Toronto ON M7A 1A2  
Telephone 416-325-7400; fax 416-325-7430  
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation  
Salle 500, aile ouest, Édifice du Parlement  
111, rue Wellesley ouest, Queen's Park  
Toronto ON M7A 1A2  
Téléphone, 416-325-7400; télécopieur, 416-325-7430  
Publié par l'Assemblée législative de l'Ontario

## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENTCOMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Wednesday 9 October 2013

Mercredi 9 octobre 2013

*The committee met at 1615 in committee room 2.*

## SUBCOMMITTEE REPORT

**The Chair (Mr. Grant Crack):** I'd like to call the meeting to order. I'd like to welcome all members of the committee, support staff and presenters here this afternoon.

Again, I apologize for the delay. We cannot start a committee meeting until such time as routine proceedings is finished within the House, and today it did take a little bit longer than normal.

Having said that, we'll get right down to business. I believe we have a report from the subcommittee from the other day, and I would ask that that be read into the record. Mr. Fraser? Oh, sorry. Mr. McDonnell?

**Mr. Jim McDonnell:** Yes, we have a report from the subcommittee, dated Monday, October 7, 2013.

Your subcommittee on committee business met on Monday, October 7, 2013, to consider the method of proceeding on Bill 60, An Act to strengthen consumer protection with respect to consumer agreements relating to wireless services accessed from a cellular phone, smart phone or any other similar mobile device and, subject to the bill's referral to the committee, recommends the following:

(1) That the committee hold public hearings on Bill 60 in Toronto, at Queen's Park, on Wednesday, October 9, and Monday, October 21, 2013, during its regular meeting times, as per the order of the House dated Thursday, October 3, 2013.

(2) That the Clerk of the Committee, with the authorization of the Chair, post information regarding the committee's business with respect to Bill 60 once in all English dailies, as well as in *Le Droit* and *L'Express* newspapers, as soon as possible.

(3) That the Clerk of the Committee, with the authorization of the Chair, post information regarding the committee's business with respect to Bill 60 in English and French on the Ontario Parliamentary Channel, on the Legislative Assembly website, and with the CNW News-Wire service.

(4) That the Minister of Consumer Services be invited to appear before the committee on Wednesday, October 9, 2013, as the first witness.

(5) That the Minister of Consumer Services be offered 15 minutes for her presentation, followed by up to 15

minutes for questions by committee members, five minutes per caucus.

(6) That interested people who wish to be considered to make an oral presentation on Bill 60 should contact the Clerk of the Committee by 5 p.m. on Wednesday, October 16, 2013.

(7) That the Clerk of the Committee, in consultation with the Chair, be authorized to schedule witness presentations on Bill 60 for Wednesday, October 9, as the requests are received, on a first-come, first-served basis.

(8) That, following the deadline for receipt of requests to appear on Bill 60, the Clerk of the Committee provide the subcommittee members, by email, with a list of all the potential witnesses who have requested to appear before the committee.

(9) That, if required for the Monday, October 21, public hearings, each of the subcommittee members provide the Clerk of the Committee with a prioritized list of the witnesses they would like to hear from by 12 noon on Thursday, October 17, 2013. The members will rank all potential witnesses on the list distributed by the committee Clerk, starting with "1" for their first choice, and increasing by increments of one for all subsequent choices. The Clerk will add the ranking scores for each witness and schedule the witnesses with the lowest cumulative scores.

(10) That up to seven presentations be scheduled on Monday, October 21, 2013.

(11) That groups and individuals be offered six minutes for their presentations, followed by up to 24 minutes for questions by committee members, eight minutes per caucus.

(12) That the deadline for receipt of written submissions on Bill 60 be 5 p.m. on Friday, October 18, 2013.

(13) That the research officer provide the committee with a summary of written submissions by 4 p.m. on Monday, October 21, 2013.

(14) That amendments to the bill be filed with the Clerk of the Committee by 12 noon on Tuesday, October 22, 2013, as per the order of the House dated Thursday, October 3, 2013.

(15) That the committee meet on Wednesday, October 23, 2013, during its regular meeting time for clause-by-clause consideration of the bill, as per the order of the House dated Thursday, October 3, 2013.

**1620**

(16) That the Clerk of the Committee, in consultation with the Chair, be authorized to commence making any

preliminary arrangements necessary to facilitate the committee's proceedings prior to the adoption of this report.

**The Chair (Mr. Grant Crack):** Thank you, Mr. McDonnell. Any further discussion on the report of the subcommittee? Shall the subcommittee report be adopted?

**Mr. Jim McDonnell:** I just have one thing.

**The Chair (Mr. Grant Crack):** Go ahead.

**Mr. Jim McDonnell:** If you're rating, it should ensure that everybody rates all of them, or it kind of messes up your system. Rate from "1" to how many there are. If you leave some blank, it kind of mixes up your numbering system, I would think. As long as everybody is clear on that.

**The Chair (Mr. Grant Crack):** Thank you. Shall the report of the subcommittee be adopted? Those in favour? There are none opposed. Carried.

#### WIRELESS SERVICES AGREEMENTS ACT, 2013

#### LOI DE 2013 SUR LES CONVENTIONS DE SERVICES SANS FIL

Consideration of the following bill:

Bill 60, An Act to strengthen consumer protection with respect to consumer agreements relating to wireless services accessed from a cellular phone, smart phone or any other similar mobile device / Projet de loi 60, Loi visant à mieux protéger les consommateurs en ce qui concerne les conventions de consommation portant sur les services sans fil accessibles au moyen d'un téléphone cellulaire, d'un téléphone intelligent ou de tout autre appareil mobile semblable.

#### MINISTRY OF CONSUMER SERVICES

**The Chair (Mr. Grant Crack):** It gives me great pleasure to welcome, from the Ministry of Consumer Services, the Deputy Minister, Mr. Gherson, and I believe a number of others. Is Mr. Gherson here? For the record, please state your name and those who accompany you.

**Mr. Giles Gherson:** Thank you, Chair. My name is Giles Gherson. I'm Deputy Minister of Consumer Services. On my left are Frank Denton, assistant deputy minister of policy at consumer protection services, and Marilyn Marshall, on my right, who is senior counsel.

**The Chair (Mr. Grant Crack):** You'll have 15 minutes, if need be. I'll let you know when you have a minute left.

**Mr. Giles Gherson:** I appreciate that; thank you. Honourable Chair and committee members, I'm pleased to be here this afternoon on behalf of the Honourable Tracy MacCharles, Minister of Consumer Services, to present the government's proposed Wireless Services Agreements Act, 2013.

Earlier this year, on April 29, Minister MacCharles introduced the proposed legislation to protect and

strengthen the rights of Ontario consumers in one very significant sector of the marketplace: cellphone and wireless services agreements.

The proposed Wireless Services Agreements Act, which passed second reading debate yesterday, would, if passed, provide significantly better protections to more than 80% of Ontario's consumers who have contracts for cellphones, smart phones and similar mobile devices. It would also bring greater fairness and transparency to wireless services agreements entered into by the people of Ontario.

Let me just outline the three main features of the legislation:

(1) Bill 60 empowers consumers to find the right contract for their needs and budgets.

(2) Bill 60 helps consumers easily end contracts that no longer suit them and at minimal cost.

(3) Bill 60 enables consumers to avoid surprises from any unexpected changes to their contract over its life.

I'll expand briefly on each of these important features. Empower consumers to get the right wireless services contract by making it easier to understand what they are contracting for out of a myriad of competing offerings in the marketplace: The bill makes it clear that consumers have rights to transparent, plain-language contracts, disclosing key contract terms, spelling out what services come with the basic fee and which services would result in added costs, how services can be accessed and what rates and restrictions apply. As an example, the provider would need to disclose if a long-distance plan is available within Ontario only.

The contract would also have to be provided in a form that a consumer can keep, such as an electronic document that can be printed. Contracts would also need to include the retail value of a handset and the real cost to the consumer of phones provided in "free" contracts at a discounted price.

If the supplier is offering supplemental warranty coverage on the handset or device at an additional charge, the consumer would need to be given information on the manufacturer's warranty that would come with the device anyway.

Information on how cancellation fees are calculated would have to be included in the agreement that a consumer receives and signs. Companies would need to provide clear information on how roaming costs are calculated, when they will be incurred and whether a cellphone is locked, for how long and the cost, if any, to unlock it.

Perhaps the most important element that would empower consumers is the requirement that when a provider advertises prices for wireless plans, they must show the all-in price of the entire multi-year contract, not just the monthly charge. No extra add-on charges would be allowed based on advertised prices.

This transparency would let consumers more easily compare prices as they shop for the cellphone plan that suits them best. The purpose is to empower consumers to get the right wireless contract for their needs and budget.

The second key feature, helping consumers terminate contracts more easily and at low cost: The proposed legislation would, if passed, give consumers the right to cancel a wireless services agreement at any time by giving notice to their service provider. The cost to cancel would depend on the type of agreement. However, Bill 60 sets strict limits on cancellation penalties. For example, to cancel a fixed-term contract that did not include a handset, the cost would be 10% of the price of any outstanding services, up to a \$50 maximum. If a handset was provided, the consumer would be responsible for any unpaid amount on the value of the discount they received when purchasing the phone.

As well, if a consumer does not obtain a copy of their contract when it is signed, or if the consumer does not obtain all the disclosures that legislation requires, including the key terms of the contract, a consumer would have the right to cancel the agreement within one year of signing it, and the company would have to refund all payments made under the contract to the consumer.

A third feature, preventing surprise costs or service changes within the life of the agreement: Not only must a contract include all the key terms, but Bill 60 prohibits unilateral contract changes. Explicit consent from consumers must be obtained before amending, extending or renewing a fixed-term contract. This means consumers would have to agree to any change to the agreement before it is made, and they must get an up-to-date version of their agreement if it is amended or renewed. Automatic renewal of a fixed-term contract without consumer consent would no longer be allowed.

Bill 60 would allow expiring fixed-term contracts that haven't been renewed to automatically become month-to-month contracts on the same terms as their expired fixed-term contracts, as long as this is provided for in the contract.

As well, under the proposed legislation, customers could not be charged for services they could not access while their handset was being repaired when under warranty. For example, if a customer received a loaner phone while their phone was being repaired under warranty, the loaner phone would need to be provided free of charge. This would not apply to phones that are not covered by warranty. Nor would customers be able to be charged for surprise costs incurred for the use of a phone after it has been reported lost or stolen, such as long-distance or roaming charges.

We believe that all of these terms and features would offer strong protections for Ontario consumers, and they are backed by strong enforcement measures when a service provider does not follow the rules.

Bill 60 gives a consumer the right to sue the provider for three times the amount that the consumer is owed, if the consumer is owed a refund and the company refuses to pay.

The bottom line is that Bill 60, if passed, would help ensure that when Ontario consumers enter into a cellphone and wireless service contract, they are fully informed and have made the best choice for themselves.

But it is important to note that this bill has been developed over the course of several years and has benefited from several rounds of consultation with stakeholders, including industry representatives and consumers.

In fact, the bill's content is based on last year's Bill 82, which, after many discussions with stakeholders, was introduced in May 2012. It died on the order paper when the Legislature was prorogued last year.

Earlier this year, we took the opportunity to listen to and meet again with industry and consumers. When the legislation was reintroduced as Bill 60, we incorporated several revisions and improvements to last year's Bill 82. We also again reviewed key elements of very similar legislation in other provinces, such as Quebec, Manitoba, Newfoundland and now Nova Scotia.

Additionally, we have incorporated some changes to align with what was then the CRTC's draft code, bearing in mind that the final version of the national code was published in June, following the introduction of this legislation. Some of those changes would prevent consumers, for example, from being charged for calls made once a phone is reported lost or stolen. It would allow automatic monthly extensions at the front end of a fixed-term contract to avoid consumers losing their cellphone number if they haven't managed to sign up for a new contract—so during that period of delay. Also, it would provide authority for regulations to require service providers to give customers a personalized contract summary for each contract.

Now that the CRTC has introduced its final code for service providers, which comes into effect December 2, we have of course reviewed it at length. We're pleased to see that it contains many useful consumer protections.

It does raise, of course, an obvious question, which is, why would we still bring this proposed legislation forward to protect Ontario consumers when there will soon be a national code? The answer is that Bill 60 provides some very important protections beyond what is in the national code.

#### 1630

First, though, I should be clear: The federal government does have the jurisdictional responsibility in the field of telecommunications, but equally, the provinces have responsibility over contracts and ensuring that cellphones and wireless contracts are fair and transparent.

We designed our bill, as have other provinces, to fit within provincial jurisdiction. We do not include proposals that by their very nature are directly related to the federal government jurisdiction.

It is also worth noting that the CRTC itself has explicitly said that its national code can coexist with provincial legislation, including very similar legislation to this bill already in force in Quebec and three other provinces.

Bill 60 better protects consumers in four key ways. First, if consumers want to be able to compare cellphone deals among providers, then only Bill 60 mandates all-inclusive price advertising that shows the total cost of the contract over its duration.

Second, if consumers want control over their contracts and to not be surprised by new or added charges, then

only Bill 60 requires providers to get customer consent before they amend any term of a fixed-term contract. Unilateral contract amendments to fixed-term contracts would be prohibited.

Third, if a consumer cancels a contract and the cell-phone provider doesn't refund the money owed to a consumer, such as deposit money, only Bill 60 would give the consumer the right to recover three times that amount if they have to sue for a refund.

Fourth, because we want consumers in Ontario to benefit from stronger consumer protections, only Bill 60 would provide authority to use strong enforcement measures—to address ongoing systemic problems via compliance orders, for example—when a provider fails to comply with the law.

The national code would deal with these things by mediating complaints on a case-by-case basis.

Finally, we're pleased to see that the providers are moving ahead, complying with laws similar to Bill 60 in other provinces, such as Quebec, Manitoba, Newfoundland and Nova Scotia.

We believe all of these measures strengthen consumer protection and ensure a fair, safe and informed marketplace, where Ontario families and individuals can make informed choices, spend wisely and protect their hard-earned money.

**The Chair (Mr. Grant Crack):** Thank you very much, Deputy Minister. There are four-and-a-half minutes remaining—good job.

With the committee's approval, we'll start with the opposition.

**Mr. Jim McDonell:** Thank you for appearing today.

There are many issues that are covered under both codes. Obviously, this bill was written before the wireless code was issued. Is it not time to look at firming it up so that we have one standard? I'm sure that if you have two different rules under the one code versus the other, there's a lot of confusion for the consumer. Where do you see that going?

**Mr. Giles Gherson:** I think it's fair to say that the code was developed, in large measure, after last year's Bill 82, and it contains many of the provisions that we put forward in our legislation. Clearly, there are some great similarities in terms of the protections that are provided.

You mentioned that there are probably some elements of the code, in the final form, that are not in our legislation, and that's something I'm assuming the committee can look at. But it's also fair to say, as I mentioned, that we have, in the bill, some significant enforcements and provisions that are not in the code. We believe that Bill 60 does, in fact, provide stronger protection to Ontario consumers than the code provides.

I also mentioned that the CRTC itself has explicitly said that it doesn't foresee any problem with the coexistence of a national code and provincial legislation. It's offering consumers a choice of redress.

**Mr. Jim McDonell:** What I'm wondering is, where you have two different, specific requirements that are in

conflict with each other, which one takes priority? Is that a matter for the courts in each case? I'm just wondering, when we're going through this, should we not try to bring them to one level, whatever it is, so that there's some clarity? Moving toward a national code would likely make the most sense in most cases.

**Mr. Giles Gherson:** Certainly, where there is a conflict—and I'm not sure there are that many cases where there are—the national code prevails. But, as I say, there are elements of Bill 60 that are not to be found in the code.

**Mr. Jim McDonell:** I realize that, but I'm just saying, for the cases where there are two, would it not make sense just to revise our proposed bill here to agree with the code that's actually been issued for some time now—and just stands to verify within the courts, at least, what the rules are?

**Mr. Giles Gherson:** We've attempted to do that to the best of our ability prior to the emergence of the final draft, so I think the answer to that is yes.

**Mr. Jim McDonell:** Has the final draft changed from what we've seen introduced into the House?

**Mr. Giles Gherson:** You've seen the final version of Bill 60 insofar as the ministry is concerned. Obviously, the committee has the capacity to make amendments, but we built Bill 60 on the most recent information we had from the CRTC, which was the draft code. But the actual final code did go farther and had some provisions that the draft code did not have in it.

**Mr. Jim McDonell:** So those haven't been put into the bill.

**Mr. Giles Gherson:** That's correct.

**Mr. Jim McDonell:** So I guess my question really was, should we not attempt to do that through this process?

**Mr. Giles Gherson:** It's not really my job to give you advice, but I'm sure that's something that could happen.

**Mr. Jim McDonell:** When it comes to clause-by-clause, we have a very short time to do that.

**Mr. Giles Gherson:** I appreciate that.

**Mr. Jim McDonell:** We talked about some issues, and you talked about the bill being month-to-month as long as it's in the contract. Is that not something we would like—I'm wondering why it would be written out of the contract. After your agreement is over, wouldn't we want in all cases for the agreement to continue month-by-month until it's changed by the—would we not want to have that basically in the code, that it does not cease to exist?

**Mr. Giles Gherson:** That's exactly what's in Bill 60; so that if a fixed-term contract expires, it automatically defaults, effectively, to a month-to-month contract with unchanged provisions until the customer and the service provider agree to a new contract.

**Mr. Jim McDonell:** In your preamble, you talked about "unless it was written into the contract differently."

**Mr. Giles Gherson:** Yes, I'm sorry. It has to be in the contract; you're right. That's a provision that presumably would be offered by service providers in the original

contract, but what we were trying to get away from was the imposition of any contract terms that weren't agreed to by the customer. So it just has to be explicit.

**The Chair (Mr. Grant Crack):** Thank you. The third party.

**Mr. Jagmeet Singh:** Thank you for being here. You mentioned four essential components of this bill. Number four of those four was, you talked about the element of enforcement. Can you describe the mechanism or how this bill would assist in enforcement, and enforcement of what in particular?

**Mr. Giles Gherson:** There are a number of enforcement features to the bill. One of the main ones is that, in a sense, if there are refunds owing, the customer himself or herself has recourse to the courts to seek—

**Mr. Jagmeet Singh:** A remedy of three times—

**Mr. Giles Gherson:** A remedy; exactly. So that's there, and that is something that's not, for example, in the national code.

Also, to the degree that there is infringement on Bill 60 or there are violations of Bill 60, and complaints are brought to the attention of the ministry, we can seek directors' orders and other enforcement mechanisms from the ministry to the service provider.

**Mr. Jagmeet Singh:** That's what I was actually looking for, because in the first example, I understand—and I think that's good; I actually spoke about the fact that, providing a remedy like being able to sue for three times what you're owed is an encouraging thing, because it provides consumers with a real, tangible remedy. But in terms of this enforcement, could you give me an example of what a cellphone provider could do that someone could complain about, and then what enforcement mechanism you would actually be able to bring as a ministry?

**Mr. Giles Gherson:** Where, for example, language in a contract isn't clear and comprehensible, and so there is misunderstanding about what the contract terms are, that would be—where a pattern of complaints emerged about that from consumers saying, “We really weren't sure what was in our contract,” or “There were things in our contract that we didn't realize were in there,” and there was a pattern, that would enable the ministry to seek redress.

**Mr. Jagmeet Singh:** What would that action be? That's what I'm wondering. What action would the ministry actually take?

**Mr. Giles Gherson:** Normally, we would do an investigation, and then the director would issue a compliance order under the law.

1640

**Mr. Jagmeet Singh:** Okay. And does this bill provide for a new mechanism beyond what already exists in terms of the Ministry of Consumer Services?

**Mr. Giles Gherson:** That's the way the existing Consumer Protection Act operates.

**Mr. Jagmeet Singh:** Right, right. I was wondering, is there any additional enforcement that I'm not aware of?

**Mr. Giles Gherson:** No.

**Mr. Jagmeet Singh:** When you mentioned the idea of enforcement, I just thought there was something else in addition to that.

**Mr. Giles Gherson:** What this does is, it adds to the ambit in more particular terms than the Consumer Protection Act does.

**Mr. Jagmeet Singh:** I think it's helpful that the CRTC has indicated that provincial legislation can coexist with the national code. I think that's encouraging. Other provinces do have provincial codes that have been enacted, so it's not that we would be an exception. I believe it was Mr. McDonnell who brought up an example that if there was conflicting legislation between the wireless code—the national code and provincial legislation, you indicated that the wireless code would prevail—

**Mr. Giles Gherson:** The national code would prevail.

**Mr. Jagmeet Singh:** National, yes.

**Mr. Giles Gherson:** That's correct.

**Mr. Jagmeet Singh:** What, if any, are examples of any potential conflicts? Have you seen that, or has anyone on your team seen that?

**Mr. Frank Denton:** One example is the length that a fixed-term contract can last for. In the original bill, in Bill 60, the maximum term is 48 months. In the code, the maximum term is 24 months. That's an example.

**Mr. Jagmeet Singh:** Okay. Currently, though, the provincial legislation indicates the two years although, the CRTC says it has to be one year?

**Mr. Frank Denton:** Forty-eight months, so four years, and the code says 24 months, or two years.

**Mr. Jagmeet Singh:** I see. Those are in dispute, I guess. What do you think the cellphone providers will do in that case?

**Mr. Frank Denton:** What will the cellphone providers do?

**Mr. Jagmeet Singh:** Yes. What do you anticipate they'll do? Those are two different issues. One is saying the maximum is four years; the other's saying it's two years. What do you anticipate the providers will say to that?

**Mr. Frank Denton:** Well, the CRTC's position, as the deputy mentioned, is that where there's a conflict, the code would prevail.

**The Chair (Mr. Grant Crack):** Five seconds.

**Mr. Jagmeet Singh:** Well, thank you very much for your presentation.

**The Chair (Mr. Grant Crack):** The government side. Mr. Dhillon.

**Mr. Vic Dhillon:** Thank you for coming this afternoon. Can you tell us some of the more common complaints that the ministry receives from consumers?

**Mr. Giles Gherson:** The bill in fact was built around the kinds of complaints that we've been receiving. One of the complaints is that there's a lack of clarity of contracts, that in fact it's often hard to discern exactly what is being provided for in terms of services over the course of the contract. It's not as clear as it could be.

Consumers have difficulty comparing different wireless plans, partly because of the complexity of those

plans, but because of the way information is presented around those plans; partly also because of the way they're advertised. It's difficult to compare the price of one contract plan versus another from a rival provider because the price isn't all-in. You're comparing apples and oranges, which makes it extremely difficult.

So if one of the purposes of this bill is to really empower consumers to be able to make the right choice for themselves and their budgets, we believe it's important that you would be able to compare apples to apples, that you be able to say, "This plan, as advertised, is an all-in price. Everything is in there. I'm not going to have added fees and charges on top of this." So I can get into a conversation, then the bill sort of mounts, and then I can't compare it to what I saw in another plan.

Those would be some very important concerns that consumers have had that we attempt to address.

**Mr. Vic Dhillon:** Okay. With respect to similar legislation in other provinces, how does this line up? Do you have any examples or any information on the experiences that other provinces have had with this type of legislation?

**Mr. Giles Gherson:** When the predecessor bill, Bill 82, was drafted, we looked very closely at provisions of the Quebec legislation. It was viewed as a bit of a template for wireless contract protection in a province.

There was also a desire on our part not to have a kind of crazy quilt of different rules and regulations across the country, so it made sense to seek to be relatively as close as we could be to Quebec's legislation. In fact, other provinces, such as Manitoba and then Newfoundland, were also working on similar legislation and crafted their legislation very closely to Quebec's. So now what you have, excluding Ontario, is four provinces that have very similar legislation.

**Mr. Vic Dhillon:** With respect to the CRTC wireless code, how does this bill sort of complement that?

**Mr. Giles Gherson:** As I said, we think many features of the wireless code were drawn from our bill, Bill 82, last year, and other provincial laws. There's a considerable amount of similarity, so that was the basis, I think, of the code.

As we just mentioned, there are some provisions of the code that go further than the provinces now, for a couple of reasons—one is that federal jurisdiction over telecommunications gave the CRTC somewhat more scope in some areas than the provinces felt they had and certainly than we felt we had. For example, we didn't want to intrude into telecommunications business practices in any way—or business models. We didn't want to get involved in pricing and various aspects that we felt were beyond the purview of the province. Other provinces have taken the same view.

On the other hand, as I've mentioned, on the enforcement side and in terms of all-in price advertising, those are aspects of Bill 60 that are not in the code.

**Mr. Vic Dhillon:** Thank you. I think my colleague might have a question.

**The Chair (Mr. Grant Crack):** Twenty seconds.

**Ms. Soo Wong:** Oh, my God. Okay, I'm going to ask really quickly. Deputy, you know the bill that's before us—one of the biggest concerns we have is that this bill is for the consumers, especially the youngest consumers, young people. How do you see this bill? Every young person I know carries a cellphone. How do you see this bill protecting young people?

**Mr. Giles Gherson:** I think the clarity of contracts; information displayed much more clearly, so that consumers know exactly what they're getting; all-in price advertising, so when you see a price advertised, you know that's the price you're going to pay over the full term of the contract, not the monthly number that you see, which is a bit misleading; and the knowledge that that contract can't be changed over the course of your contract, are all important features for all consumers, but particularly, I would say, for young consumers.

**Ms. Soo Wong:** That's great. Thank you.

**The Chair (Mr. Grant Crack):** Thank you very much. We really appreciate your coming this afternoon and providing us with your insight.

**Mr. Giles Gherson:** Thank you.

**The Chair (Mr. Grant Crack):** Thanks to all the members of the committee as well.

We're running behind schedule about 17 or 18 minutes, so I would ask for some help from the committee. Would it be acceptable to move from eight minutes per caucus down to six so that we can ensure fairness for the three delegations that are remaining?

No opposition? Okay. Thank you very much.

## ROGERS COMMUNICATIONS

**The Chair (Mr. Grant Crack):** It gives me great pleasure to welcome Rogers Communications. I believe we have a senior vice-president, regulatory, Mr. Engelhart, and I believe you're accompanied by two individuals. Perhaps you could state your name and introduce for the record.

**Ms. Jan Innes:** I will start off.

**The Chair (Mr. Grant Crack):** Okay. Thank you.

**Ms. Jan Innes:** Thank you for the opportunity to appear today. My name is Jan Innes and I'm a vice-president with Rogers. I'm here today with my colleagues Ken Engelhart, senior vice-president, and Josh Yarmus, Rogers legal counsel.

First of all, I'd like to acknowledge the deputy minister and his staff and the minister's staff, who met with us on a number of occasions to discuss this legislation.

Rogers is an Ontario company. We began in the wireless business in 1985. We are headquartered in Toronto, have offices across the province, and we employ 20,961 Ontarians.

I'd like to ask Ken to speak to our brief.

**Mr. Ken Engelhart:** Thanks very much, Jan. Rogers has been doing a lot of work over the last number of years to try to accomplish the same thing that you're trying to accomplish, which is to make our contracts and

our services simpler for customers to understand, and I'm happy to share some of those steps that we've taken.

One of the things that we did was we asked the CRTC. We were the ones who asked the CRTC to set up a wireless code, and they've done so. It was an exhaustive process. Consumers, ordinary Canadians, consumer groups, experts—everyone gave evidence, and the CRTC rendered a fairly comprehensive code that went further, in some cases, than what I asked them to do. They came up with ideas that they thought were innovative.

**1650**

The way that code is enforced is, in our view, about as perfect a system for consumers as you could have. There is a group called the CCTS. They are experts in the telecommunications field—free of charge for consumers. Consumers go to them with their complaints. They deal with the carriers. They can award damages. And if any carrier ever did something different than what the CCTS asked, the CRTC has order-making powers. So it is, in our view, about as good a system for consumers as you have. The system, with respect, in the Ontario legislation is a perfect system for class action lawyers, but I don't think it's as good for consumers as the way the federal code is enforced.

We have a few issues with the bill that I will quickly run through.

Section 3: The bill, really, would apply to consumers in other provinces, because it applies when either the person engaging in the transaction is in Ontario or when the consumer is in Ontario. Rogers is an Ontario company. We have people from BC phoning us at our call centres here and setting up contracts, so this legislation would affect them. In our view, the legislation should only affect people who are getting billed for their services at an Ontario billing address.

Section 8, which deals with advertising the total cost over the term: We're completely okay with advertising the total cost—absolutely, that is fair—but advertising it over the term makes no sense. You have to then take the monthly number, multiply it by 24, add the price of the phone. There are about 10 different phone prices, so all of our ads would have to have 10 different prices. People don't think that way. People want to know, "What will this cost me, all-in, every month?" So we don't think section 8 is good for customers.

There is some confusion with section 9, as well. It prohibits more than one agreement for the same device if their terms overlap. I don't know what that means. I teach communications law at Osgoode Hall Law School, and I can't tell you what that means, so I don't know how we would comply with that.

Section 10: There seems to be an effort here to add more paper to the contracts. If the bill said that everything that that consumer buys has to be in the contract, I understand what that means and I would do it, but it says everything "that the supplier is required to provide under the agreement." I'm not sure what that means, because there are some things that customers don't buy, but that they could get later—say they travel to China; they could

get roaming in China. So I don't quite know what it is that we're supposed to list in the contract.

Section 7 and section 8 are a little bit confusing. It's very common in contracts these days to refer people to a website: "You'll see all of these charges on our website." Some parts of the bill make me think we can do that, and some parts make me think we can't, so that's a source of concern.

Section 13 is another source of concern. We have brought in a very innovative roaming package at Rogers. Where we used to charge \$3 a megabyte, we now charge \$7.99 for 50 megabytes per day for roaming in the US. It's a great service. We think people really like it. But under this provision, section 13, we couldn't bring that in for people in Ontario. They would have to opt in, and we think that's a mistake.

Section 14 requires that every time you change a contract, you have to send the customer the whole thing again. Why not just send them the changes? People don't need all this paper.

Finally, alerting: The CRTC looked at it. They came up with a solution that is better than alerting, which is actually terminating service at a cap. So we don't think you need to bring in these alerting provisions.

Thank you.

**The Chair (Mr. Grant Crack):** Thank you very much, sir. We will start with the third party.

**Mr. Jagmeet Singh:** My question is, when you were consulted by the ministry—and I understand that you were consulted; you indicated that in the introduction—did you alert the ministry to these issues at that time?

**Mr. Ken Engelhart:** Yes.

**Mr. Jagmeet Singh:** Did they provide you with a response?

**Mr. Ken Engelhart:** They were—

**Mr. Jagmeet Singh:** I assume there's no solicitor-client privilege in this case.

**Mr. Ken Engelhart:** They were always sympathetic; they always said they would think about it. In some cases they said they would make changes, but the bill is still the way it is.

**Mr. Jagmeet Singh:** If you had to choose, what is the most concerning part of the bill for you?

**Mr. Ken Engelhart:** Well, I guess section 13, the idea that you can't change the optional services—I think that's a mistake—and the fact that you would have to advertise the 24-month price as opposed to the monthly price. I think those are the two biggest concerns.

**Mr. Jagmeet Singh:** There have been significant complaints against wireless service providers. I'm sure you're aware of that. What steps have you been taking to address that internally?

**Mr. Ken Engelhart:** Well, the biggest problem I think that people have—and I think it was alluded to by the deputy—was how confusing the contracts are. It was driving people crazy. So a year ago, we brought in simplified pricing. All of our plans that are in the market now have unlimited voice minutes. It's not so many minutes from 9 in the morning until 9 at night, so many

minutes on the weekend—too confusing for people. It's unlimited all the time.

**Unlimited text:** Some of our plans have unlimited Canadian long distance, and then you can buy one gig of data or 10 gigs of data or five gigs of data for different prices. That has led to a huge amount of reduction in our calls to our call centre. It really has made our life a lot easier, and it has made consumers lives a lot easier.

**Mr. Jagmeet Singh:** Do you charge a fee if someone wants to continue to receive paper bills?

**Mr. Ken Engelhart:** Yes, we do. There's a \$2 fee for a paper bill.

**Ms. Jan Innes:** Unless there's a reason why. If they don't have a computer, or if they aren't online, we don't charge, then.

**Mr. Ken Engelhart:** Yes, we'll waive it if there's any problem with the person, if they have no computer, if they don't know how to work one—we'll waive that charge.

**Mr. Jagmeet Singh:** But they have to write to you—

**Mr. Ken Engelhart:** Or phone us.

**Mr. Jagmeet Singh:** —or phone you. Would a letter suffice?

**Mr. Ken Engelhart:** Yes.

**Mr. Jagmeet Singh:** Why did you implement that?

**Mr. Ken Engelhart:** Really, it was that online billing is so much better for the environment; it's so much better for us. Most consumers really like it, and they needed a little prod to get to online billing.

**Mr. Jagmeet Singh:** Do you agree with the assertion that there can be a provincial code and federal code, that both can coexist?

**Mr. Ken Engelhart:** Not really. The CRTC said that if there's any conflict between the two, the federal one will prevail. For example, in the Nova Scotia bill, we have to hand a brochure out to customers alerting them about cyberbullying. That's nothing that was ever in the federal code. It's nothing the CRTC ever looked at, so I believe that provision is constitutional. But the things that I've talked about in my brief and that the deputy talked about, for the most part—those were all things that the CRTC examined, and the CRTC, in their decision, rejected or modified or supplemented. So I believe the federal code would have precedence for all of those things.

**Mr. Jagmeet Singh:** Currently, other provinces do have their own provincial code, and things seem to be working. Would you comment on that?

**Mr. Ken Engelhart:** Well, Quebec was the first to bring in that the cancellation fee has to be the amount of the phone subsidy depreciated on a straight-line basis over the contract. When that came into the Quebec law, we changed that for all across Canada. So that, which is a key part of the Ontario bill—we've been doing that in Ontario now for a couple of years.

Most of the things we've done because they're already done. Most of the things were implemented by the CRTC code, and most of those things make sense. The areas that I've identified to you today are areas where the provin-

cial legislation differs from what other provinces have done.

**Mr. Jagmeet Singh:** How much time is on the clock?  
1700

**The Chair (Mr. Grant Crack):** One minute.

**Mr. Jagmeet Singh:** Okay. One of the issues that's been brought up is that if you have different laws in different jurisdictions, it would impact the business. My position on that is that I don't see that it's impacted the business if you look at the different jurisdictions that currently have provincial legislation that are somewhat different from each other. That's my assertion. Do you have a comment on that?

**Mr. Ken Englehart:** Yes. This bill provides for alerting, but leaves to regulation how the alerting is to be done. The CRTC has set up a system of caps instead of alerting, so it's really an alert backed up by, "Your service is cut off unless you buy more, consciously." It's costing us tens of millions of dollars to build that system for the CRTC by December 2, and we will have it done. But if Ontario then said, "Well, we've got a different system" that will also cost us tens of millions of dollars, I don't think that's good policy.

**Mr. Jagmeet Singh:** Are there any other examples of existing policies in other provinces that are causing you problems?

**The Chair (Mr. Grant Crack):** Five seconds.

**Mr. Ken Englehart:** Yes. That \$7.99 roaming plan that I mentioned: In Quebec, you have to opt into that. You can't get it automatically, which is, I think, a huge problem for Quebec consumers.

**The Chair (Mr. Grant Crack):** Thank you very much. The government side.

**Mr. Vic Dhillon:** Have you had any conversation with the ministry with respect to the substance of this bill? If so, to what extent?

**Mr. Ken Englehart:** Yes. As Jan mentioned, we talked to the ministry and shared our views with them.

**Mr. Vic Dhillon:** What kinds of concerns are you getting from your customers with regard to your billing practices?

**Mr. Ken Englehart:** As I say, with some of our older plans, they were very confusing. They were very confusing, and they led to a lot of problems. That's why a year ago we brought in simplified pricing, and quite frankly, it's made a world of difference. A few weeks ago, we brought in even more simplified pricing, because now everyone in the family and all of your devices—your iPad, your iPhone, all your devices—can share one data plan. It makes it even simpler.

Complexity was a huge problem, and I believe we've gone a long way to solving it.

**Mr. Vic Dhillon:** Do you feel that your customers understand their billing, especially the added costs of cancellation, roaming and usage limits? Do you feel they have a good grasp of what they're paying for?

**Mr. Ken Englehart:** Roaming is another problem area. We're in the wireless business, and our customers were so afraid of roaming, they were turning their phones

off when they went out of the country. That's a terrible thing. That's why we brought in a \$7.99 roaming plan in the US. Our typical smart-phone customer in Ontario uses 800 megabytes a month. That's about 30 megabytes a day. Our US plan gives you 50 megabytes a day for \$7.99. That's cheaper than the Wi-Fi in an expensive hotel. For \$7.99 a day, you can use your device to your heart's content, and it's easy to understand—because nobody knows what a megabyte is; nobody knows how many megabytes in a photo. It's too difficult. So we're trying to make it simpler for customers and we're trying to encourage them to leave their phones on.

**Mr. Vic Dhillon:** Do you provide your customers with information on what services they are receiving?

**Mr. Ken Englehart:** Yes. The CRTC code also requires, in addition to everything we're already doing, a summary at the beginning of the contract that gives them a crisp explanation of what they're getting.

**Mr. Vic Dhillon:** And what happens—go ahead.

**Ms. Jan Innes:** And the customer is walked through that process at the store. So when they buy a new device, the clerk runs through all the things they will be paying for or what features they are getting at that point.

**Mr. Ken Englehart:** It's called our Walk Out Working package, because if the customer doesn't understand what they're getting in the store, that leads to phone calls a month later, and that's crippling for our business. We want to make sure that when you leave that store, you understand your deal.

**Mr. Vic Dhillon:** What's the process when your customer amends a fixed-contract bill?

**Mr. Ken Englehart:** Say you've bought a phone that would normally cost \$500, and we sell it to you for—let me use a simpler example: a \$300 phone, and we sell it to you for \$60, so there's a \$240 subsidy.

If the customer quits that contract on day one, they pay a \$240 penalty. If they quit it in month 20, they pay a \$40 penalty. If they quit it in month 23, they pay a \$10 penalty. So that \$240 subsidy is amortized over the length of the contract.

**Mr. Vic Dhillon:** How confident are you that you feel that your customers understand what they've signed up for?

**Mr. Ken Englehart:** As Jan said, with this Walk Out Working package, we now are pretty confident, and I'm happy to share a copy of it with you and what it looks like. With that, plus the simplified billing, we think it has done wonders.

I can tell you—you're concerned; your constituents are concerned—we were concerned before we made those changes, because the business was just too complicated.

**The Chair (Mr. Grant Crack):** One minute.

**Mr. Vic Dhillon:** Thanks for your presentation. Some of the concerns that you have raised, I think, will get consideration, and I think, as we go along, we'll be able to resolve some of the concerns that you've raised. Thank you very much.

**Mr. Ken Englehart:** Thanks.

**The Chair (Mr. Grant Crack):** To the members of the opposition.

**Mr. Jim McDonell:** You mentioned the all-in pricing. I guess I have to agree that there's some confusion in that. The monthly rate seems to make the most sense but, of course, the monthly rate is determined by a lot of factors. If you have a high data rate minimum or a low rate, your basic monthly rate looks one way. But when you have some of these other features that may kick in on a higher-priced monthly service, that wouldn't belong to a lower-priced one, it really tends to be confusing.

Do you see any way of making that clearer under this legislation, or is it just going to be confusing?

**Mr. Ken Englehart:** I don't think it's that confusing. The concern used to be with add-on charges. It would be \$30 a month, plus you pay—like with your wire-line phone at home, there's a Touch-Tone charge of, I think, \$4 a month for your Touch-Tone phone, even though you can't buy one that's not a Touch-Tone phone.

A couple of years ago, the Competition Bureau basically came down on one of our competitors like a ton of bricks and said all of those additional charges have to be in there. So we've all been advertising all-in pricing, and I think that is looked after, so I don't think you'll find monthly prices that are different than what is advertised.

**Mr. Jim McDonell:** You also mentioned about the bill having to apply to people who live in Ontario versus the way the contract's written. I guess the reasoning for that is your call centres are here. People call from all over the world, or all over Canada. So by not changing this bill, we'd probably be encouraging you to move out of the province to a place where it didn't require—

**Mr. Ken Englehart:** We did raise that, with the staff, yes.

**Mr. Jim McDonell:** If I buy—the example of a phone and it's a two-year plan. At the end, the phone is mine; straight line has covered it. If somebody chooses to unlock the phone, what's the process that you're following right now, and where would you see it under this legislation?

**Mr. Ken Englehart:** You can actually unlock your phone within 90 days of the contract starting, so even if you're still under contract, you can unlock that phone. That's something we brought in, and I believe the CRTC put unlocking in the code too.

**Mr. Joshua Yarmus:** It's in the code as well.

**Mr. Ken Englehart:** Yes, the CRTC has covered that in the code.

**Mr. Jim McDonell:** So that's within 90 days of it starting?

**Mr. Ken Englehart:** Yes, just because we often get fraud; we have a huge amount of fraud in our business. Somebody comes in and they set up an account; it's not even them, and they've used a false identity. After 90 days, we're pretty sure it's you, and then you can unlock your phone.

**Mr. Jim McDonell:** Is there a cost to that, because there is a process?

**Mr. Ken Englehart:** Yes, there is a cost, and it's \$50 a month.

**Mr. Joshua Yarmus:** No, it's \$50, a one-time fee.

1710

**Mr. Ken Engelhart:** Sorry; it's \$50. That's because some providers don't charge you and they just hand you a code, and if you're someone like me and you have a phone and a code, you're lost. We have a CSR walk you through the whole process—"Do this; do that"—and they stay with you on the phone to make sure it's done. That's the \$50 charge.

**Mr. Joshua Yarmus:** And if I may add to unlocking it: If you've purchased the phone outright without a subsidy, we'll unlock it right away.

**Mr. Jim McDonell:** At no charge?

**Mr. Joshua Yarmus:** There is the \$50 charge, as well.

**Mr. Jim McDonell:** Even at the end of the contract, the \$50 charge still applies.

**Mr. Joshua Yarmus:** Yes, that's right.

**Mr. Jim McDonell:** You talked about not changing the options and elaborated on that. I can see, I think, what you're meaning: People do travel; they want to change options during their vacation. How does this law prohibit that now, the proposed law?

**Mr. Ken Engelhart:** We used to charge \$3 a megabyte for travel to the United States, and we changed that to a plan of \$7.99 per day for up to 50 megabytes, which I think is a wonderful plan. But in Quebec, if we had brought that plan in—because they have legislation similar to what is proposed here—some class action lawyer would have said, "There are a million customers out there who only wanted to buy one megabyte a day. They would have only paid you \$3, and now they're paying you \$7.99. So this is a rate increase because they didn't want the other 49 megabytes, and we're going to whack you with a class action lawsuit for treble damages for a zillion dollars."

In Quebec, that plan is not automatic as it is for Ontario customers. Quebec customers have to click "I agree" before they get that plan, and a lot of people, when they see that "I agree" box, just don't click it. So they're ending up paying a lot more money than Ontario customers. That's an example, I think, of unintended consequences. When you try to do something good for customers, you can actually sometimes frustrate an innovative new program.

**The Chair (Mr. Grant Crack):** Forty-five seconds.

**Mr. Jim McDonell:** That's fine.

**The Chair (Mr. Grant Crack):** Thank you very much, Mr. Engelhart, Ms. Innes and Mr. Yarmus, for coming before us this afternoon. We appreciate it; very good insight. Thank you again.

**Mr. Ken Engelhart:** Thank you.

#### CANADIAN WIRELESS TELECOMMUNICATIONS ASSOCIATION

**The Chair (Mr. Grant Crack):** It gives me great pleasure at this point to welcome, from the Canadian Wireless Telecommunications Association, a gentleman, I'm sure, who knows a little bit about politics: Mr.

Bernard Lord. Welcome, Mr. President. Perhaps you could just introduce yourself for the record and who is accompanying you this afternoon.

**Mr. Bernard Lord:** Thank you very much, Mr. Chair. My name is Bernard Lord. I am the president and CEO of the Canadian Wireless Telecommunications Association. I'm here today with Devon Jacobs. Devon is our senior director of government relations. And Kurt Eby; Kurt is our director of regulatory affairs.

There was a slide deck that was shared that you could pick up on the way in to get a copy of the slides. My key message today will be that Canada is a world leader in wireless telecommunication. This sector of the economy and this industry is consumer-driven, it is economically competitive and it is socially responsible. Also, a key message today is that Canada only needs one national code and therefore Bill 60 is no longer needed.

Wireless telecommunication is a federal undertaking, and I would ask you not to add costs or complications or confusion for consumers.

One thing that we've noticed is that Canadians are connected more than ever before.

I'll go through these slides very quickly. Slide number 2 tells us who we are. You can find this online. Since I only have six minutes, I won't spend a lot of time talking to you about the association.

Slide number 3 is where you'll find all these logos. These are some of the social responsibility initiatives that we have launched as an association, from the wireless Amber Alert to a recycle program, and you can get more information on each of these programs. Most of these programs, if not all, are completely voluntary programs undertaken by the industry.

Slide number 4 is an important one. It talks about the fact that we have super-fast networks in Canada. It's important to keep that in mind. We cover 99% of the population throughout Canada. The percentage of Canadians who can access a fourth-generation LTE—long-term evolution—wireless network is 72%. That was at the end of 2012. Those are the fastest commercially available networks in the world. They're found right here in Ontario and right here in Canada. In fact, Canada has the second-most number of LTE networks of any country in the world.

If you look at slide number 5, smart phone usage, you will see how we compare in the G8. Canada has the second-highest adoption rate in the G7. If you look at slide number 6, it shows you the average smart phone data traffic per month in the G7. Canada is second in the G7, and that is 77% more than the world average.

The key message here is that Canadians are heavy users of data, and that's one thing you have to keep in mind. I remember when I first bought that first phone, it was a bag phone. Some of you may have had one of those bag phones. They used to call them car phones, because you needed the car to carry that phone around, and all you could do with that phone was call. I thought that was the coolest thing in the world. It was a dollar a minute to use.

That was about 20 years ago. Things have moved extremely rapidly in this sector, and they continue to evolve so quickly that, when you look at this chart, data traffic—so, how people use their smart phones—data consumption will grow 900%. I want to repeat that: 900% in the next five years. That's how fast things are changing.

My word of caution to any regulator or legislator is to make sure that you don't regulate looking in the rear-view mirror. Looking at how things used to be and trying to figure out how they're going to be, sometimes governments get caught and there are some unintended consequences. This is one of those examples.

The next slide just talks about the economic impact of the industry. It continues to grow. Even though 2008 was a devastating year for investment because of the world slowdown, this sector of the economy in Canada made record investments in 2008. We support over 280,000 jobs, and its total impact on the economy is over \$50 billion. These are the investments that have been made in networks since 1987; that's over \$37 billion invested in the Canadian economy.

I want to turn your attention to this slide. This shows the capex per subscriber in 2011. What you see here—the red bar—Canada has the second-highest capex per subscriber in the world. We invest more per consumer on our networks than virtually every other country except for one. The reason for that is that we have a very large country that is sparsely populated, and we have the fastest networks in the world. This level of investment is 260% of the world average.

This brings me to this slide, which talks about the CRTC code. As was mentioned by Ken Engelhart from Rogers, the CRTC code was one that we asked for. We approached the CRTC. We asked the CRTC and the federal government to come up with one national code, and we requested this process because we believe that one set of rules that applies to all Canadian consumers is better than a patchwork of provincial regulation. One set of federal rules will avoid confusion for consumers, and will reduce costs for governments, consumers and businesses.

We believe that Bill 60 is no longer needed. The landscape has changed significantly since Bill 60 was tabled. I quote here from the commission's decision, which says that "the commission considers that the wireless code should apply to all individual Canadian consumers of wireless services equally wherever they reside. The commission notes that where the wireless code is in direct conflict with a valid provincial law, the wireless code takes precedence." It's quite clear where the CRTC stands on this.

The next slide: "Existing and proposed provincial legislation regulating mobile wireless services contracts are outside the constitutional jurisdiction of the provinces." This legal opinion comes from Justice Bastarache. This was issued in February 2013. Justice Bastarache is a former Supreme Court judge; he retired from the bench a couple of years ago. This legal opinion was supported

and contracted by the Public Interest Advocacy Centre and also some members of the industry. He also goes on to say, "These provisions specifically target federal undertakings and have substantial effects on their operations. In pith and substance, they would be an impermissible provincial attempt to regulate telecommunications, an area of exclusive federal jurisdiction."

**The Chair (Mr. Grant Crack):** Okay. Thank you very much, Mr. Lord. I apologize for interrupting. You were doing so well.

**Mr. Bernard Lord:** It's okay. That was the essence of what I wanted to say.

**The Chair (Mr. Grant Crack):** I would ask the government to begin questioning.

1720

**Mr. Vic Dhillon:** Thank you very much. Can you tell us what your members' impression is of how consumers understand their wireless contracts, especially with respect to cancellation fees and usage limits?

**Mr. Bernard Lord:** As was mentioned earlier today by members from Rogers, we represent large carriers, national carriers, we represent small carriers: from TBayTel to Rogers, Bell, Telus; in other provinces, Videotron, EastLink. So we have some new and old. What we've noticed is that consumers are becoming better informed—because in this industry, even though it's evolving very quickly, consumers are more informed and better informed as to what they can get.

So if you go back to when we had 1G phones, you could basically get calls, and then with 2G you could get call and text. Now you can get data, and that was the advent of 3G. Now with 4G, you can get superfast data. You can stream live TV. Consumers know that, and when they go shopping now, they've had the experience of—most Canadians are now not buying their first phone, but are buying their second or third phone. So they've learned from that experience. I would say that our members have learned from that experience as well and they have worked to find ways to simplify their contracts, to make it easier for customers to understand.

As you've heard today from the representative of Rogers, they want happy customers, because they want their customers to stay with them and renew their contracts at the end of their contracts, if they have contracts, or, if they don't have a contract, stay with them either way.

**Mr. Vic Dhillon:** And how have your members adapted their business practices in response to Quebec's 2010 consumer protection legislation—

**Mr. Bernard Lord:** Well, some of our members—and again, not all members acted the same way, because some members did business in Quebec and some did not do business in Quebec, as you would appreciate. SaskTel and MTS, which are members of our association, don't operate in Quebec, but they did adapt as best they could to the legislation. But even those who were not in Quebec found ways to simplify their process to make it easier for customers to understand, and I think that's the normal evolution of the business and the industry, not necessarily

a direct impact of the legislation. So it's a combination of both.

**Mr. Vic Dhillon:** Did the prices increase as a result of Quebec's legislation?

**Mr. Bernard Lord:** Well, some costs increased, but prices in the wireless industry have been going down and will continue to go down even though consumption will increase, which is the difference between what you pay at the end of the month versus what you pay per unit. So if you go back 20 years ago when making a call was a dollar a minute, it's no longer a dollar a minute. If you buy a plan from most of our members on a fixed-term contract, you will get close to unlimited calls, if you don't get unlimited. You can certainly get unlimited calls today and you can get unlimited texts with a lot of plans out there. That was not the case before.

That is not a result of government regulation or government legislation. That is a result of two things: That is a result of better technology and investment, and the fact that this industry is consumer-driven and that's what consumers wanted and it's a response to the marketplace. So it's really the marketplace and the investments in technology that have lowered the price per unit.

What you will find in Canada, however, is that Canadians are heavy consumers, so we're heavy users and we tend to buy the most sophisticated devices. If you go into most stores in Canada—there was the iPhone launch just a few weeks ago—you'll be hard-pressed to find the iPhone 5s, which is the top-level model. You can still find some 5c models. That's because Canadians tend to buy the most sophisticated devices—the same with the BlackBerrys, the same with the Samsung—and they use them, and they use them heavily.

**Mr. John Fraser:** Consumer protection is a provincial jurisdiction, and that's why we're putting this bill forward. That's why some of the provisions that we talk about are very important. Now, I've got a note here that actually comes from the commission, a direct quote from commission counsel, that says they don't consider the conflicts—actually, it says, “The commission considers that such conflicts are minor under current provincial legislation.”

One of the provisions in this bill is that explicit consent—and I think we have heard it—is required for any changes to a fixed-term contract. Can you let the committee know how that would be in conflict with the national code or why that's not a good thing?

**Mr. Bernard Lord:** First of all, I want to go back to the premise of your question. I want to quote Justice Bastarache on that specifically. He said, “In the alternative, even if a court were to find some or all of these provincial initiatives valid, they would nonetheless be inapplicable to mobile wireless service providers as a matter of interjurisdictional immunity, as they would impair the vital part of the operations of federal telecommunications undertakings.”

Don't take that from me. That comes from a former judge of the Supreme Court of Canada.

I think it's very important to understand that this is a federal responsibility. Provinces cannot take a back door

to try to overtake a federal jurisdiction, the same way that the federal government, if you exclude its power to spend, cannot do that.

**The Chair (Mr. Grant Crack):** Ten seconds.

**Mr. John Fraser:** Okay. We're good.

**The Chair (Mr. Grant Crack):** Thank you very much. We'll go to the opposition.

**Mr. Jim McDonell:** Thank you for coming out today. One issue near and dear to me is service to rural Ontario. I know there's a cost to that, of course, and certainly the denser areas are served first. That's where all your competition is, so that's where all the capital goes.

Is there any plan that you could see that would encourage that in the province? Because large tracts of this province are basically unserved with cell service and Internet, which you also provide.

**Mr. Bernard Lord:** Yes, we do provide that. Our members continuously invest more to not only improve the coverage areas where they have it but to expand them. Investments in networks are done to enhance the speed and reliability of the existing footprint and to expand that footprint as well. To be blunt, there's absolutely nothing in this bill that will assist that in any way.

If anything, every time governments step in to add regulatory burden—another hurdle, another hoop for businesses to jump through—the end result tends to be less investment, not more, because it spooks investors. When the rules aren't clear, that scares off investors. That's not a provincial responsibility; that is a federal responsibility.

There is an auction coming up—you may have heard; there's been some discussion about that auction this summer. This new frequency is the frequency that was used by TV stations before, for broadcasting. This could improve service in rural areas, because the signal can travel further and more easily than some of the other frequencies that are currently used, which means you don't need as many antenna sites or towers to deliver that service or to get the service for residents and users.

There are things that are planned by our different members to continuously expand the coverage. I did mention that we cover 99% of the population. We cover about 18% of the territory.

Do you want to add something, Devon?

**Mr. Devon Jacobs:** We face some resistance in some communities with putting up antennas. It will be helpful if we can get towers erected, which will help service tremendously in expanding it.

**Mr. Jim McDonell:** Data service is also the second-highest in the world, and it's continuing to go higher. Where do you see us taking that? I guess it's taking in more and more equipment, so you're not just talking cell-phones; you're talking about tablets; you're talking about things that are getting into video.

Is that an issue with this bill, or is it confusing to customers?

**Mr. Bernard Lord:** I think it's important to trust customers—customers are smart. Canadians and consumers are smart. They know how to shop around; they know

how to get a good deal. They know when they get a good deal and when they don't.

One of the reasons we asked the CRTC to establish a code is we felt it would be important for the same rules to be applied across the country. That way, whether you live in Moncton, New Brunswick, downtown Toronto or you're working in Alberta, you know what the rules are. If your cousin's in Nova Scotia or your brother's in Saskatchewan, you can talk about cellphone coverage and service; you can compare plans, and it helps.

Having one set of rules also reduces cost of compliance. When you reduce cost of compliance, then you reduce cost to consumers. When you add cost to compliance, you add cost to consumers.

What we know about Canadian users is that we are heavy users, and that's not just for wireless. I was talking to some executives at Google recently. Canadians are the highest users of YouTube in the world. We're among the heavy users in terms of Internet, and everything is moving to mobile, so you want to make sure that you don't get in the way of that innovation and get in the way of consumers who want to do things differently than what used to be done.

1730

The important thing is to make sure that consumers are well-informed, that they have choices and they can exercise their choices in an informed way.

**Mr. Jim McDonell:** I also see that this bill looks at putting a system that would inform people when they get close to the caps whereas the feds look at providing an app. What are the issues around providing that hard warning system? I know the wired Internet providers provide that because I just received a warning last month for the kids at home.

**Mr. Bernard Lord:** I'll ask Kurt to explain some of the details, but I will simply say, the federal code is quite clear that if the code or provincial legislation deals with the same thing, it's the code that has precedence. In this case, what the federal code dictates is what will happen.

**Mr. Kurt Eby:** And further to that, I think what Mr. Engelhart from Rogers said is really the answer, that this has already been one rule to address that problem, which is that the hard cap was put in by the CRTC. They looked at notifications or warnings and all the options available and they determined that the cap was the best option and the consumer can choose to have it in place or not. I think, inevitably, the carriers are going to want someone who hits a \$50 cap to easily have the option to say, "I want another \$50," or whatever. The cap itself kind of facilitates that there will be some kind of notifications coming anyway. But I think the conflict is, this has been addressed one way. To address it another way, as he said, would be extremely expensive and to no benefit.

**The Chair (Mr. Grant Crack):** Thank you very much. We'll move on to the third party.

**Mr. Jagmeet Singh:** I guess in the beginning, just to understand—the CWTA is made up of members of all the various cellphone service providers in Canada, essentially?

**Mr. Bernard Lord:** We have cellphone providers, network equipment manufacturers, phone manufacturers and content providers.

**Mr. Jagmeet Singh:** And your primary interest is that you don't support provincial legislation because it's already been dealt with on a federal level?

**Mr. Bernard Lord:** Our primary position here is that a national code is better than 13 different provincial codes. One set of rules will reduce costs for consumers and providers and will simplify—when we talk about making sure consumers know and are well-informed, if you have 13 sets of rules—and there are a lot of people in this country who travel from one province to the next; some live close to the borders. They see ads that are in one province and not their own. This will simplify everything, and that's the reason why we asked the CRTC.

I want to give credit where credit is due. The fact that the province of Ontario did step up to the plate, after some of the other provinces, certainly helped prompt us to ask the CRTC to step in, because we felt it was getting to a point where every province would want to put their finger in the pie. Let's just have one set of rules.

**Mr. Jagmeet Singh:** There are certain provisions for protection included in the provincial act that go beyond what the CRTC has. One of those specifically is that there is a remedy, that you can take the cellphone provider to court. Would you agree that specific provision doesn't exist in the CRTC?

**Mr. Bernard Lord:** What I would suggest is that the CRTC examined all those issues—

**Mr. Jagmeet Singh:** I don't mind you elaborating, but you do agree that that doesn't exist in the CRTC? You can elaborate after that.

**Mr. Bernard Lord:** Sure. Well, it's different. There are some minor differences. But the fact that the CRTC examined those issues and made the determination, that in itself is exercising the federal responsibility in this area. So the fact that CRTC looked at this, examined this, they questioned themselves, they questioned witnesses, they asked people to provide input—the province of Ontario did provide some input, other provinces provided input, citizens from coast to coast provided input. Just the fact that they looked at this and made the determination, that is exercising the federal responsibility in wireless telecommunications.

**Mr. Jagmeet Singh:** Which would have been great if I asked you about the federal responsibility. I asked you—

**Mr. Bernard Lord:** Yes, but the reason why it's important is because it's not a question that one section is more or less than another. It's the fact that the CRTC did examine all of these issues, and that in itself is exercising their authority.

**Mr. Jagmeet Singh:** One of my concerns is—you mentioned, and it's true, that data usage is increasing its trend globally. It's increasing in Canada. Canadians are particularly high in data usage.

Canada has also some of the highest rates, or the most expensive rates, for data if you compare globally. We're

not anywhere near the cheapest. We're certainly amongst the more expensive. In terms of our cellphone plans, broadly speaking, our cellphone plans are amongst the most expensive in the world. Do you have any explanation for why that is the case?

**Mr. Bernard Lord:** First of all, that's a misconception, because Canadians are heavy users. When you look at monthly bills, some Canadians may have bills that are higher than other parts of the world, but it's because we consume more. And when you look at—

**Mr. Jagmeet Singh:** Just to clarify, I'm talking about the rate plans—

**Mr. Bernard Lord:** Absolutely, and I'm glad that we are.

**Mr. Jagmeet Singh:** —not the actual usage.

**Mr. Bernard Lord:** Yes.

**Mr. Jagmeet Singh:** The rate plans in Canada are amongst the highest. Just the plans, not the usage, which might be a different issue. I'm talking about the rate plans are amongst the highest—

**Mr. Bernard Lord:** But they're not among the highest.

**Mr. Jagmeet Singh:** —especially data.

**Mr. Bernard Lord:** I'll be happy to provide you, and other members of the commission, studies that have compared pricing. But one thing that's very important when you talk about data is how fast you can consume that data.

Let's say I want to go from Moncton, New Brunswick, where I live, to Toronto, and I want to travel. It's about 1,500 or 1,600 kilometres. I can take the plane; it would be \$300. So it's \$300 for 1,600 kilometres. Or I can go by bicycle. It would be a lot cheaper, but one is a lot slower.

It's the same thing with data consumption on wireless networks. Our networks are faster. So you get to actually consume data at a pace that really matters.

Imagine you're streaming live TV. You can see it—

**Mr. Jagmeet Singh:** I can just speed up this argument. In countries like India, there is LTE available widely and—

**Mr. Bernard Lord:** Not at the speed we have here.

**Mr. Jagmeet Singh:** LTE is available widely—LTE, the same network, the LTE network—and the rate plans are considerably lower. They're half of what we are paying here—lower than that. Hong Kong is another example. In some of the Nordic and Scandinavian countries, data plans are considerably lower.

I'm just wondering why. The infrastructure for data, the cellphone towers and the satellite technology that's required: There's not more of a cost in Canada versus—as far as I understand it. If you can explain that further—

**Mr. Bernard Lord:** I would love to see the studies that you have to share those numbers, because as recent studies have shown, the speed of our networks in Canada are 75 times faster—sorry, 75% faster—than they are in Europe.

But there are all sorts of other factors. The fact that we have a population of 35 million people and the second-largest land mass in the world has an impact as well.

But the fact is, Canadians, when you look at how much we pay versus how much we could pay—how much Canadians spend on wireless telecommunication as a factor of GDP is the second-lowest in the world.

We live in a very wealthy country, and Canadians consume a lot, and we have the advantage of having the superfast networks, and we do have the fastest networks commercially available in the world here in Canada. That's one of the advantages that we have.

**The Chair (Mr. Grant Crack):** Thank you very much. I appreciate, Mr. Lord, your coming, and Mr. Jacobs and Mr. Eby for coming. I really appreciate it, and for providing us some great insight.

**Mr. Bernard Lord:** Thank you very much.

#### CONSUMERS COUNCIL OF CANADA

**The Chair (Mr. Grant Crack):** At this time, I would like to welcome Mr. Ken Whitehurst, executive director of Consumers Council of Canada.

You have six minutes for your presentation, and I believe we'll probably only have five minutes per caucus to be asking questions, as that will take us right to about 6 o'clock. So welcome, sir.

**Mr. Ken Whitehurst:** I hope the questions will—that I'll actually give you answers to them.

Thank you, Mr. Chair and members of the committee. I'm pleased to be here with you this evening on behalf of the Consumers Council of Canada.

The council is Ontario's and the country's most active volunteer-led consumer advocacy organization. The council's mandate includes the objective to work collaboratively with consumers, business and government, seeking an efficient, equitable, effective and safe marketplace for consumers by informing and advocating concerning consumer rights and responsibilities.

1740

The organization has an independent volunteer board of directors elected by its members. Its membership is open to application from the public. The council supports itself through a mix of membership and sponsorship fees, awards, contributions and social enterprise initiatives.

Since the council's inception as a non-profit corporation in 1994, it has been committed to producing evidence-based consumer research in support of its mandate and its representation.

The Office of Consumer Affairs, Industry Canada, has funded the council many times through its competitive contributions program for qualifying consumer groups.

The council has extensive experience with processes involved in providing all levels of government with consumer impact research and analysis. In addition to its research and the participation of members, the council also engages in five forms of outreach and consultation: advisory committees and stakeholder panels; the council's Public Interest Network; the Young Consumers Network, aged 18 to 35; surveys of Canadians about views related to specific consumer issues; and it accepts consumer complaints.

The council's volunteers represent consumers in many settings, including, for example: Advertising Standards Canada, the Canadian Commission on Building and Fire Codes; the Canadian Food Inspection Agency; the Canadian Payments Association; the Canadian Radio-Television and Telecommunications Commission; the Competition Bureau Fraud Prevention Forum; the Electrical Safety Authority; the Financial Consumer Agency of Canada; the Independent Electricity System Operator; the Ontario Energy Board; the Ontario Ministry of Housing Building Code Advisory Council; the Ontario Motor Vehicle Industry Council; the Pharmaceutical Advertising Advisory Board; the Standards Council of Canada; the Technical Standards and Safety Authority; the Travel Industry Council of Ontario; and Waste Diversion Ontario, just to name a few.

The council actively seeks opportunities to support research relevant to its advocacy, and it provides consumers and public processes with useful information.

The council welcomes the attention of committee members to Bill 60, the Wireless Services Agreements Act. This bill presents an opportunity for MPPs to address a leading source of consumer complaints in Ontario.

Most of us in this room, and close to 80% of the people in Ontario, own a cellphone or wireless device, according to Statistics Canada. In our fast-paced texting and tweeting society, it is almost impossible to get by without one.

For school kids, seniors and everyone in between, cellphones now meet basic needs of everyday life. Cellphones can even provide the homeless an address.

But too many of us don't know what our cellphone contracts actually mean—how our costs are calculated, what to expect on our monthly bills or why they are high, and why it costs so much to cancel a contract. Worst of all, the poorest usually must pay the most.

Consumers must have clear, easily understood information before deciding to sign a wireless agreement.

The CRTC reported in September that Canadians pay an average of nearly \$61 per month for their cell service. That figure is up 5% from less than \$58 in 2011. Canadian families spent an average of \$185 each month on services in 2012 compared to \$181 the previous year. That's \$2,220 a year, a big part of the household budget.

At prices like this and higher, consumers must understand—before they buy—the costs that contract terms impose. They should not be penalized for responsibly managing their budgets when life events make these services too expensive to afford.

At the Consumers Council of Canada, we hear about too many problems sparked by complex agreements and by the unreasonable commitments required to get affordable service. So we've spent a lot of time considering what has gone wrong.

Action must be taken to fix the problems with wireless service agreements in this province. Consumers need to know that Ontario's standards for fairness in contracts will apply.

Bill 60 harmonizes well with the federal wireless code. By the way, the federal wireless code and many of its aspects continue to be challenged by the industry. It's far from a foregone conclusion how things will turn out, or when things will turn out, concerning the wireless code.

We congratulate the members of the Ontario Legislature for moving ahead. Consumers deserve simplicity, clarity and fairness in their cellphone and wireless service agreements.

Thank you.

**The Chair (Mr. Grant Crack):** Thank you very much. I really appreciate that.

I believe we're going to the official opposition.

**Mr. Jim McDonell:** Thank you. You talked about being a collector of complaints from the public. You have a summary of the major complaints that you receive every month—or, I should say, not every month, but over the time period?

**Mr. Ken Whitehurst:** I'll tell you that the most authoritative source of complaints is your own Ministry of Consumer Services, which counts the complaints well, but you can also look at the Commissioner for Complaints for Telecommunications Services reports. The industry pays for those reports, even though they are showing that complaints are climbing.

The thing that we run into with complaints—I think a very important thing to understand around prices is it's about the value people feel they're receiving for what they pay. An awful lot of people buy service agreements well in excess of their needs, and pay for it because they fear the even greater prospect of really spiky prices if they don't subscribe to a futures contract. I think we've seen that in the electricity sector and the natural gas sector and how well that worked. That's the kind of environment, so they already feel intimidated to take a risk management position. Once they have these agreements in place, and then they're faced with a downturn, then they get to pay a penalty to get out of it.

Some of this is understandable. People have been told, "We are giving you a benefit," right? You've heard the language here today.

It was interesting: One of the presentations mixed "benefit" with "amortization," and I think that's the right mixture. It's the right mixture, because what people are getting is a loan. Somehow, they're paying this loan, and if they want to exit the loan early, then they've got to pay for it. Then they're surprised, because they thought they received an inducement to choose a particular carrier: "You lured me here; you're going to be my carrier; I'm being nice to you." But really, what they've been offered is a set of loan terms, and they haven't really had a chance to see if this is the best loan they could get. They don't have any information to compare it; it's not talked about in those terms. There's a limit on competition right there: Are you actually getting the best terms for your phone?

The other thing that's complicated is that the secondary market in devices is all locked. There are a lot of

people who might like affordable devices. Maybe they actually don't want the smart phone yet, or maybe they'd like to get the price advantage of using a smart phone and buy it on the secondary market because, actually, once all those people line up for the newest phone, a whole lot go up for sale. Sometimes the price variation—we've seen it on eBay as low as \$25 for the next-to-latest smart phone, and a lot of people would be quite happy with that if it were really easy to access the market.

There's not a lot of advertising of data plans where you don't take a phone loan. It doesn't happen very often.

**Mr. Jim McDonell:** In your review of the legislation, do you have any issues that you'd like to see addressed?

**Mr. Ken Whitehurst:** Well, of course, this legislation addresses the so-called postpaid market. Now, I don't know how you call it "postpaid" exactly when you've signed a term contract, but it's called the postpaid market. It hasn't really addressed the prepaid market. There are a lot of people who use cellphones on a prepaid basis because they don't have the credit necessary to get postpaid. They pay the absolute highest rates. Think about that: The people who put their cash down in advance pay the absolute highest rates. This didn't address that. I don't know that this bill is the appropriate place to address it, but it's a big and open issue.

1750

**Mr. Jim McDonell:** The bill now separates, or the legislation—the code separates your purchase price from your plan, so if you have a prepaid phone, then of course you don't have the phone that you're purchasing, so—

**Mr. Ken Whitehurst:** I'm sorry. We're not talking about a prepaid phone. We're talking about prepaid telecommunications. It's very important. We started with this culture of the \$3,500 suitcase cellphone, right? And even business wasn't going to take one if they didn't have a way to finance it, and they wanted an easy way to finance it. A great method was done to do that. The business grew—a wonderfully innovative move. We've got good telecommunications services. What we have are bad contracts.

The thing that—I'm sorry; I'm losing my train here a little bit. The problem we have is that really it's two different businesses now. You've got devices. Do you remember when we used to all have to pay for the telephone that was plugged in the wall and we had to lease it? We couldn't be trusted to plug in our own phone. We're kind of revisiting that issue, and we're actually revisiting it in an environment where soon lots of things are going to be connected to the wireless network, so there's a strong need to kind of separate those things.

The prepaid phone market are people who pay for cards to get access to the network. They may have come up with a phone however they came up with it. They—

**The Chair (Mr. Grant Crack):** Thank you. We'll just send it over to the NDP, if you would like to have him continue.

**Mr. Jagmeet Singh:** Sure. Did you want to finish your thought?

**Mr. Ken Whitehurst:** No, that's okay.

**Mr. Jagmeet Singh:** Okay. In terms of your position as an advocate for consumers, do you think it's important, I understand, to have provincial legislation as well as the federal legislation?

**Mr. Ken Whitehurst:** Well, the first thing is that we don't really know the final fate of what was a regulatory ruling. Let's be clear: It's not federal legislation; it's a regulatory ruling. We don't know about that. We do know that the CRTC tried to put a structure in place that clearly recognized that there was or could be provincial legislation on the books because they talked about the relationship between the code and the legislation. It was not our sense that this was intended to put the Legislatures of the provinces in the box. It was intended to get the good consumer protection, context-oriented, in force. That's the first thing.

We have a strong sense that it has been provincial initiatives also that have kept the providers being concerned about their customers. There isn't a lot of competition; there isn't. There's a lot of competition in complex contracts, but there's not a lot of actual, literal competition. There are two big networks. The incumbents are now so disenfranchised from the two big networks that they dropped out of the CWTA, so it's a very difficult situation. It's in flux. It's probably going to take some time.

Simply providing some protection, even if it's in the moment, even if we're talking about a five-year period, could be a very wise thing to do, because let's remember what we're talking about here. We're not talking about whether the industry has made a valuable contribution to Canadian society or whether they have fast networks. Their networks are faster than some and not faster than others. What we're talking about here are clear, comprehensible, fair contracts. That's what we're talking about. And we're talking about what is, on the telecom side, for sure, a commodity service, and people are being asked over the lease agreement on a device that might cost \$20—in actual cash, \$20; remember there have been throwaway cellphones—and it might cost \$900 right at the premium if you're buying the latest and greatest. In other words, you own the Maserati. But—

**Mr. Jagmeet Singh:** So just to get your opinion—

**Mr. Ken Whitehurst:** It's just ridiculous.

**Mr. Jagmeet Singh:** Do you agree with the idea of having provincial legislation? Do you think it's necessary?

**Mr. Ken Whitehurst:** Absolutely.

**Mr. Jagmeet Singh:** And in terms of the year-long pricing: Do you think the year-long pricing or just the full contract pricing would allow consumers to actually get a real comparison of how much of a benefit they're getting, if they're actually getting an inducement or if it's more like a loan and to be able to compare those with other countries?

**Mr. Ken Whitehurst:** Well, comparing them with other countries—

**Mr. Jagmeet Singh:** I mean other companies.

**Mr. Ken Whitehurst:** I think the first most important thing here, more than price shopping is understanding the commitment you're making and what it's actually going to cost you. That's what consumers need to be able to exercise their marketplace responsibility, and they're having a hard time with that now.

**Mr. Jagmeet Singh:** In your opinion, do consumers, from your vantage point, look at the contracts? Would they like to see their cost month to month? Or do you think it's more effective for them to see the entire duration of the contract, whether it's a two-year, a three-year or a four-year contract, or perhaps both?

**Mr. Ken Whitehurst:** At some level, they have to understand both because they need to know the monthly cash flow commitment and they need to know—call it the total cost of ownership. What consumers want and the one reason they're so confused with this whole environment is that they want to manage their budgets, and you have a really hard time. I don't know if any of you have negotiated a wireless contract. You have the conversation and at the end you still don't have any sense of what kind of commitment you're making.

**Mr. Jagmeet Singh:** Is there anything in the bill that you would like to see that you haven't seen? Any other sort of protection?

**Mr. Ken Whitehurst:** Well, I mentioned prepaid, but I don't know that this should be in this bill. The sense we have is that we have a bill that's about the right size for the environment. It needs to have some harmony with the federal initiatives. The federal government is beginning to understand how significant this is to Canadians and—

**Mr. Jagmeet Singh:** Can I just squeeze my last question in with the time? I know I'm probably just about to run out.

**The Chair (Mr. Grant Crack):** Thirty seconds.

**Mr. Jagmeet Singh:** There is an NDP federal initiative to stop the practice where cellphone companies charge you to get a paper bill. Some folks aren't able to use their computers, for whatever reasons, and if people opt into this because it's beneficial, there shouldn't be an immediate charge. What's your feeling about that on a long-term basis?

**Mr. Ken Whitehurst:** Well, we certainly prefer to see people incented to make these changes. Companies could share in the benefit of making the change. That seems like a positive thing to do. You know, if the shoe was on the other foot, I think most businesses would ask for that. They certainly do when they're making a request of government. So I think who doesn't like a win-win rather than a win-lose when you make an arrangement?

**The Chair (Mr. Grant Crack):** Okay. Thank you. We'll go to the government. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I have a question. One of the things that always used to annoy me was when I used to take a flight and I would check on that flight and it would be \$300 and then when you finally got the final price, it was \$500, and now that's changed fortunately. But do you see evidence of this within the wireless industry; that in all of their advertisements they don't include all of the prices?

**Mr. Ken Whitehurst:** I think there is a lot of trouble at the retail level. We are not in a position to judge what is method and what is a management problem, but there's a lot of trouble. People come away, after talking to sales representatives, service representatives or negotiating a contract and what they thought they heard is not what they heard or what was offered.

Maybe I'll offer a little personal anecdote. It's a very small thing. With my own cellphone contract, I was offered an incentive to merge my bills from a carrier—two bills, two separate services; an incentive to merge it. I was told, clear as day, that the incentive would be \$5 a month, but that it would take a while to appear on the bill. Well, a while passed, and it didn't appear on the bill.

So I called and I said, "Maybe I did something wrong in getting this set up," because it was kind of complicated to get the arrangement set up to start with. They said, "Well, we don't know what happened," and they bounced me back and forth, because there were two sides of one company. Back and forth I went, but I'm the executive director of the Consumers Council of Canada, so I am patient when I'm learning. So I spent the time, and I went back and forth and back and forth.

A lot of people would have said, over \$5, when they think about it that way—"Why would I spend this time?" Of course, \$5 adds up over time, doesn't it? So I persisted, and they finally said, "Well, we've got it all set up. It's all done for you, Mr. Whitehurst. We're sorry. We'll give you back credit on the time." I said, "That's wonderful. Thank you very much." A month later, my bill came in: \$4 a month.

**Mrs. Donna H. Cansfield:** How's your patience?

**Mr. Ken Whitehurst:** Well, I didn't call again. The story is almost worth more than the call again. Why did that happen? You've got me.

**Mrs. Donna H. Cansfield:** Bill 60 has very strong contract cancellation remedies in place. Do you think that they are stronger than what's being proposed for the national code changes?

**Mr. Ken Whitehurst:** Yes.

**Mrs. Donna H. Cansfield:** Good.

**Mr. Vic Dhillon:** What consumer protections are included in Bill 60 but are not included in the CRTC code?

**Mr. Ken Whitehurst:** I think that, on the face of it, you have a clearer termination, especially if someone owns their own phone. That didn't get talked about a lot. The culture so accepts the idea that you're just going to get your phone as part of a plan, but financing terms—even when you borrow, depending on who you are—may be better than having a lease. More people should probably be looking at that option.

**Mr. Vic Dhillon:** Do you think consumers are better served by having this type of protection at two levels of government?

**Mr. Ken Whitehurst:** We were very concerned from the beginning. If you were to look at our public statements, we were very concerned about having a patchwork, right? What I would say about this bill and what I

would say about how the wireless code seems to have evolved is that there is pretty good consistency.

You may find that it needs some fine-tuning. It may be that the Consumer Measures Committee that meets with all of the consumer protection leadership from the different provincial governments and the federal government may find some room to do some coordination over time, but it strikes me that, as we understand it, the legislation that was brought forward took into account the wireless code.

There was the benefit to have done that from a timing perspective, and given that there are a variety of challenges going on—some of it just heel-dragging—it probably

makes sense to provide Ontario consumers the same kind of protection that Quebec consumers have been enjoying. If there's a huge constitutional issue there, I don't know how many years it has been that the industry has decided to do nothing about it.

**The Chair (Mr. Grant Crack):** Okay. Time is up. I'd like to thank you, Mr. Whitehurst, for coming before the committee and providing us with your thoughts.

There being no further business, this committee will adjourn until such time as 2 p.m. on Monday, October 21. Enjoy your week in the riding. Thank you very much.

*The committee adjourned at 1800.*







## CONTENTS

Wednesday 9 October 2013

Subcommittee report .....	G-273
Wireless Services Agreements Act, 2013, Bill 60, Ms. MacCharles / Loi de 2013 sur les conventions de services sans fil, projet de loi 60, Mme MacCharles .....	G-274
Ministry of Consumer Services.....	G-274
Mr. Giles Gherson	
Mr. Frank Denton	
Rogers Communications .....	G-278
Ms. Jan Innes	
Mr. Ken Engelhart	
Mr. Joshua Yarmus	
Canadian Wireless Telecommunications Association.....	G-282
Mr. Bernard Lord	
Mr. Devon Jacobs	
Mr. Kurt Eby	
Consumers Council of Canada.....	G-286
Mr. Ken Whitehurst	

### STANDING COMMITTEE ON GENERAL GOVERNMENT

#### Chair / Président

Mr. Grant Crack (Glengarry–Prescott–Russell L)

#### Vice-Chair / Vice-Présidente

Mrs. Donna H. Cansfield (Etobicoke Centre / Etobicoke-Centre L)

Ms. Sarah Campbell (Kenora–Rainy River ND)

Mrs. Donna H. Cansfield (Etobicoke Centre / Etobicoke-Centre L)

Mr. Grant Crack (Glengarry–Prescott–Russell L)

Ms. Dipika Damerla (Mississauga East–Cooksville / Mississauga-Est–Cooksville L)

Mr. John Fraser (Ottawa South L)

Ms. Peggy Sattler (London West ND)

Ms. Laurie Scott (Haliburton–Kawartha Lakes–Brock PC)

Mr. Todd Smith (Prince Edward–Hastings PC)

Mr. Jeff Yurek (Elgin–Middlesex–London PC)

#### Substitutions / Membres remplaçants

Mr. Toby Barrett (Haldimand–Norfolk PC)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Mr. Jim McDonnell (Stormont–Dundas–South Glengarry PC)

Mr. Jagmeet Singh (Bramalea–Gore–Malton ND)

Ms. Soo Wong (Scarborough–Agincourt L)

#### Clerk / Greffière

Ms. Sylwia Przewdziecki

#### Staff / Personnel

Ms. Heather Webb, research officer,  
Research Services