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Wednesday 23 October 2013

**Journal
des débats
(Hansard)**

Mercredi 23 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

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Wednesday 23 October 2013

Mercredi 23 octobre 2013

The committee met at 1607 in committee room 2.

**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.

The Chair (Mr. Grant Crack): I'd like to call the meeting of general government to order. I'd like to welcome all members of the committee. We're here today to deal with the clause-by-clause consideration of 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.

As the committee is well aware, the deadline for amendments was noon yesterday and, as such, I will ask if there are any questions or comments prior to starting the clause-by-clause consideration of this bill.

Mr. Jagmeet Singh: Sorry, what was that?

The Chair (Mr. Grant Crack): Are there any questions or comments in general concerning any aspects of the bill prior to starting clause-by-clause consideration?

Mr. Jagmeet Singh: No.

The Chair (Mr. Grant Crack): Okay, thank you very much. We shall begin.

Sections 1 and 2: There are no amendments on the table, so shall sections 1 and 2 carry? All those in favour? Any opposed? There are none opposed. It's carried.

We will move to section 3, to which we have a number of amendments. We will begin with subsection 3(1). Any opposition?

Mr. Jim McDonell: This makes it clear the contract is engaging a consumer in Ontario, otherwise, it could be considered to be from another province. As we heard through the depositions, that could hurt us as far as call

centres. They would likely have to move or they'd have to fall under this legislation, which would mean they couldn't handle out-of-province contracts.

The Chair (Mr. Grant Crack): Further discussion? If you could read the motion onto the floor—

Mr. Jim McDonell: Okay.

I move that subsection 3(1) of the bill be amended by striking out "or the person engaging in the transaction with the consumer".

The Chair (Mr. Grant Crack): Further discussion?

Mr. Vic Dhillon: Chair, we'll be considering motions 1 and 3 and voting against them, the explanation being that the two motions would revise the application of the bill to be only where the consumer is located in Ontario. Normally, Ontario consumer law would apply to protect consumers outside Ontario. However, this sector has raised serious concerns with this approach, so we will be voting against it.

The Chair (Mr. Grant Crack): Thank you, Mr. Dhillon. Ms. Damerla?

Ms. Dipika Damerla: I just wanted to add to that by saying that we do have another amendment that would do the same thing. We're not opposed to it; we just feel that the way we are doing it is cleaner. It's not that we are opposed to what you are doing.

Mr. Toby Barrett: Which amendment is that? Which number is that?

Ms. Dipika Damerla: It will come in order, I guess.

The Chair (Mr. Grant Crack): Mr. McDonell.

Mr. Jim McDonell: If I may just speak on that. First of all, 1 and 3 go together. It was something we heard, I believe on Monday, from one of the national suppliers: that under the current legislation they wouldn't be able to offer call centre services in Ontario under this bill.

If you look at amendment 2, it has to be specified by the minister whether she believes that the contract is suitable or that the jurisdiction that the person is from has adequate protections. Really, it shouldn't be up to us to judge another jurisdiction's protections.

This makes it very clear. If you're a resident of Ontario, you'll fall under this law. If you're not, you don't; you fall under whatever the legislation is where the person resides. That's why we're following those two.

The Chair (Mr. Grant Crack): Thank you. Any other discussion? Mr. Singh.

Mr. Jagmeet Singh: This question is to the Liberals: Just addressing the minister regulation issue, because that makes some sense, if you could distinguish why 1 and 3

don't achieve the same thing as 2, because 1 and 3, in fairness, don't require minister regulation; they just clearly indicate who would be covered and who wouldn't. I like the wording of motion 2. In some respects, it's a bit more clear because it designates an exception and it lays it out in a way that I prefer, in some ways. But the minister regulation causes some concern for me. If you could explain why 1 and 3 don't achieve the same thing as 2, and what motion 2 offers that's better.

Ms. Dipika Damerla: I think that what the PCs are trying to do and what we are trying to do are very similar. We just feel—as you, yourself, said—that the way we have worded it is cleaner. It's also consistent with the federal Personal Information Protection and Electronic Documents Act. It's very similar to that. It's what Nova Scotia has already done, as well. So we're sort of following, I guess, tested ways of doing it, and we feel it's a robust way of doing it.

Mr. Jagmeet Singh: What about the minister regulation component?

Ms. Dipika Damerla: Sorry?

Mr. Jagmeet Singh: The component regarding the minister's regulations. It allows for decisions to be made by the minister—

The Chair (Mr. Grant Crack): Sorry, Mr. Singh, if I could just interject. We'll deal with the motion that's on the floor, and we will deal with the other amendments—

Mr. Jagmeet Singh: With respect, if we don't talk about 2, it's directly overlapped with 1—we actually have to talk about 1 and 3 to make it make sense. It doesn't work that way. Amendments 1 and 3 are linked, and 2 is exactly the same thing, just done in a different way, so they all are very relevant and work together.

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

Mr. Vic Dhillon: Chair, could I ask for a five-minute recess so we can get some clarification?

The Chair (Mr. Grant Crack): That would be in order.

Mr. Vic Dhillon: Actually, Chair, I'd like to amend that—maybe a 10-minute recess?

The Chair (Mr. Grant Crack): Is the committee in favour of a 10-minute recess?

Mr. Jim McDonell: Well, five minutes.

The Chair (Mr. Grant Crack): Okay, it will be a five-minute recess.

The committee recessed from 1614 to 1619.

The Chair (Mr. Grant Crack): Are all members of the committee prepared to proceed? Okay. Is there any further debate?

Mr. Jim McDonell: Yes.

The Chair (Mr. Grant Crack): Mr. McDonell.

Mr. Jim McDonell: Just in talking with Michael Wood—and maybe I'll ask him to follow up with this. But one of the issues we have is—they come very close, but what we're saying is, if you're one of the national companies that want to set up in Canada, we're setting an additional artificial barrier that may stop you from setting up in Ontario because we're being more restrictive. It's up to the minister to say, "Okay, if you're from, maybe,

Alberta, we agree with their laws, so this bill doesn't apply. But if you're from Quebec, we don't like their law, so you'll have to follow our laws, as well as Quebec's." You're just setting barriers up and, well, why would you bother?

These people aren't residents of Ontario. The company has decided to set up a call centre in Ontario. Let them follow the laws that are under their own jurisdiction—which falls back to the CRTC code, which is very similar but just slightly different. It causes issues.

We heard from one of the national carriers that the way this law is made today, they would have to move their call centres out of Ontario because it includes provinces other than Ontario, which is problematic to them.

The Chair (Mr. Grant Crack): Thank you. Further discussion? Ms. Damerla.

Mr. Jim McDonell: And just to say—if Michael Wood can explain that part as well.

The Chair (Mr. Grant Crack): Ms. Damerla?

Ms. Dipika Damerla: Just to clarify what MPP Singh was alluding to, as well as MPP McDonell: What the minister's regulation really does is, as I understand it, if you're a consumer in Alberta and—the call centre really is a red herring. It's not about the call centre. But you're working and you have a contract with a company that's registered in Ontario, then you would get the consumer protection that Ontarians get. But if you happen to be in a jurisdiction like Nova Scotia, which has its own consumer protection, which is very similar to Ontario's, then you wouldn't be captured by it.

This is really about somebody who lives in a province that doesn't have consumer protection as robust as Ontario's but is dealing with an Ontario-based company. If you were a BC-based company and you had a call centre in Ontario—I mean, it's very complicated. It depends on the contracts that have been signed, but the intent really is if it's an Ontario-based company, then the consumer protection that we give to Ontarians would be available to anybody—that's the difference between 1 and 3, and 2.

The Chair (Mr. Grant Crack): Thank you. Mr. Singh?

Mr. Jagmeet Singh: This question is actually to Mr. Wood, legislative counsel. Would you be able to comment on the scenario under 2 with a call centre, and whether that would impact—if I can give you maybe a more concrete example: The example I guess is simply if a company from Manitoba or, let's say, the Northwest Territories wants to set up a call centre in Ontario and the Northwest Territories doesn't have a provincial wireless agreement or consumer protection act, if they were to set up their call centre in Ontario, would they be able to engage with the Northwest Territories' clients or consumers using the law of that territory or would they be compelled to follow the law of Ontario? Because I don't think that necessarily would happen, but that's a legitimate concern. We shouldn't be creating barriers.

Mr. Michael Wood: The main comment that I have to make is that there is a substantive difference between, on

the one hand, motions 1 and 3 and, on the other hand, government motion 2. Government motion 2 requires that there be a minister's regulation in place to say that the act would not apply; whereas under PC motion 1, you're focusing only on where the consumer is located, not where the person engaging in the transaction with the consumer is located.

It maybe is a bit misleading to talk about the call centre. It's really the entity that is engaging in the transaction with the consumer.

Mr. Jagmeet Singh: Okay, that's very helpful. So just to clarify then, Ms. Damerla's point, that if I'm living in BC but I have a cellphone agreement based out of Ontario, I would still get the protection of Ontario if my cellphone agreement was an Ontario-based plan that I wanted to sign up for.

Mr. Michael Wood: As I read the bill—and perhaps we should ask ministry legal counsel to confirm this—the starting proposition is that if either the consumer or the person engaging in the transaction with a consumer is located in Ontario, then this act would apply. Under government motion 2, the exception is that the act would not apply if it so happens that the consumer is located in another jurisdiction and the minister's regulation recognizes that jurisdiction as providing adequate protection to the consumer.

It's up to the ministry to make a minister's regulation. I think in our example, if the party engaging with the consumer is in Ontario and the consumer is in BC, then the starting proposition is that the act would apply. It's only that it would not apply if the exception in government motion 2 kicks in.

Mr. Jagmeet Singh: I see.

The Chair (Mr. Grant Crack): Further discussion? I'll put the question—

Interjection.

The Chair (Mr. Grant Crack): Sorry? Mr. McDonell.

Mr. Jim McDonell: Just to clarify, if I'm a national supplier, which I think in most cases most of them are—at least, interprovincial—if my representative is calling from Ontario, what we're saying is, they have to follow the Ontario laws, unless they're excluded by regulation. That could be international, or it could be in the province itself.

Mr. Michael Wood: That is how I interpret government motion 2.

Mr. Jim McDonell: Okay. We'd like a recorded vote on it as well.

The Chair (Mr. Grant Crack): Okay, so I will put the question to a vote. There has been a request for a recorded vote—

Mr. Jagmeet Singh: Sorry, I missed the answer that Mr. Wood gave on that last—

Mr. Michael Wood: Yes, that is how I interpret government motion 2.

The Chair (Mr. Grant Crack): Okay, thank you. The Clerk will take over the proceeding from here for the recorded vote.

Ayes

Barrett—

Mr. Jagmeet Singh: Sorry, my apologies—

Interjection.

The Chair (Mr. Grant Crack): We're voting on the amendment.

Mr. Jagmeet Singh: Amendment number 1?

The Chair (Mr. Grant Crack): The first motion, by Mr. McDonell.

Interjection.

The Chair (Mr. Grant Crack): No, there will be no amendments today other than the amendments that have been put forward.

Mr. Jim McDonell: So we're just voting on the amendment.

Mr. Vic Dhillon: On the motion.

Mr. Jim McDonell: Yes.

The Chair (Mr. Grant Crack): Okay, so we're in the middle of a vote—

Mr. Jagmeet Singh: Sorry. What I would ask to do is, given the answers by Mr. Wood and some of the submissions made, I want to just consider that for a moment before I make a vote. I would ask for a five-minute recess just to compose my thoughts, given the new information that has come to light, before I make a vote.

The Chair (Mr. Grant Crack): Well, Mr. Singh, with all due respect, I'd like to be able to grant you your request, but we were in the middle of a vote. There has already been a record of one of the members of this committee, so we will have to proceed with the vote. I apologize for that, but that's the way it works.

Mr. Jagmeet Singh: Perhaps I would assist the PCs—I mean, if I was to think it through and I want to support it, it might be in their best interest to allow this to happen. It could benefit democracy to be able to look at it a little bit better and make the decision because we've just discussed it.

The Chair (Mr. Grant Crack): Members of the committee, Mr. Singh has asked for a five-minute recess. Is there unanimous consideration by the committee to grant that?

We will have the vote immediately when we come back from the five-minute recess. Thank you very much—five minutes.

The committee recessed from 1627 to 1632.

The Chair (Mr. Grant Crack): Okay. Thank you very much, everyone.

As we were at the beginning of a recorded vote, I would ask that those in favour, please raise your hands.

Ayes

Barrett, MacLaren, McDonell.

Nays

Cansfield, Damerla, Dhillon, Sattler, Singh.

The Chair (Mr. Grant Crack): The motion is defeated.

Which takes us to the second amendment of subsection 3, section 2 on page 2. Anyone wish to speak? Any discussion on this amendment? I believe we need to have it read into the record first, so why don't we do that. Mr. Dhillon.

Mr. Vic Dhillon: I move that subsection 3(2) of the bill be struck out and the following substituted:

“Exception

“(2) Despite subsection (1), this act does not apply in respect of any transactions relating to a wireless agreement if, when the transaction takes place, the consumer is located in a jurisdiction other than Ontario that is designated by a minister's regulation made under subsection (2.2).

“Definition

“(2.1) In subsections (1) and (2),

“‘transaction’ means any act or instance of conducting business or other dealings with a consumer, including a wireless agreement.

“Minister's regulations

“(2.2) The minister may make regulations designating a jurisdiction other than Ontario for the purposes of subsection (2) if the jurisdiction has legislation that applies to the transaction and the minister is of the opinion that the legislation provides protection to the consumer that is similar to the protection provided by this act.”

The Chair (Mr. Grant Crack): Thank you, Mr. Dhillon. Any discussion? Mr. McDonell.

Mr. Jim McDonell: As we said before, this now applies to jurisdictions outside Ontario and outside Canada. If you're calling in and you want roaming charges, now you have an extra layer of government you have to follow.

I think some of our multinationals are very clear; if they're going to have to choose where they're establishing these call centres, in spite of paying extra fees for hydro and other things, you've now got to worry that you've got a different set of rules in Ontario than you would anywhere else in the country, and it may make their decision as to where they create these jobs. These jobs are generally—if I go to my own home riding in Cornwall, it probably, overall, has 1,000 jobs in different call centres. They may not go to Ontario under these regulations.

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Mr. Singh.

Mr. Jagmeet Singh: My concern is actually that there's a problem with this bill as well in the sense that, ideally, if I'm a consumer and I want to purchase a product in Ontario, I should be protected by Ontario laws, wherever I live. I could be in France, and I wish to buy an Ontario cellphone; I should be protected by Ontario's laws because it's an Ontario cellphone. That makes sense, but in fairness, if I'm living in Ontario but I'm purchasing a phone in Nova Scotia or in Saskatchewan, technically this amendment or the existing bill would still force that other jurisdiction or that other

provider to be covered by Ontario law. It doesn't make sense that someone living in Ontario buying a product in another province would force the other province to provide Ontario protection. That doesn't really make sense, but that's what would happen with this bill.

Ideally, I would be against all three—1, 2 and 3—and propose an alternative that says, “wherever the product is going to be.” So if I'm buying a product and I want it to be an Ontario cellphone number, that's where the protection should be—in Ontario—because it's an Ontario cellphone number and an Ontario product. That would be a better way of crafting it.

The way it's crafted now allows for the anomaly of living in Ontario but buying a product in another province, and somehow that other provider has to follow Ontario laws, because if you're engaging with—someone answer that if I'm wrong, but I think that's the way it's written, and I think that's anomalous and doesn't make sense.

The Chair (Mr. Grant Crack): Thank you, Mr. Singh. Mr. Dhillon?

Mr. Vic Dhillon: I'm not sure if I'm understanding what Mr. Singh is saying. If Saskatchewan does not have consumer protection—can you just clarify what your point is again for me?

Mr. Jagmeet Singh: Sure. The way I read this—because it states: “if the consumer or the person engaging in the transaction with the consumer is located in Ontario when the transaction takes place.” So if the consumer is located in Ontario but the provider is not, my understanding is that the provider would be forced to follow Ontario laws, even though the provider is not from Ontario. If that's not the case, then that's okay, but that's the way I'm reading this. Maybe we can get legislative counsel to confirm, but that's the way it seems to me.

Mr. Vic Dhillon: Yes, can you please clarify the point?

Mr. Michael Wood: I agree with Mr. Singh's interpretation. If either the consumer or the person dealing with the consumer is located in Ontario, under 3(1) of the bill, the act, would apply.

Ms. Dipika Damerla: Sorry, say that again.

Mr. Michael Wood: Under 3(1) of the bill, if either the consumer or the person dealing with the consumer is located in Ontario, then the act does apply. Government motion 2 then creates an exception if there is a minister's regulation. The starting proposition is, yes, if either party is located in Ontario, then the act applies.

Mr. Jagmeet Singh: Which is the nonsensical part, because, like I said, the example is—ideally, what we should do is we should modify the amendment to say that if you're buying a product in Ontario, it should be protected by Ontario law, yes, but if you're in Ontario, buying a product in another province, it shouldn't be protected by Ontario law because that's up to the other province to determine what they want to do or not do. I don't think that really makes sense, and there would probably be significant—you could have court actions on that, because to assume that Ontario could presuppose

what protection someone should have in New Brunswick is, I think, problematic. That's the way the law is written right now, and we could make it better by clarifying that point, but motion 2 doesn't actually cover that point.

1640

We could come up with an alternative way to do it, but I think our hands are kind of tied, because it's a programming motion. It's a bit of an awkward situation to be in: We could come up with something better, and we're in a great position to do it, but I think this problem is going to exist even if we pass motion 2, so there we go.

The Chair (Mr. Grant Crack): Thank you, Mr. Singh. Any further discussion?

Okay. Then I will put the question to a vote.

Mr. Jim McDonell: May we have a recorded vote?

The Chair (Mr. Grant Crack): A recorded vote has been requested.

Ayes

Cansfield, Damerla, Dhillon, Sattler, Singh.

Nays

Barrett, MacLaren, McDonell.

The Chair (Mr. Grant Crack): There are five in favour; three opposed. The motion is carried.

We shall move to subsection 3(3). Mr. McDonell.

Mr. Jim McDonell: I move that subsection 3(3) of the bill be amended by striking out "none of the parties is located" and substituting "the consumer is not located".

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Any discussion?

Mr. Jim McDonell: I'll just explain. This goes along with the first part of it that we heard, the issue with the call centres that could set up on Ontario. It would be problematic without this type of ruling.

The Chair (Mr. Grant Crack): Any further discussion? Mr. Singh.

Mr. Jagmeet Singh: To Mr. Wood: In the case of an amendment, renewal or extension, would this address my concern? Actually, if you look at it, "none of the parties is located..." So if neither the consumer nor the provider is located in Ontario, then the bill wouldn't apply.

Mr. Michael Wood: Mr. Singh, as I understand your concern, subsection 3(3) of the bill only addresses the situation where the agreement is amended, renewed or extended. It doesn't address a situation where the transaction—the agreement—is entered into in the first place.

The Chair (Mr. Grant Crack): Any further discussion?

Then I shall put the question to a vote.

Mr. Jim McDonell: Recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote.

Ayes

Barrett, MacLaren, McDonell.

Nays

Cansfield, Damerla, Dhillon, Sattler, Singh.

The Chair (Mr. Grant Crack): There being three in favour and five opposed, the motion is defeated.

We'll move to subsection 3(5), on page 4. Mr. McDonell, would you read the motion into the record?

Mr. Jim McDonell: I move that section 3 of the bill be amended by adding the following subsection:

"C.R.T.C. Wireless code prevails

"(5) In the event of a conflict between a provision of this act and the regulations made under it, on the one hand, and a provision of the Wireless code of the Canadian Radio-television and Telecommunications Commission, as it is amended from time to time, the latter prevails."

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell.

Any discussion on the motion? Ms. Sattler.

Ms. Peggy Sattler: The concern I would have is if the provisions of the legislation are more stringent and offer better protections than the CRTC. I guess my question to legal counsel is: If the CRTC code prevails, then there would potentially be a loss of consumer protection; is that correct?

Mr. Michael Wood: That is correct, but, of course, it is a matter of interpretation as to whether the Wireless code of the CRTC provides more or less protection to the consumer.

The Chair (Mr. Grant Crack): Any further discussion? Mrs. Cansfield.

Mrs. Donna H. Cansfield: I just wanted to put in place that it's really not appropriate to claim the ability to decide the constitutional interpretation in a provincial statute. I think that's a very clear clear point to make in terms of this particular motion.

The Chair (Mr. Grant Crack): Mr. Singh.

Mr. Jagmeet Singh: Yes, just on the exact same point: There have been volumes and volumes of constitutional law books written and decisions made on this very issue. If there is a conflict, what law applies is a matter of constitutional law, and it would be determined by the courts. In certain areas, the CRTC does prevail, and it's already the law of the land. In some areas, there may be a dispute, and that's a matter of constitutional law. I don't think codifying it necessarily makes sense. I would oppose this for that reason.

The Chair (Mr. Grant Crack): Mr. McDonell.

Mr. Jim McDonell: Our point with this is, why are we forcing or looking at challenges to this in court? We have now federal legislation that's involved. It covers the issues. Let it prevail. Really, there's some benefit to the overall cost of telecommunications if they can apply legislation right across the province; it's done once. I

think that, from information I've heard and feedback I've heard on the CRTC code, it's quite adequate. Entering into these small—chopping the country up into sections and making legislation that applies in each section is only problematic. We're challenging to a court decision to find out which applies, and why are we doing that? We really would like to simplify it and make it easy to do business in this country.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall put the question to the vote.

Mr. Jim McDonell: Recorded vote.

Ayes

Barrett, MacLaren, McDonell.

Nays

Cansfield, Damerla, Dhillon, Sattler, Singh.

The Chair (Mr. Grant Crack): There being three in favour and five opposed, the motion is defeated.

I shall ask the members of the committee, now that we're done section 3, shall section 3, as amended, carry? Those in favour?

Interjection.

The Chair (Mr. Grant Crack): As amended. I'll ask one more time just for clarification. Shall section 3, as amended, carry? Any opposed? Carried.

That was quite challenging, everyone. Thank you very much.

We have sections 4, 5, 6 and 7, inclusive—

Mrs. Donna H. Cansfield: May I ask just for a clarification? We just did section 5, subsection (3), wasn't it?

The Chair (Mr. Grant Crack): Section 3, subsection (3)—(1), (2), (3) and (5) were the amendments proposed.

Mrs. Donna H. Cansfield: I'm just looking for clarification. On page 3, it's section 5; underneath, it's subsection (3). Wouldn't it be five of three that would carry, not three of five? I'm just asking, just to make sure—as amended.

The Chair (Mr. Grant Crack): Well, we were dealing with section 3, but there were some smaller subsections—(1), (2), (3) and (5)—that there were amendments proposed. Three were defeated—

Mrs. Donna H. Cansfield: Okay, all right. I'm just making sure that it was the way it was supposed to be.

The Chair (Mr. Grant Crack): Section 3 has carried, as amended. This takes us to sections 4, 5, 6 and 7. There were no proposed amendments, so I would ask: Would sections 4, 5, 6 and 7 carry? Any opposed? I declare those sections carried.

In section 8, I'd advise members of the committee that perhaps it might be prudent to deal with clause 8(1)(a), which is an opposition, PC, amendment on page 6, prior to page 5, as there could be some implications. We would try to make this flow as smooth as possible.

1650

Mr. Jim McDonell: So you're saying to deal with amendment 6 first?

The Chair (Mr. Grant Crack): Yes, on page 6, please.

Mr. Jagmeet Singh: I'm just wondering, Mr. McDonell, if you're agreeable to that. Does that make sense? Because you've proposed it. Or you don't think—

Mr. Jim McDonell: I think they're separate, but sure. We can deal with them. They're intended to be separate, but sure.

The Chair (Mr. Grant Crack): Okay. Well, thank you very much. The floor is yours, sir.

Mr. Jim McDonell: So we're dealing with amendment 6 first. I move that clause 8(1)(a) of the bill be amended by adding "and expressed as an amount payable per month" after "the term of the agreement".

The Chair (Mr. Grant Crack): Okay, Mr. McDonell, would you like to explain?

Mr. Jim McDonell: Well, we found out that people are used to comparing prices per month, and we feel that by doing a total cost, it can be confusing. Really, people think of their cellphone as a per-month cost, and there are a lot of other issues that can be modified throughout the term so that could be argued whether it should be added or not. So that's why we're looking at a per-month basis, similar to what is standard in the industry.

The Chair (Mr. Grant Crack): Mr. Dhillon.

Mr. Vic Dhillon: The all-inclusive pricing is one of the main reasons for Bill 60, so that would defeat the purpose of the bill, pretty much. We believe the monthly bills, or costs, as they exist—

Mr. Jim McDonell: You're saying all-in monthly—

Mr. Vic Dhillon: We believe the monthly way of billing is more confusing, in fact. This way, the consumer knows, with the all-inclusive pricing, how much exactly they're paying for the term of the contract.

The Chair (Mr. Grant Crack): Ms. Sattler.

Ms. Peggy Sattler: Yes. I guess the question is for legal counsel. We heard that it would helpful to consumers to have the total over the term of the contract as well as the monthly cost.

When I first read this amendment, I wondered if that's what it was trying to achieve so that there would be both the all-inclusive pricing and also an expression of the monthly amount. But if the intention is to actually replace the all-inclusive price with a monthly amount, then I would have concerns.

The Chair (Mr. Grant Crack): Mr. McDonell.

Mr. Jim McDonell: Just for clarification: All-inclusive monthly costing is what we're talking about. We're not looking at putting the total for two years up.

The Chair (Mr. Grant Crack): Any further discussion? Ms. Damerla.

Mr. Jagmeet Singh: Sorry. My apologies. You can go ahead with the question, but just for the record, Ms. Sattler was looking for an answer from Mr. Wood. I think Mr. Wood didn't get an opportunity to respond to the question that was put to him. But I have no problem

with Ms. Damerla asking her question first, and then we can go back to Mr. Wood. I have a question as well, so it's fine.

The Chair (Mr. Grant Crack): Okay. It would be helpful, in the future, to address the Chair and then perhaps explain who you're looking for an answer from. Maybe it could be an explanation from the proposer. It could be from Mr. Wood, legislative counsel—

Mr. Jagmeet Singh: Ms. Sattler indicated the question was to—she did indicate that in her question.

The Chair (Mr. Grant Crack): Oh, she did?

Mr. Jagmeet Singh: She did.

The Chair (Mr. Grant Crack): I did not hear. I apologize.

Mr. Jagmeet Singh: Not a problem.

The Chair (Mr. Grant Crack): Okay. So we'll go here, and then we'll come back. How's that? Thank you for your kindness.

Ms. Dipika Damerla: I just wanted to point out that the legislation as crafted does not stop the companies from advertising the all-inclusive price on a monthly basis. All that it's saying is, it should say the annualized price somewhere. They can continue to advertise the all-inclusive price on a monthly basis. So that's important. It's not going to stop anybody from saying that the monthly price is \$47 a month: \$45 for the plan itself and \$2 a month for the hardware and whatever other incidental one-time costs there are.

The Chair (Mr. Grant Crack): So we will return to Ms. Sattler, and I apologize. If you direct your question to Mr. Wood, that would be much appreciated.

Ms. Peggy Sattler: The question was, would this amendment allow for both the total costs over the term of the agreement as well as a monthly cost to be reported to consumers?

Mr. Michael Wood: I first have to start with a qualification. If and when this bill is enacted, then it would be up to the ministry to give a formal interpretation of how to interpret it, but I can give you my interpretation right now. The lead-in words of subsection 8(1), before you get to the clauses, are pretty broad. It says that the information has to include an all-inclusive cost. That shows, and then you break out into the clauses. I would think that the safer way to interpret it is, yes, you would have to indicate both an all-inclusive cost and, under clause (a), show a breakdown per month.

The Chair (Mr. Grant Crack): Any further questions or comments? Mr. McDonell.

Mr. Jim McDonell: Yes. I just want to point out that we're being different here than all the other 10 or 12 jurisdictions in the country. We do live in border towns where they advertise in, say, the Gatineau papers versus Ontario. I really wonder why—we're only trying to get at the all-inclusive costs, and when you're different, it just presents problems. Most people think, if you look at a bill of \$50 a month versus seeing a bill that's for 24 months, you're looking at \$1,200 for a bill and you try and compare that to other ads you've seen across the country and you just wonder, "Why are we different

here?" Other than the fact, I guess, we can be, but is that the smart thing to be?

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Mrs. Cansfield.

Mrs. Donna H. Cansfield: I'd like to make the comment that even the federal government has become a little more consumer-friendly these days and, actually, I really like all-inclusive pricing starting with airline flights, and this is the same idea. I think it's really important for people to know the cost of that agreement that they are signing, especially when you consider the extensive use of cellphones amongst our children. Parents need to know. You still have the ability to do both, but I think that upfront cost is really important for people today, especially because they need to budget and they need to have an understanding of what their output would be for a year on one, two or sometimes three phones in their family. I think that's a really good form of openness and transparency. It still doesn't preclude that you can say this breaks down into your monthly cost. I suspect this is something that all good consumers would appreciate.

Mr. Jim McDonell: It's not every year; it's two years.

Mrs. Donna H. Cansfield: Even on two years. If it's a five-year contract, tell them up front. I just think that as you're budgeting today, it's really hard for people to look at their overall costs. If they know what their insurance cost is on their car for a year, they should know what their cost should be on their cellphone for a year or for two years so they can do that budgeting.

The Chair (Mr. Grant Crack): Mr. Singh?

Mr. Jagmeet Singh: I'm going to ask this question again to Mr. Wood, just for clarification. I'm also wondering, given Mr. Wood's comment, that perhaps we should have ministry counsel field the same questions as well, to interpret the way they think their bill will be—so they can provide their understanding of how the bill will be interpreted in law. I think there is a foundation for that. Is there a forum for that to happen? That's my first question. Secondly, I have a question for counsel. Mr. Chair, those are my two questions.

The Chair (Mr. Grant Crack): Is there any legal counsel here from the ministry who would be able to address that?

Interjection.

The Chair (Mr. Grant Crack): Thank you very much. Perhaps introduce yourself for the record.

Ms. Marilyn Marshall: My name is Marilyn Marshall, legal counsel with the ministry. If I could ask the question to be rephrased, I'd really appreciate it.

Mr. Jagmeet Singh: Sure, yes. Could we ask, would it be okay with everyone if we have Ms. Marshall take a seat?

The Chair (Mr. Grant Crack): Any opposed? There are none. Welcome.

Ms. Marilyn Marshall: Thank you.

Mr. Jagmeet Singh: The question—and we could have both legal opinions battle it out, perhaps. No, no, I'm joking.

The question is—what Ms. Sattler had indicated. Do you know the bill well?

Ms. Marilyn Marshall: I'm happy to get it.

Mr. Jagmeet Singh: Yes. There you go. I'm looking at clause 8(1)(a), and it reads, "the total cost payable by the consumer over the term of the agreement," and the amendment would say "and expressed as an amount payable per month," for that to be added at the end of the term of the agreement. So it would read this way: "the total cost payable by the consumer over the term of the agreement and expressed as an amount payable per month." Would that be interpreted to mean that they would show the total cost payable over the entire term and in addition have it expressed as a monthly payable amount, or would it actually say that the total cost would have to be expressed in a monthly total payable amount?

1700

Ms. Marilyn Marshall: The problem in answering it is that I may have a particular view, but I suspect that the suppliers themselves would have a different view. I don't think it's clear to me, reading it, that it means, "Give me the annual amount and also show it as a monthly amount." To me it's two thoughts: "Show the total price over the term, and be sure and express it as a monthly amount." I wouldn't necessarily conclude that it would have both there. But to the point that was made earlier, these are the minimum requirements, and the expectation is that they would show in the advertisement. They're not the only things that can show up in a price advertisement.

Mr. Jagmeet Singh: It can show anything else in addition.

Ms. Marilyn Marshall: Exactly.

Mr. Jagmeet Singh: This is just what's required, and they can choose to show the bimonthly amount, the trimonthly or the monthly amount.

Ms. Marilyn Marshall: Maybe I'm being a bit presumptuous, but if 8(1)(a) is looked at, it also has an impact if it were to be approved because under 8(1)(c), where it talks about disclosures, they would not apply to fixed-term contracts. The way it's set up is problematic to have 8(1)(a) by itself.

Mr. Jagmeet Singh: Okay, that's really helpful. Could we just request the counsel to stay because we might have further questions? Or should we just call you up on a term-by-term basis? I'm okay with either.

The Chair (Mr. Grant Crack): Members of the committee?

Ms. Dipika Damerla: Chair, I just have a clarification. It's not clear to me: Is the PC Party proposing that we are only dealing with 8(1)(a) or 8(1)(a) and (b)? Are you withdrawing (b) or are they both going in tandem?

Mr. Jim McDonell: No, they asked us to do this first—

Ms. Dipika Damerla: Sorry?

Mr. Jim McDonell: The Chair asked us to look at this one first. We're going back to the one previous.

Ms. Dipika Damerla: Fair enough.

The Chair (Mr. Grant Crack): I think, Ms. Damerla, you also mentioned 8(1)(b). That's not part of this particular amendment.

Ms. Dipika Damerla: The PC motion 5 that I have is 8(1)(a) and (b), but we jumped to 6, so I wasn't sure if I was still on the table or not.

Mr. Jim McDonell: You asked if we minded jumping ahead. We'll go back.

Ms. Dipika Damerla: Because (a) on its own has a different impact than (a) and (b) together. That's why.

Mr. Jim McDonell: The intent is (a) and (b) together.

Ms. Dipika Damerla: Okay.

The Chair (Mr. Grant Crack): Okay, everything clear so far? Any further discussion?

Mr. Jim McDonell: Just a question: I'm not sure why we would treat this cellphone differently than your telephone, your Rogers cable, your Internet. Everything we do in that telecommunication package is on a per-month basis. Now, for a cellphone, we're going to advertise differently. I just think that all we're looking for is the all-inclusive price per month to make it standard with everything else. That's really our only point. Now you're looking at the advertised price of something; let's say, as an example, two years at \$50 is \$1,200. The only place we're doing that is in Ontario. If you look at the phone bill, it's going to be \$36 a month. It's just that you're doing something different, and we're wondering why. It's confusing.

The Chair (Mr. Grant Crack): Ms. Damerla.

Ms. Dipika Damerla: Just for the record, I do agree with Jim's point that people think of cellphones on a monthly basis. That's why I keep reiterating that the intent is not that cellphone companies will not be able to, going forward, advertise \$48 a month, but if just somewhere in there they can put the full-term cost. But their prominent advertising could still be the monthly cost, and the full-term could be somewhere else. I get what you're doing, and I think there's a compromise here.

Mr. Jim McDonell: I think, though, the bill asks that the all-in cost, the total, be the prominent one, not the monthly one. That's the confusing part.

The Chair (Mr. Grant Crack): Ms. Sattler.

Ms. Peggy Sattler: I was going to make the same point, that 8(2) says that the all-inclusive cost is the most prominent cost in the advertising.

The Chair (Mr. Grant Crack): Any further discussion? Then I shall put the question to a vote. Those in favour? Any opposed? There are three in favour and five opposed; the motion is defeated.

This takes us to subsection 8(1). Mr. McDonell.

Mr. Jim McDonell: This is amendment 5; we're just going back the one page.

I move that subsection 8(1) of the bill be struck out and the following substituted:

"Advertising

"(1) If information on the cost to a consumer is included in any advertising with respect to a wireless agreement, the supplier shall ensure that the information includes an all-inclusive cost, other than the harmonized sales tax payable under part IX of the Excise Tax Act (Canada) and all other fees payable under an act of On-

tario or Canada to the government of Ontario or Canada, that shows,

“(a) the minimum cost; and

“(b) all costs, if any, payable by the consumer under the agreement that are not periodic costs and that are payable in addition to the minimum cost, the harmonized sales tax and all other fees payable under an act of Ontario or Canada to the government of Ontario or Canada.”

Basically, we’re saying to exclude all fees like your 911 fees, your eco fees and sales tax fees that are provincial in nature. Your eco fees are generally excluded, so if you have to start putting them in, it’s kind of contradictory. Again, it doesn’t allow you to advertise in one place; if you advertise in a paper in Ontario, it would be different than the Montreal Gazette, which leads to confusion again, because generally those fees are excluded.

This is putting them in. If I go into Canadian Tire, my eco fees are excluded; they’re on the bottom line. They’re not on the advertised price that’s on the shelf, so we would think that this should be the same way.

The Chair (Mr. Grant Crack): Okay, thank you. Any further discussion? Ms. Damerla?

Ms. Dipika Damerla: I just wanted to make the point that if “prominent” is an issue, we can work around that, and it doesn’t have to be prominent on an annualized—over the fixed term. It’s not a sticking point for us. We could have the monthly as “prominent.” I would be fine with that.

The Chair (Mr. Grant Crack): Thank you. Any further discussion? Okay. I shall put the question to a vote. Those in favour?

Mr. Jim McDonell: Recorded vote.

The Chair (Mr. Grant Crack): Okay, recorded.

Ayes

Barrett, MacLaren, McDonell.

Nays

Damerla, Dhillon, Fraser, Sattler, Singh.

The Chair (Mr. Grant Crack): That is three in favour and five opposed. The motion is defeated.

We shall move to subsection 8(3). Mr. McDonell, would you move the amendment into the record, please?

Mr. Jim McDonell: This is number 7.

I move that subsection 8(3) of the bill be struck out and the following substituted:

“Consequence

“(3) If information on the cost to a consumer is included in any advertising with respect to a wireless agreement, the supplier shall not demand, request or accept payment from the consumer in excess of the all-inclusive cost, other than the harmonized sales tax payable under part IX of the Excise Tax Act (Canada) and all other fees payable under an act of Ontario or Canada to the government of Ontario or Canada, shown in the advertising in respect of the offer that the consumer accepts.”

So, again, we are looking at excluding the sales tax, which is law, and the eco tax, which is now the current practice in Ontario.

The Chair (Mr. Grant Crack): Thank you very much, Mr. McDonell. Any further discussion on the motion?

Mr. Jim McDonell: Recorded vote, please.

The Chair (Mr. Grant Crack): I shall put the question to a vote, and there has been a request for a recorded vote.

Ayes

Barrett, MacLaren, McDonell.

Nays

Damerla, Dhillon, Fraser, Sattler, Singh.

The Chair (Mr. Grant Crack): Thank you. That’s three in favour and five opposed. The motion is defeated.

That is it for section 8.

Shall section 8 carry? Those in favour? Those opposed? It is carried. Section 8 is carried, five to three. Thank you.

Section 9, subsections 2 and 3: Mr. McDonell, on page 8.

Mr. Jim McDonell: I move that subsections 9(2) and (3) of the bill be struck out.

1710

The Chair (Mr. Grant Crack): Any further discussion on the motion? Mr. McDonell.

Mr. Jim McDonell: This amendment brings us in line with the CRTC code. The clause makes a distinction between optional services that are included at a minimum cost—for example, caller ID for \$5 a month, and pay-for-use services like roaming or pay-for-use data. The amendment clarifies this distinction as it is clarified in the CRTC code, and it kind of gets away from the possibility of double billing.

The Chair (Mr. Grant Crack): Any further discussion? Mr. Singh.

Mr. Jagmeet Singh: This question is to Mr. McDonell. Can you clarify how this would get rid of double billing? I guess we can begin with that.

Mr. Jim McDonell: Well, you’ve got billing that’s not included in an all-in—it gets confusing because you have add-ons that are included or not, because they’re based on usage. It’s something that we’re proposing. The CRTC already includes it in a different way, and we think it makes it less ambiguous. There’s just more clarification.

Mr. Jagmeet Singh: Through the Chair, my question, again to Mr. McDonell, is: How does the CRTC cover this already? If you could explain that.

Mr. Jim McDonell: I’d have to look back through the section. We’re just saying that it’s a problem that doesn’t exist if you look through that section. We’re adding it in, and we just think that it’s something that you could leave

out and it just adds some clarity to it. It's an issue that clarifies the distinction as it's defined in the CRTC code.

Mr. Jagmeet Singh: Mr. Chair, again.

The Chair (Mr. Grant Crack): Yes, go ahead, Mr. Singh.

Mr. Jagmeet Singh: Thank you. The issue here is that it speaks of—if you have two agreements on the same device, “if any part of the term of the agreements overlaps with each other.” You can still have two agreements on the same device if the agreements don't overlap, but if the agreements overlap it won't allow the agreement to include that, so a consumer can't, basically, get into two agreements on the same phone if they overlap. That makes sense to me, I think.

Mr. Jim McDonell: Just as a clarification—

The Chair (Mr. Grant Crack): Mr. McDonell.

Mr. Jim McDonell: I was just reading the wrong paragraph, so I'll just fix this up. It is, for all intents and purposes, possible to create two accounts. Using the same device under two different agreements simultaneously, the devices used as a SIM card can only be used under one account at a time, while the non-SIM card devices must be ported from one account to another. If the current clause wants to prevent consumers from entering into new agreements, the CRTC already provides mandatory disclosures on a particular contract, and in fact, it's a new agreement. I'm sorry for that. What we're talking about here is that with a SIM card, you can't have two accounts. It's only possible to have one, so it's talking about something that can't—if you have a separate device, then it's already handled in the CRTC code. That's the intent of it. It's a clarification. It's not a show-stopper for us, but it—

Mr. Jagmeet Singh: Okay. Thank you very much.

The Chair (Mr. Grant Crack): Any further discussion?

I shall call the question to vote. Those in favour? Those opposed? Five opposed. The motion is defeated.

I shall ask—because that's the only amendment to section 9—shall section 9 carry? Any opposed? Five in favour, three opposed. Section 9 is carried.

We shall move to section—

Mr. Jagmeet Singh: Just out of curiosity, Mr. Chair, if there's not a recorded vote, there's no number. You just say, “It passes on division.” Is that how it works, just for clarity purposes?

The Chair (Mr. Grant Crack): Okay, I will not enter the number next time.

Mr. Jagmeet Singh: No, I'm just wondering. Is that the proper procedure for committee? Do I understand it correctly? Yes, that is right.

The Chair (Mr. Grant Crack): Okay. Thank you. I'm too used to being a mayor.

We shall move on to section 10, subsection 10(1)(8) on page 9. Mr. McDonell?

Mr. Jim McDonell: I move that paragraph 8 of subsection 10(1) of the bill be amended by adding “on a pay per use basis” after “access under the agreement”.

This amendment brings this in line with the CRTC code. The clause makes a distinction between the optional services that are included in a minimum cost, an example being the addition of caller ID for \$5 a month, and a pay-per-use service, for example, roaming or pay-for-use data. This amendment clarifies this distinction, as it is clarified in the CRTC code.

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Any further discussion? Mr. Singh.

Mr. Jagmeet Singh: What would the impact be of motion 9? If I understand this correctly, it would allow the wireless provider to amend—actually, I'll just have you explain it to me. Explain to me the impact of this motion. How would it impact the consumer?

The Chair (Mr. Grant Crack): Mr. McDonell.

Mr. Jim McDonell: Well, it adds in “on a pay per use basis,” because some of the services are pay-per-use, so it's just clarifying that.

I think maybe Mr. Wood could clarify.

The Chair (Mr. Grant Crack): Mr. Wood.

Mr. Jim McDonell: Maybe it's an unfair question.

Mr. Michael Wood: Well, yes. I can give you, at least, my legal interpretation, but I am certainly not a technical expert in the field. I'm not aware of all the various services that are out there, but let me just say that this is in the section which sets out disclosure obligations of the supplier under a wireless agreement. By adding this qualification, it could potentially cut back on the information that a supplier is required to provide, because it relates only to the services that the consumer can access under the agreement on a pay-per-use basis. It wouldn't include information about any other services that are not accessed under a pay-per-use basis.

Mr. Jim McDonell: It's just a clarification that that's included in it.

The Chair (Mr. Grant Crack): Any further discussion? Okay, I shall call the question to a vote. Those in favour? Those opposed? The motion is defeated.

Shall section 10 carry? Carried.

Interjection.

The Chair (Mr. Grant Crack): Oh, sorry. Those in favour of carrying section 10? Those opposed? Carried. Right. Okay. Just a little confused there for a second.

Section 11 and section 12: There are no amendments. Shall sections 11 and 12 carry? Those in favour? Those opposed? Carried.

We shall move on to section 13. Subsection 13(1): Mr. McDonell, on page 10.

Mr. Jim McDonell: Mr. Barrett's going to read it.

The Chair (Mr. Grant Crack): Oh, sorry. Mr. Barrett.

Mr. Toby Barrett: Yes, there's a PC motion on page 10, on subsection 13(1).

I move that subsection 13(1) of the bill be struck out and the following substituted:

“Fixed term agreement

“(1) No supplier under a wireless agreement that is for a fixed term shall amend any provision of the agreement that constitutes a key contract term and condition, as

described in the wireless code of the Canadian Radio-television and Telecommunications Commission, as it is amended from time to time, unless the consumer agrees to the amendment explicitly and not merely by implication.”

The Chair (Mr. Grant Crack): Thank you very much, Mr. Barrett. Any further discussion? Okay. Mr. McDonell.

1720

Mr. Jim McDonell: This amendment brings us in line with the CRTC code and imports their definition of a key contract term, the services offered, minimum cost, contract terms, cancellation fees, device subsidy amount, for example. Furthermore, the CRTC code allows amendments to those terms if they benefit the consumer, for example, by reducing the minimum cost or providing more services at the same cost—for instance, more data. In that case, the CRTC code would prevail.

We’re looking at places where the contracts are changed in the CRTC code which would benefit the consumer.

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Any further discussion? Mr. Singh.

Mr. Jagmeet Singh: My only concern with this is that it includes key contract terms and conditions, as described in the wireless code of the Canadian Radio-television and Telecommunications Commission. The problem is, if you base our law on a definition found in another code, if they change that code’s definition, it would impact this legislation. If it was independently defined, I wouldn’t have a problem with it, but because it’s relying on a definition in another piece of legislation, that definition could change, and then it would change the impact of this legislation, perhaps unknowingly. It might be to the detriment; it might be to the benefit.

What you’re saying, the concept of allowing a provider to increase or provide more data without any cost—that’s a good concept. But I don’t think the way it’s written here captures that in a way that would be timeless. It’s limited because the definition could change by chance in the wireless code, and if it changes to something that’s a bit more obscure, it might impact the benefit that would be in this bill. That’s my problem with it; otherwise, I think it could have made sense.

The Chair (Mr. Grant Crack): Thank you. Mr. McDonell?

Mr. Jim McDonell: I mean, that’s one of the problems with having two bills that are looking after the same thing. You have a term that may be in the CRTC code that is in the provincial code, so maybe there’s an advantage to changing the term in the province code, slightly different, to get around—it presents some problems. This just talks about where changes are being made. We’re looking at, if there’s an advantage to the consumer, that the consumer will win on it.

The Chair (Mr. Grant Crack): Thank you. Mr. Wood?

Mr. Michael Wood: In fairness to members, I feel I should give some interpretation myself as to what the

effect of the PC motion is. Without the PC motion—subsection 13(1) of the bill says that no supplier can amend the agreement, in effect, in any way unless the consumer agrees to the amendment explicitly and not merely by implication.

The effect of the PC motion would be to cut back on that restriction so that the supplier would not be allowed to amend a provision of the agreement that constitutes a key contract term and condition as set out in the code unless the consumer agrees. But the supplier could amend some other term of the agreement without the explicit agreement of the consumer.

The Chair (Mr. Grant Crack): Thank you, Mr. Wood. Any further discussion? Mr. Singh.

Mr. Jagmeet Singh: Just so I understand that, Mr. Chair, through you to the counsel, if we use the example of adding—so it’s not a key term of the contract; it’s some side benefit that we are going to now increase. Your data used to be on a slower network; now we’re going to increase it to a higher-speed network, and you’re going to now take advantage of this better, faster service. What would have to happen under the existing law is that they would have to ask for the express permission of the consumer to say, “Yes, I agree to getting the better, faster Internet service.” But with the amendment, you’re saying that’s not a key piece of the contract. They would be able to change that without the express permission of the consumer. Am I understanding what you’re saying?

Mr. Michael Wood: We’re looking at what is actually in the wireless agreement. How the service is delivered may or may not be set out in the wireless agreement. I’m just commenting that right now, under the bill, the supplier is not allowed to amend the wireless agreement for a fixed term unless the consumer agrees to the amendment. The effect of PC motion number 10 would be to cut back on that protection. It wouldn’t be caught by the restriction if the supplier were not amending what constituted a key contract term and condition. To find out what constitutes a key contract term and condition, you’d have to refer to the code and the current code, as it is amended from time to time.

The Chair (Mr. Grant Crack): Thank you, Mr. Wood.

Ms. Damerla.

Ms. Dipika Damerla: I believe the concerns that were discussed by MPP Singh are actually addressed under subsection 13, where it says, “This section does not apply to an amendment of a wireless agreement if the amendment benefits the consumer and does not increase the consumer’s obligations under the agreement.” That would go to your point of faster service. No, in that case, it does not apply. Does that help everybody?

Mr. Jagmeet Singh: Perfect.

The Chair (Mr. Grant Crack): Any further discussion?

Then I shall put the motion to a vote.

Mr. Jim McDonell: Recorded.

The Chair (Mr. Grant Crack): A recorded vote.

Ayes

Barrett, MacLaren, McDonell.

Nays

Damerla, Dhillon, Fraser, Sattler, Singh.

The Chair (Mr. Grant Crack): The motion is defeated: three in favour, five opposed.

We shall move on to subsection 13(7), from the PCs, on page 11. Mr. McDonell.

Mr. Jim McDonell: I move that subsection 13(7) of the bill be amended by striking out the portion before clause (a) and substituting the following:

“Notice of amendment

“(7) The notice mentioned in subsection (6) shall set out,”

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Any discussion?

Mr. Jim McDonell: The explanation is—

Interruption.

The Chair (Mr. Grant Crack): Go ahead, Mr. McDonell.

Mr. Jim McDonell: Okay. Amendments to agreements must clearly set out what’s being changed, but a brand new copy of the agreement is not necessary. It’s just a clarification.

The Chair (Mr. Grant Crack): Any further discussion? Mr. Singh.

Mr. Jagmeet Singh: If that’s true, if that’s all it does, I don’t think it’s necessary to send someone the entire contract again. It would just set out the parts that had been changed. To me, that inherently makes sense intrinsically, if that’s exactly what it will do. Could we get just a quick opinion on that from counsel and maybe from the ministry? If that’s what it does, yes, let’s move on with it. But if that’s not what it does, and I’m misunderstanding that, then—

The Chair (Mr. Grant Crack): Thank you, Mr. Singh. Mr. Wood?

Mr. Michael Wood: I agree with the interpretation, given that the effect of the motion is to get rid of the obligation to show an updated copy of the wireless agreement. But the rest of the subsection stays as is, so you have to set out the information that is required by the subsection.

The Chair (Mr. Grant Crack): Thank you. Mr. Singh?

Mr. Jagmeet Singh: Yes, can I just quickly get the ministry counsel to agree or disagree with that if they think that’s—

Ms. Marilyn Marshall: Yes, thank you.

The Chair (Mr. Grant Crack): Okay. Ms. Damerla?

Ms. Dipika Damerla: I think the concern could be that you’re right if there’s just the one-off amendment, but sometimes if the contract has been amended three times, then it’s probably beneficial for somebody like me to have the whole new contract rather than having to go:

“This is amended. This was original. This got struck out.” After a while, your original contract may not be very recognizable, and that’s what this is trying to do.

While I hear your point that if there’s just one thing that’s changed, do you really need to print the whole contract? I’m with you on that. The flip side is, what if there’s one amendment now and one six months from now? After a while, you won’t have the full contract.

The Chair (Mr. Grant Crack): Any further discussion? Mr. McDonell.

Mr. Jim McDonell: You’re limited to a two-year contract, and if you get a call talking about a service being reduced in price, do you demand that you have to have a copy of the contract signed before it takes effect or are you just happy with taking the savings and moving on? Really, we’re talking about a maximum two-year contract, so when you go ahead to the next one, it either becomes month-to-month or you renew the contract. It’s your choice at the end. Then, you would get a new contract.

Ms. Dipika Damerla: I think subsection 13 already addresses that by saying that if it’s a benefit, then you don’t need to give advance notice—non-application of section.

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Mr. Jim McDonell: We’re just saying what changes need to be clearly set out, but the rest doesn’t change.

Ms. Dipika Damerla: I hear you. I’m just saying, an accumulation of changes could be hard to follow.

The Chair (Mr. Grant Crack): Any further discussion? Okay, I shall call for a vote on the motion at this particular point. Those in favour? Those opposed? The motion is defeated.

We shall move on to subsection 13(11), the PC amendment on page 12, but I would like to remind members of the committee that there are 10 amendments left to deal with, and we have 30 minutes. If members want to get through every one of the amendments and pass the entire section, we have less than half an hour to do so as per the time-allocation motion.

Mr. McDonell.

Mr. Jim McDonell: I move that subsection 13(11) of the bill be struck out.

It’s the same issue as before. It just clarifies that if there’s a change, only the change has to be highlighted.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call the vote on the question. Those in favour? Any opposed? The motion is defeated.

We have before us section 13, now that we have completed dealing with the proposed amendments. Is it the wish of the committee to carry section 13? Those in favour? I’d like to be able to see—carried? Any opposed? Section 13 is carried.

We shall move to section 14, subsection 14(3). Opposition motion on page 13: Mr. McDonell.

Mr. Jim McDonell: I move that subsection 14(3) of the bill be struck out.

The Chair (Mr. Grant Crack): Any further explanation?

Mr. Jim McDonell: Section 14(3) goes against the spirit of the bill and makes the bill inconsistent. On the one hand, an amended agreement is not a renewed agreement, but on the other hand, in section 14(3), it becomes a new agreement. That's why we're suggesting to take it out.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call the motion to vote. Those in favour? Any opposed? The motion is defeated.

We are now finished with section 14. Shall section 14 carry? Those in favour? Those opposed? Section 14 is carried.

Section 15: shall section 15 carry? Those in favour? Those opposed? Carried.

Moving on to section 16, subsection 16(5): Mr. Dhillon.

Mr. Vic Dhillon: Chair, I move that subsection 16(5) of the bill be struck out and the following substituted:

“Same, fixed term agreement

“(5) If the consumer cancels a wireless agreement with a fixed term and in respect of which the supplier provided no goods to the consumer free of charge or at a discount, the maximum amount that the supplier may charge the consumer as a cancellation fee is the lesser of,

“(a) the sum of \$50; and

“(b) an amount representing not more than 10 per cent of the price of the services that were provided for in the agreement but not supplied by the date of cancellation, calculated as if the term of the agreement were 24 months.”

I think this and the following two motions are there to have this bill be aligned with the national code.

The Chair (Mr. Grant Crack): Okay. Thank you, Mr. Dhillon. Any further discussion on the motion? There being none, I shall call the question to a vote. Those in favour? Any opposed? The motion is carried.

Subsection 16(6): Mr. Dhillon?

Mr. Vic Dhillon: I move that subsection 16(6) of the bill be amended by striking out “48” in the formula and substituting “24”.

The Chair (Mr. Grant Crack): Thank you, Mr. Dhillon. Any further discussion on the motion?

Mr. Jim McDonell: Maybe an explanation?

Mr. Vic Dhillon: Yes. This, again, is bringing it from 48 months to 24, also to align Bill 60's cancellation formula with the national code.

Mr. Jim McDonell: So it's just limiting—the bill, as it was written, did not include the 24-month period, and this brings it down to agree with the CRTC?

Mr. Vic Dhillon: Yes.

Ms. Dipika Damerla: It was 48, though.

Mr. Jim McDonell: Yes.

The Chair (Mr. Grant Crack): Thank you. Any further discussion? There being none, I shall call the question to a vote. Those in favour? Any opposed? Carried.

Section 16, subsection 16(7): the opposition. Mr. McDonell?

Mr. Jim McDonell: I move that subsection 16(6) of the bill be amended by striking out “48” in the formula and substituting “24”—oh, I'm sorry; 15 is what you read. Okay. I'm sorry.

Interjection: What page are we on?

The Chair (Mr. Grant Crack): So we're on page 16—

Mr. Jim McDonell: Okay. Sorry.

The Chair (Mr. Grant Crack): Subsection 16(7).

Mr. Jim McDonell: I move that subsection 16(7) of the bill be amended by striking out the definitions of “B” and “C” and substituting the following:

“B = the lesser of 24 and the number of months that have elapsed under the agreement until the cancellation, counting the final part of a month, if any, as a whole month,

“C = the lesser of 24 and the number of months in the term of the agreement, counting the final part of a month, if any, as a whole month.”

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Further discussion? Mr. McDonell.

Mr. Jim McDonell: Yes. These are two motions that are identical, and they bring us in line with the CRTC code, much like we did before.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion? There being none, I shall call the question to a vote. Those in favour? Any opposed? Carried.

We shall move on to subsection 16(7).

Mr. Vic Dhillon: We'll withdraw that.

The Chair (Mr. Grant Crack): Withdrawn. Thank you very much. That is it for section 16, as amended.

Shall section 16, carry, as amended? Those in favour? Any opposed? Carried.

We shall move on to section 17, subsection 17(1.1). Mr. MacLaren?

Mr. Jack MacLaren: I move that section 17 of the bill be amended by adding the following subsection:

“Pre-condition

“(1.1) If a consumer is entitled to receive payments under clause (1)(b), then despite subsection (1), the consumer may not commence an action mentioned in that subsection until the consumer files a complaint with the Commissioner for Complaints for Telecommunications Services Inc. and the commissioner rules on the complaint.”

The Chair (Mr. Grant Crack): Thank you, Mr. MacLaren. Any further discussion? Mr. McDonell.

Mr. Jim McDonell: The regulation of the wireless telecoms is federal, and we should defer to the federal complaints commissioner before allowing action in Ontario.

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Moreover, action on the complaints of the CCTS will affect consumers throughout Canada, while action taken in Ontario will not. It's best to have the interest of all

consumers at heart and have the CCTS as the first port of call. It's a free process that carries more weight.

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Any further discussion? Mr. Singh.

Mr. Jagmeet Singh: Thank you. I think one of the strengths of the bill is that you could take an action or you could commence action against a provider immediately if there was a problem, and I think that's more consumer protection, whereas having to go through someone else to get a ruling and then try to get a remedy is not protecting consumers as much. That's why I would oppose this motion.

The Chair (Mr. Grant Crack): Thank you. Any further discussion? There being none, I shall call the vote on the question.

Mr. Jim McDonell: Recorded vote.

The Chair (Mr. Grant Crack): Okay, there's a request for a recorded vote.

Ayes

Barrett, MacLaren, McDonell.

Nays

Damerla, Dhillon, Fraser, Sattler, Singh.

The Chair (Mr. Grant Crack): Three in favour, five opposed. The motion is defeated.

Section 17: That was the only amendment to deal with. Shall section 17 carry? Those in favour? Those opposed? Section 17 is carried. Thank you all.

Sections 18, 19, 20 and 21 did not have any amendments proposed. As such, with the committee's approval, we will do those inclusively. Shall those sections, 18 through 21, carry? Those in favour? Any opposed? They are carried, sections 18 through 21, inclusive. Thank you.

We shall move to section 22, clause 22(h) from the opposition. Mr. Barrett.

Mr. Toby Barrett: Chair, we have a motion on page 19. I move that clause 22(h) of the bill be struck out and the following substituted:

“(h) requiring a supplier under a wireless agreement to disclose in the agreement the means that the consumer can use to obtain advance notice, at a time that is reasonably close to the time at which the consumer accesses services that will result in a cost payable by the consumer in addition to the minimum cost, that the consumer's use of those services will result in the additional cost;”

The Chair (Mr. Grant Crack): Thank you, Mr. Barrett. Any further discussion? Mr. McDonell.

Mr. Jim McDonell: Our explanation is that as the bill stands now, it creates the power for a minister to mandate the implementation of a keystroke hardware and software system as mandatory for all carriers. Not only is such a regulation potentially unconstitutional due to the federal nature of telecoms and their operating infrastructure, it is a provision that tries to knock down an open door. There

are a lot of apps for all phone platforms ranging from free to \$5 that would monitor your voice, text and data usage and allow you to set up your own monthly billing cycles and quotas, and warn you when you're close to your limit. The CRTC code mandates a disclosure to the consumer that they need to monitor their usage and how to do it. This amendment brings us in line with that provision. It is, after all, an industry where consumers need to take some degree of responsibility for the use of devices and services. The applications market has already provided them with plenty of tools to do so.

As we heard from one of the providers here, some of these services can cost well into the millions of dollars. We are trying to promote some of the smaller companies to compete. Those types of costs spread over a small number really are counterproductive to competition. Sure, the large companies can do it, but then again, they have to pass that feedback on. It's something that's not done in the industry, as far as I understand.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion?

There being none, I shall call the question to vote.

Mr. Jim McDonell: Recorded vote.

The Chair (Mr. Grant Crack): A recorded vote has been requested.

Ayes

Barrett, MacLaren, McDonell.

Nays

Damerla, Dhillon, Fraser, Sattler, Singh.

The Chair (Mr. Grant Crack): That is three in favour and five opposed. The motion is defeated.

We shall move on to subsection 22(1). Mr. Dhillon.

Mr. Vic Dhillon: I move that section 22 of the bill be amended by adding the following clauses:

“(g.1) requiring a supplier under a wireless agreement to provide to the consumer, for a trial period that is specified in the regulation, all the services that the supplier is required to provide to the consumer under the agreement and governing the rights and obligations of the parties to the agreement with respect to the trial period, subject to subsection (2);

“(g.2) specifying the information that a supplier under a wireless agreement is required to include in a billing statement in respect of the agreement;

“(g.3) governing information and additional notices that a supplier under a wireless agreement is required to provide to the consumer, including governing information in respect of the consumer's usage of services provided under the agreement and costs for that usage and governing the time at which the supplier is required to provide the information and additional notices;

“(i.1) prohibiting a supplier under a wireless agreement from charging or accepting payment of any portion of an amount for the services described in subsection (3) if the portion exceeds an amount specified in the regula-

tion, unless the consumer has expressly consented to paying that portion;

“(i.2) governing the consent described in clause (i.1);”

Again, it’s to align the regulations to go along with the national code.

The Chair (Mr. Grant Crack): Thank you, Mr. Dhillon. Any further discussion?

Mr. Jim McDonell: Well, we’re against this because the CRTC already has it in their bill of at least 15 days and that the cancellation results in no charges if the usage is below a certain point. So we don’t see the need for this as it’s already covered.

The Chair (Mr. Grant Crack): Okay. Thank you. Any further discussion? There being none, I shall call the motion in question to a vote.

Mr. Jim McDonell: Recorded vote.

The Chair (Mr. Grant Crack): There has been a request for a recorded vote.

Ayes

Damerla, Dhillon, Fraser, Sattler, Singh.

Nays

Barrett, McDonell, MacLaren.

The Chair (Mr. Grant Crack): That is five in favour, three opposed. Motion is carried.

We shall move to subsection 22(2). Mr. Dhillon.

Mr. Vic Dhillon: I move that section 22 of the bill be amended by adding the following subsections:

“Cancellation during trial period

“(2) If a consumer cancels a wireless agreement during a trial period described in a regulation made under clause (1)(g.1), then, despite section 16, the date of cancellation cannot be later than the end of the trial period and the supplier shall not charge the consumer any cancellation fee and shall not demand, request or accept payment for the cancellation.

“Cap on charges

“(3) The services to which a regulation made under clause (1)(i.1) apply are,

“(a) the optional services under the agreement;

“(b) services for which the consumer is required to pay roaming or other charges for using the mobile device to access services under the agreement; and

“(c) all other services specified by the regulations.”

The same explanation as the previous one, Chair.

The Chair (Mr. Grant Crack): Okay. Thank you, Mr. Dhillon. Any further discussion? Mr. McDonell.

Mr. Jim McDonell: Yes. As with many of our other comments, it’s already covered under the CRTC code. We see having it handled in two different areas as confusing, and it leads to problems in enforcement.

The Chair (Mr. Grant Crack): Thank you, Mr. McDonell. Any further discussion? Then I shall call the motion in question to a vote.

Those in favour? Those opposed? Motion is carried.

That is it for section 22. Shall section 22, as amended, carry? Those in favour? Those opposed? Section 22 is carried.

Section 23: no amendments. Shall section 23 carry? Those in favour? Those opposed? Carried.

Shall section 24, the short title, carry? Those in favour? Carried.

Shall the title of the bill carry? Those in favour? Carried.

Shall Bill 60, as amended, carry? Carried.

Shall I report the bill, as amended, to the House on your behalf? Those in favour? Those opposed? Carried.

Madam Clerk, I believe that’s it.

I would like to thank all the members of the committee and legal counsel for their assistance in bringing this to fruition. It shall be reported to the House.

Thank you. We had eight minutes to spare. Good work. Have a great evening. The meeting is adjourned.

The committee adjourned at 1751.

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

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

Also taking part / Autres participants et participantes

Ms. Marilyn Marshall, senior counsel, Ministry of Consumer Services

Clerk / Greffière

Ms. Sylwia Przewdziecki

Staff / Personnel

Mr. Michael Wood, legislative counsel