



MINUTES OF PROCEEDINGS

OTTAWA, Wednesday, December 7, 2022

(38)

[English]

The Standing Senate Committee on Transport and Communications met this day at 4:17 p.m., in room B45, Senate of Canada Building, the chair, the Honourable Leo Housakos, presiding.

Members of the committee present: The Honourable Senators Cormier, Dawson, Deacon (*Nova Scotia*), Gold, P.C., Housakos, Klyne, Manning, Miville-Dechêne, Omidvar, Plett, Quinn, Saint-Germain, Simons and Wallin (14).

Participating in the meeting: Shaila Anwar, Clerk Assistant, Joëlle Nadeau, Principal Clerk, Emily Barrette and Karine Déquier, procedural clerks and Guillermo Renna, Legislative Clerk, Committees Directorate; Jed Chong and Khamla Heminthavong, analysts, Library of Parliament.

Pursuant to the order of reference adopted by the Senate on Tuesday, October 25, 2022, the committee continued its consideration of Bill C-11, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts.

WITNESSES:

Canadian Heritage:

Thomas Owen Ripley, Associate Assistant Deputy Minister;

Amy Awad, Senior Director, Marketplace and Legislative Policy;

Yao Ahonda, Manager, Broadcasting, Marketplace and Legislative Policy.

The committee resumed clause-by-clause consideration of Bill C-11.

Resuming debate on the motion in amendment to clause 10 of the Honourable Senator Simons, that Bill C-11 be amended in clause 10, on page 14, by replacing line 42 with the following:

“tion undertaking or an online undertaking that provides the programming services of other broadcasting undertakings to carry, on the terms and conditions”.

Thomas Owen Ripley answered questions from time to time.

After debate, the question being put on the motion in amendment, it was negated, on division.

The Honourable Senator Manning moved that Bill C-11 be amended in clause 10,

(a) on page 15,

by deleting lines 3 to 9;

(b) on page 16,

by deleting lines 29 to 34.

After debate, the question being put on the motion in amendment, it was negated on the following vote:

YEAS

The Honourable Senators

Housakos, Manning, Plett— [3]

NAYS

The Honourable Senators

Cormier, Dawson, Deacon (*Nova Scotia*), Gold, P.C., Klyne, Miville-Dechêne, Omidvar, Quinn, Saint-Germain, Simons, Wallin— [11]

ABSTENTIONS

NIL

The Honourable Senator Manning moved that Bill C-11 be amended in clause 10, on page 16, by adding the following after line 8:

“(3.1) Orders made under this section do not apply in respect of programs that are uploaded to an online undertaking that provides a social media service by a user of the service — who is not the provider of the service or the provider’s affiliate, or the agent or mandatary of either of them — for transmission over the Internet and reception by other users of the service.”.

After debate, the question being put on the motion in amendment, it was negated on the following vote:

YEAS

The Honourable Senators

Housakos, Manning, Plett, Quinn, Simons, Wallin— [6]

NAYS

The Honourable Senators

Cormier, Dawson, Deacon (*Nova Scotia*), Gold, P.C., Klyne, Miville-Dechêne, Omidvar, Saint-Germain—
[8]

ABSTENTIONS

NIL

The Honourable Senator Wallin moved that Bill C-11 be amended in clause 10, on page 16, by replacing lines 26 and 27 with the following:

“(8) The Commission shall not make an order under any of paragraphs (1)(a) to (e) that would require the use of a specific com—”.

After debate, the question being put on the motion in amendment, it was negated on the following vote:

YEAS

The Honourable Senators

Housakos, Manning, Plett, Quinn, Simons, Wallin— [6]

NAYS

The Honourable Senators

Cormier, Dawson, Deacon (*Nova Scotia*), Gold, P.C., Klyne, Miville-Dechêne, Omidvar, Saint-Germain—
[8]

ABSTENTIONS

NIL

The Honourable Senator Manning moved that Bill C-11 be amended in clause 10, on page 17, by adding the following after line 2:

“9.2 Before making an order under section 9.1 in respect of an online undertaking, the Commission shall consider the following factors:

(a) the amount of remuneration paid to Canadian artists and creators by the online undertaking;

- (b) the level of access that Canadian artists and creators have to the online undertaking to distribute and promote their content;
- (c) the tools provided by the online undertaking to help Canadian artists and creators build a domestic and international audience for their content;
- (d) the in-kind or indirect financial support provided to Canadian artists and creators by the online undertaking, including the promotion of their content through playlists, special events, marketing and artist or creator profiles;
- (e) the proportion of programs made available from the online undertaking that are Canadian programs, and in particular programs produced by artists and creators representing Canadian Indigenous communities and English and French language minority communities; and
- (f) any factor that the Governor in Council may by order prescribe.”.

After debate, the question being put on the motion in amendment, it was negatived on the following vote:

YEAS

The Honourable Senators

Housakos, Manning, Plett, Quinn, Wallin— [5]

NAYS

The Honourable Senators

Cormier, Dawson, Deacon (*Nova Scotia*), Gold, P.C., Klyne, Miville-Dechêne, Omidvar, Saint-Germain, Simons— [9]

ABSTENTIONS

NIL

It was agreed that clause 10, as amended, carry, on division.

The chair asked whether clause 11 shall carry.

The Honourable Senator Simons moved that Bill C-11 be amended in clause 11,

(a) on page 17, by replacing line 33 with the following:

“(7) Paragraphs 10(1)(f) and (g) of the French ver-”;

(b) on page 18,

(i) by deleting lines 4 to 8,

(ii) by replacing line 9 with the following:

“(8) Paragraphs 10(1)(h) to (j) of the Act are re-”,

(iii) by adding the following after line 10:

“(h) for resolving, by way of mediation or otherwise, any disputes arising between broadcasting undertakings concerning the carriage of programming services;”.

After debate, the question being put on the motion in amendment, it was negated, on division.

The Honourable Senator Cormier moved that Bill C-11 be amended in clause 11,

(a) on page 18, by replacing lines 29 to 32 with the following:

“(a) whether Canadians, including independent producers, have a right or interest in relation to a program, including copyright, that allows them to control and benefit in a fair”;

(b) on page 19, by replacing lines 4 and 5 with the following:

“right in musical works or in sound recordings; and”.

After debate, the question being put on the motion in amendment, it was adopted, on division.

The Honourable Senator Wallin moved that Bill C-11 be amended in clause 11, on page 19, by deleting lines 6 to 10.

After debate, the question being put on the motion in amendment, it was negated on the following vote:

YEAS

The Honourable Senators

Housakos, Manning, Plett, Quinn, Wallin— [5]

NAYS

The Honourable Senators

Cormier, Dawson, Deacon (*Nova Scotia*), Gold, P.C., Klyne, Miville-Dechêne, Omidvar, Saint-Germain, Simons— [9]

ABSTENTIONS

NIL

The Honourable Senator Manning moved that Bill C-11 be amended in clause 11, on page 19, by adding the following after line 7:

“(1.11) No factor set out in paragraphs (1.1)(a) to (e) is to be determinative of any matter provided for by a regulation made under paragraph (1)(b).”.

After debate, the question being put on the motion in amendment, it was adopted on the following vote:

YEAS

The Honourable Senators

Deacon (*Nova Scotia*), Housakos, Manning, Miville-Dechêne, Plett, Quinn, Saint-Germain, Simons, Wallin— [9]

NAYS

The Honourable Senators

Cormier, Dawson, Gold, P.C., Klyne,— [4]

ABSTENTIONS

The Honourable Senator

Omidvar — [1]

It was agreed that clause 11, as amended, carry, on division.

It was agreed that clause 12 carry, on division.

It was agreed that clause 13 carry, on division.

The chair asked whether clause 14 shall carry.

The Honourable Senator Cormier moved that Bill C-11 be amended in clause 14, on page 22, by replacing line 6 with the following:

“cated to Canadian original French language programs in the case of”.

After debate, the question being put on the motion in amendment, it was adopted, on division.

The Honourable Senator Manning moved that Bill C-11 be amended in clause 14, on page 22, by replacing lines 14 to 17 with the following:

“(5) Regulations and orders made under this section

(a) may provide that an expenditure is to be paid to any person or organization, other than the Commission, or into any fund, other than a fund administered by the Commission; and

(b) must ensure that all amounts received from online undertakings are paid to creators whose content is distributed by those undertakings.”.

After debate, it was agreed that the motion in amendment stand postponed until the next meeting.

At 6:15 p.m., the committee adjourned to the call of the chair.

ATTEST:

Vincent Labrosse

Clerk of the Committee