



MINUTES OF PROCEEDINGS

OTTAWA, Tuesday, June 13, 2023

(61)

[English]

The Standing Senate Committee on Transport and Communications met this day at 9 a.m., in room B45, Senate of Canada Building, the chair, the Honourable Leo Housakos, presiding.

Members of the committee present: The Honourable Senators Cardozo, Carignan, P.C., Clement, Cormier, Dasko, Gold, P.C., Harder, P.C., Housakos, Miville-Dechéne, Plett, Quinn, Saint-Germain, Simons and Wallin (14).

Participating in the meeting: Karine Déquier and Sara Gajic, procedural clerks, Committees Directorate; Jed Chong and Khamla Heminthavong, analysts, Library of Parliament.

Pursuant to the order of reference adopted by the Senate on Tuesday, April 18, 2023, the committee continued its examination of Bill C-18, An Act respecting online communications platforms that make news content available to persons in Canada.

WITNESSES:

Canadian Heritage:

Joelle Paré, Acting Senior Director, Communications Legislative and Regulatory Policy;

Thomas Owen Ripley, Associate Assistant Deputy Minister, Cultural Affairs.

It was agreed that the committee proceed to clause-by-clause consideration of Bill C-18.

Thomas Owen Ripley answered questions from time to time.

It was agreed that the title stand postponed.

It was agreed that clause 1, which contains the short title, stand postponed.

With leave and pursuant to rule 12-20(4), it was agreed that the committee group clauses in groups of 10.

The chair asked whether clause 2 to 10 shall carry.

The Honourable Senator Cormier moved that Bill C-18 be amended in clause 2, on page 2,

(a) by replacing line 34 with the following:

“includes an Indigenous news outlet or an official language minority community news outlet.
(*média d’informa-*”;

(b) by adding the following after line 35:

“**official language minority community** means English-speaking communities in Quebec and French-speaking communities outside Quebec. (*communauté de langue officielle en situation minoritaire*)

official language minority community news outlet means an undertaking or any distinct part of an undertaking, such as a section of a newspaper, whose primary purpose is to produce news content and that produces news content primarily for an official language minority community. (*média d’information de communauté de langue officielle en situation minoritaire*)”.

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

The Honourable Senator Clement moved that Bill C-18 be amended in clause 2, on page 2, by replacing line 28 with the following:

“news outlet makes available”.

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

With leave, it was agreed to revert to the first amendment to clause 2.

The Honourable Senator Cormier moved that the motion in amendment be amended in clause 2, on page 2,

(a) by replacing line 34 with the following:

“includes an Indigenous news outlet or an official language minority community news outlet.
(*média d’informa-*”;

(b) by adding the following after line 35:

“**official language minority community** means English-speaking communities in Quebec and French-speaking communities outside Quebec. (*communauté de langue officielle en situation minoritaire*)

official language minority community news outlet means an undertaking or any distinct part of an undertaking whose primary purpose is to produce news content and that produces news content primarily for an official language minority community. (*média d’information de communauté de langue officielle en situation minoritaire*)”.

After debate, the question being put on the subamendment, it was adopted.

The Honourable Senator Simons moved that Bill C-18 be amended in clause 2, on page 2,

(a) by replacing lines 9 and 10 with the following:

“distinct part of an undertaking whose primary purpose is to produce news”;

(b) by replacing lines 32 and 33 with the following:

“of an undertaking whose primary purpose is to produce news content and”.

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

The Honourable Senator Carignan, P.C., moved that Bill C-18 be amended in clause 2, on page 3,

(a) by replacing line 1 with the following:

“(a) the news content, or any substantial portion of it, is repro-”;

(b) by replacing lines 3 to 5 with the following:

“(b) access to the news content, or any substantial portion of it, is facilitated by any means — including an index, aggregation or ranking of news content — other than by the reproduction of a hyperlink to that news content.”.

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

The Honourable Senator Wallin moved that Bill C-18 be amended in clause 2, on page 3, by adding the following after line 5:

“(3) Despite subsection (2), news content is not made available for the purposes of this Act if it is reproduced or if its access is facilitated in a manner that constitutes fair dealing under sections 29 to 29.2 of the *Copyright Act*.”.

After debate, the question being put on the motion in amendment, it was negatived by a show of hands.

It was agreed that clauses 2 to 10, as amended, carry, on division.

The chair asked whether clauses 11 to 20 shall carry.

The Honourable Senator Cormier moved that Bill C-18 be amended in clause 11, on page 5,

(a) by replacing lines 34 to 36 with the following:

“ry, anglophone and francophone communities, and Black and other racialized communities,”;

(b) by replacing line 41 with the following:

“Indigenous peoples, and

(viii) they ensure a significant portion of official language minority community news outlets benefit from them and they contribute to the sustainability of those outlets in a way that supports the provision of news content by and for official language minority communities;”.

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

The Honourable Senator Cormier moved that Bill C-18 be amended in clause 12, on page 6, by replacing line 34 with the following:

“out in subparagraphs 11(1)(a)(i) to (viii); and”.

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

The Honourable Senator Miville-Dechêne moved that Bill C-18 be amended in clause 18, on page 8, by replacing line 20 with the following:

“**18** In sections 18.1 to 44, **party** means, as applicable, an”.

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

The Honourable Senator Miville-Dechêne moved that Bill C-18 be amended on page 8 by adding the following after line 22:

“**18.1** The purpose of the bargaining process set out in sections 18 to 44 is to determine the value that each party derives from the news content of an eligible news business being made available by a digital news intermediary and to determine the portion of that value that will be transferred to the eligible news business.”.

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

YEAS

The Honourable Senators

Housakos, Carignan, Clement, Miville-Dechêne, Plett, Simons, Wallin — [7]

NAYS

The Honourable Senators

Cardozo, Cormier, Gold, Harder, Quinn, Saint-Germain — [6]

ABSTENTIONS

The Honourable Senator

Dasko — [1]

Resuming debate on the motion in amendment of the Honourable Senator Miville-Dechêne that Bill C-18 be amended in clause 18, on page 8, by replacing line 20 with the following:

“**18** In sections 18.1 to 44, **party** means, as applicable, an”.

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

It was agreed that clauses 11 to 20 carry, as amended, on division.

The chair asked whether clauses 21 to 30 shall carry.

The Honourable Senator Wallin moved that Bill C-18 be amended in clause 27,

(a) on page 10, by replacing lines 32 to 36 with the following:

“as defined in subsection 248(1) of the *Income Tax Act*”;

(b) on page 11, by deleting lines 1 and 2.

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

YEAS

The Honourable Senators

Dasko, Miville-Dechêne, Plett, Quinn, Simons, Wallin — [6]

NAYS

The Honourable Senators

Cardozo, Clement, Cormier, Gold, Harder, Saint-Germain — [6]

ABSTENTIONS

The Honourable Senators

Housakos, Carignan — [2]

The Honourable Senator Dasko moved that Bill C-18 be amended in clause 27, on page 11, by deleting lines 31 and 32.

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

The Honourable Senator Carignan, P.C., moved that Bill C-18 be amended in clause 28, on page 12, by replacing lines 19 to 22 with the following:

“28 The Commission may not designate the Canadian Broadcasting Corporation or any provincial public broadcaster as an eligible news business under section 27.”.

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

It was agreed that clauses 21 to 30 carry, as amended, on division.

The chair asked whether clauses 31 to 40 shall carry.

The Honourable Senator Gold, P.C., moved that Bill C-18 be amended in clause 36, on page 15,

(a) by replacing line 11 with the following:

“36 (1) The Commission may, at the request of an arbitration”;

(b) by replacing lines 14 to 22 with the following:

“considers necessary, disclose to the panel any information, including confidential information, in the Commission’s possession that, in the Commission’s opinion, is necessary for a balanced and informed decision-making process, on the condition that the Commission ensures that the arbitration panel or each individual arbitrator that presides over the final offer arbitration does not further disclose any confidential information other than during the arbitration, including by imposing any further terms that the Commission considers necessary.

(2) Each individual arbitrator must take all reasonably necessary measures to ensure that confidential information disclosed to them under subsection (1) is not disclosed other than during the arbitration.

(3) Every individual who contravenes subsection (2) is guilty of an offence and is liable on summary conviction,

(a) for a first offence, to a fine of not more than \$5,000; and

(b) for a second or subsequent offence, to a fine of not more than \$10,000.”.

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

It was agreed that clauses 31 to 40 carry, as amended, on division.

It was agreed that clauses 41 to 50 carry, on division.

The chair asked whether clauses 51 to 60 shall carry.

The Honourable Senator Carignan, P.C., moved that Bill C-18 be amended in clause 53, on page 20, by replacing lines 16 to 18 with the following:

“mation that it requires for the purpose of

- (a) considering a request under section 27; or
- (b) considering a complaint under section 52.”.

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

The Honourable Senator Simons moved that Bill C-18 be amended on page 25 by adding the following after line 8:

“Access to Data by a Research Organization

58.1 (1) For the purposes of this section, *research organization* means a college, university, research institute or any other entity whose primary goal is to conduct scientific research.

(2) A research organization that suspects that an operator has contravened section 51 may apply to the Commission for access to records, reports, electronic data or other documents from the operator in order to conduct research that may assist the Commission in determining if the operator has contravened section 51.

(3) If the Commission determines, on the basis of an application made under subsection (2), that there are reasonable grounds to believe the operator has contravened section 51, the Commission may, by order, require the operator to produce to the research organization, within the time and in the manner specified in the order, for examination or copying, any record, report, electronic data or other document that the Commission has reasonable grounds to believe contains information relevant to the application.

(4) The research organization must, within any period specified by the Commission, analyze the records, reports, electronic data or other documents produced under subsection (3) and provide a report to the Commission that sets out the results of the analysis, including the organization’s opinion on whether the operator has contravened section 51.

(5) The Commission must make the report referred to in subsection (4) available to the public, including by publishing the report on its website.

(6) For greater certainty, no remuneration is to be paid by the Commission to the research organization in relation to any work performed under this section.

(7) The *Statutory Instruments Act* does not apply in respect of an order made under subsection (3).”.

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

YEAS

The Honourable Senators

Clement, Dasko, Miville-Dechêne, Plett, Simons, Wallin — [6]

NAYS

The Honourable Senators

Housakos, Cardozo, Carignan, Cormier, Gold, Harder, Quinn, Saint-Germain — [8]

ABSTENTIONS

NIL

It was agreed that clauses 51 to 60 carry, on division.

It was agreed that clauses 61 to 70 carry, on division.

It was agreed that clauses 71 to 80 carry, on division.

The chair asked whether clauses 81 to 90 shall carry.

The Honourable Senator Cormier moved that Bill C-18 be amended in clause 84, on page 35, by replacing line 20 with the following:

“subparagraphs 11(1)(a)(i) to (viii);”.

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

The Honourable Senator Clement moved that Bill C-18 be amended in clause 86, on page 36, by adding the following after line 30:

“(c.01) information relating to the impact of this Act on news outlets that produce news content primarily for diverse populations, including local and regional markets in every province and territory, anglophone and francophone communities and Black and other racialized communities;

(c.02) information relating to the total number of those agreements that involve Indigenous news outlets and to the portion of the commercial value of those agreements that benefits these news outlets;

(c.03) information relating to the total number of those agreements that involve official language minority community news outlets and to the portion of the commercial value of those agreements that benefits these news outlets;”.

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

It was agreed that clauses 81 to 90 carry, as amended, on division.

The chair asked whether clauses 91 to 93 shall carry.

The Honourable Senator Miville-Dechéne moved that Bill C-18 be amended in clause 93, on page 39, by adding the following after line 26:

“(6) Despite subsections (1) to (5), any provision of this Act that does not come into force by order before the 180th day following the day on which this Act receives royal assent comes into force 180 days after the day on which this Act receives royal assent.”.

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

It was agreed that clauses 91 to 93 carry, as amended, on division.

It was agreed that clause 1, which contains the short title, carry.

It was agreed that the title carry.

It was agreed that the bill carry, as amended, on division.

It was agreed that the Law Clerk and Parliamentary Counsel be authorized to make necessary technical, grammatical, or other required non-substantive changes as a result of the amendments adopted by the committee, including updating cross-references and renumbering of provisions.

It was agreed that the chair report Bill C-18, with amendments, to the Senate, at the earliest opportunity.

At 11:02 a.m., the committee adjourned to the call of the chair.

ATTEST:

Vincent Labrosse

Clerk of the Committee