



House of Commons
CANADA

Standing Committee on Access to Information, Privacy and Ethics

ETHI • NUMBER 038 • 3rd SESSION • 40th PARLIAMENT

EVIDENCE

Thursday, December 9, 2010

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Chair

The Honourable Shawn Murphy

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• (1530)

[English]

The Chair (Hon. Shawn Murphy (Charlottetown, Lib.)): I call the meeting to order.

Welcome, everyone.

This, colleagues, is continuation of our ongoing study of open government.

Today the committee is very pleased to have before us Mr. Paul Macmillan, who's the partner and national industry leader with the accounting and consulting firm of Deloitte. From the University of Ottawa, we have Professor Michael Geist, Canada Research Chair of Internet and e-commerce law. We were actually expecting Mr. Eric Sauve, vice-president from Newsgator Technologies. He's not here yet, but we'll start without him.

What we do, Mr. Macmillan and Professor Geist, is ask for opening comments from you first.

We will start with you, Mr. Macmillan. The floor is yours. You have up to 10 minutes. We look forward to your comments.

Mr. Paul Macmillan (Partner and National Industry Leader, Deloitte): Thank you very much, and it's a pleasure to be here. Thank you very much for the invitation. I'm very glad to see the interest on the part of the committee on the topic of open government.

My role at Deloitte is to lead our public sector industry practice for Canada, so we have quite a lot of interactions with governments across the country.

Open government has been a growing trend since about 2007. It appeared first at the local level, fuelled by a few things such as increased data from systems such as 311 systems, which provided a lot more information on municipal services than was available before. Many municipalities, starting with the City of New York, as many of you would know, began to publish that information online on their websites in terms of service calls and the status of service calls. It was used by citizen activists, particularly in the U.S., who wanted to look for ways to combine public information and public data to get everything from transit maps to street repair information to a whole range of possible uses of public information, and of course, it was used by councillors who wanted to be able to communicate through social media with city constituents.

So we saw it first at the municipal level. Washington, D.C., was the vanguard, back around 2007. It was an early and big adopter of the idea of releasing public data. We have seen cities across the U.S.

and Canada and internationally follow suit, but national governments have also gotten involved. The U.S. federal government, the U.K. government, and the Australian government in particular have launched very significant initiatives in terms of providing public data to citizens through sites such as Data.gov, which is a major data platform or data clearing house of the U.S. government.

In the U.S., for example, since January 2000 the U.S. federal government has released 305,000 data sets onto their site. Something like 256 applications have been developed by citizens, not-for-profits, and others utilizing those data. Many of you will know that the U.K. is releasing public accounts information on a site they call COINS. They have released several million data items related to public expenditure information. We began to write about this in about 2008, and I think some of you have the document that we've produced, called "Unlocking Government: How Data Transforms Democracy", with its provocative subtitle.

In Canada the municipal level has been embracing open government for some time. We see that Toronto, Edmonton, Vancouver, and a number of other cities have opened data sites.

At the provincial level it has been a bit slower. B.C. has recently announced their open government initiative and recently ran quite a successful campaign in connection with what they called action against climate change. They released some 500 data sets across, I think, four or five ministries, ran a competition to get citizens to come up with creative ways to develop applications to use that information, had private companies sponsor the event, came up with a number of applications that were developed, and awarded prizes. Overall it was very successful in terms of engaging citizens.

At the federal level, data have been traditionally available from a number of different sources. Examples include Natural Resources Canada, with their geospatial data, as well as Stats Canada, Environment Canada, and others. However, there has not been as comprehensive an approach as we've seen in some of the other federal jurisdictions, and the idea of a central clearing house of data has not yet taken hold, although I would assume that's likely to be introduced.

• (1535)

The final comment I would make is that leading governments have really taken a view that public data should be viewed as a public asset—that this is information that citizens, businesses, not-for-profits, and others should have access to and should be able to utilize creatively in terms of looking to improve public services and as a way to encourage citizen engagement, investment on the part of business, and innovation broadly.

That's all I have by way of opening comments. I'd be happy to field some questions following my colleagues.

The Chair: Thank you very much, Mr. Macmillan.

Please go ahead, Professor Geist.

Dr. Michael Geist (Canada Research Chair, Internet and E-commerce Law, University of Ottawa, As an Individual): Thanks very much.

Good afternoon. My name is Michael Geist. I'm a law professor at the University of Ottawa, where I hold the Canada Research Chair in Internet and e-commerce law. By way of background, I serve on the Privacy Commissioner of Canada's expert advisory committee and on a number of boards, including the board of the Canadian Legal Information Institute, which is funded by Canadian law societies to provide free access to law. I'm also the editor of this new book on Canadian copyright and Bill C-32, which includes several contributions that address access to public sector information. There is some overlap between some of the issues that we see taking place there and some of the issues you're thinking about.

That said, I appear today before this committee in my personal capacity. I am representing only my own views.

I'd like to thank the committee for the invitation to come and speak and also for taking on the open government issue. At a time when the digital economy strategy is gaining increasing attention, it is crucial to recognize that the federal government has an important role to play in the digital content realm by ensuring that its own content or the content produced on its behalf is readily and often freely available in digital form. After years of closed, walled-garden approaches, the world, as we've just heard, is embracing the benefits of openness, and as you've just heard and we know, a growing number of Canadian cities have adopted openness policies that establish a preference for open standards, open-source software, and open government.

I believe that the federal government should follow their lead. We've seen other countries do it, and do it quickly. In the United States there were 47 data sets available to the public in May 2009. As we just heard, a year and half later there are 305,000 of those data sets available. In Australia the government launched the Government 2.0 Taskforce in June 2009. The task force completed its work in less

than a year, and the government responded in May of this year. All of this took place in the span of less than a year. The U.K. launched data.gov.uk at the start of this year. Today there are more than 5,000 data sets freely available and more than 100 apps that use the data to provide information on fuel and housing prices, air quality, and government spending.

However, rather than focusing my comments on the impressive achievements elsewhere, I thought I'd concentrate in my opening remarks on what might be seen as low-hanging fruit, two easy, low-cost or no-cost initiatives that could jump-start open government in Canada: crown copyright and CAIRS.

We'll start with crown copyright. It dates back to the 1700s. Crown copyright reflects a centuries-old perspective that government ought to control the public's ability to use official documents. Today crown copyright extends to 50 years from creation and requires anyone who wants to use or republish a government report, parliamentary hearing, or other work to first seek permission. While permission is often granted, it's not automatic. To obtain permission, the author or publisher has to provide details on the intended use, the format of the work, the specific website it's going to appear on online, and an estimate of the number of hard copies to be printed. If it's going to be sold commercially, they have to disclose the estimated selling price.

The Canadian approach stands in sharp contrast to what we see in the United States, where their federal government does not hold copyright over work created by an office or an employee as part of a person's official duties. Government reports, court cases, and Congressional transcripts can therefore be freely used and published. The existence of crown copyright affects both print and audiovisual worlds, and is increasingly viewed as a barrier to Canadian filmmaking, political advocacy, and educational publishing.

Beyond just the pure policy reasons for abandoning crown copyright, there are financial reasons for reform as well. The federal crown copyright system costs taxpayers hundreds of thousands of dollars each year. According to documents that I obtained under access to information from Public Works and Government Services Canada, which administers the crown copyright system, in the 2006-07 fiscal year crown copyright licensing generated less than \$7,000 in revenue, yet the system cost more than \$200,000 to administer. In most instances, Canadians obtained little return for this investment.

About 95% of crown copyright requests are approved, with requests ranging from archival photos to copies, and this is true of the Copyright Act itself. More troubling were the 5% of cases in which permission was declined. While in some instances the refusals stemmed from the fact that the government didn't have the rights to the requested work, there was one instance in which an educational institution asked for permission to reproduce a photograph of a Snowbird airplane, but was denied on the grounds that the photo was to be used for an article raising questions about the safety of the program. Similarly, a request to reproduce a screen capture of the NEXUS cross-border program with the United States was declined because it was to be used in an article that wouldn't portray the program in a favourable light.

● (1540)

The ability to wield crown copyright has also arisen with respect to actual takedown notices. For example, just last year the Auditor General sent takedown demands to *The Globe and Mail* and Scribd, an online publishing site, after the newspaper posted one chapter from one of her reports. The office argued that crown copyright applies and that a written request for permission on a case-by-case basis is required.

Leaving aside the fact that this is arguably fair dealing—it's news reporting and consists of just one chapter in a larger report—the notion that Canadians need advance permission to reproduce or post a portion of a government report, I think, runs counter to the Auditor General's own efforts at government transparency and efficiency.

Similar issues can also arise in the context of video, possibly with respect to these very proceedings. In the spring of 2007, Friends of Canadian Broadcasting, the well-known broadcasting advocacy group, began to post videos and podcasts of parliamentary committee proceedings on their website. When officials at the House of Commons caught wind of the activities, they sent a cease and desist letter demanding that the videos and podcasts be removed from the Internet. A lawyer from the House of Commons argued that posting excerpts from committee proceedings such as these could be treated as contempt of Parliament.

In an ideal world, this would be an issue that the Bill C-32 legislative committee would be addressing, since the abolition of crown copyright, as New Zealand has been proposing, would have been part of the copyright reform package. Since it isn't, I would argue that we ought to consider following the Australian model of leaving crown copyright in place but overlaying it with an open licensing approach. That would mean government would maintain copyright but would freely license the use of the work for reuse, with no need for further permission or compensation. Only attribution would be required.

Similar approaches have been adopted in the U.K., which has seen the development of an open government licence, while others have called for the creation of a crown commons licence. Whatever you call it, the approach would provide an efficient means of freeing up government works without the need for legislative change.

Second, I'd like to touch briefly on CAIRS and access to information. As this committee well knows, in 2008 the CAIRS database, which provided information on prior access to information requests, was discontinued. This committee passed a resolution

calling for its reinstatement, and the Information Commissioner has done the same.

In 2009 I launched CAIRS.Info, a site that provides access to searchable PDF copies of the same information that was contained in the CAIRS database. I have sent requests to most government departments each quarter for a list of the most recent access to information requests. The resulting documents are then uploaded and can be searched by government department, date of request, or keyword. The site is still available, but it's now out of date. It has proven difficult to maintain, given the need for quarterly requests to dozens of government departments, followed by digitization and uploading of those materials.

I'd argue that the solution is obvious. Not only should we reinstate CAIRS, but we should also make the records from all access to information requests freely available online, in machine-readable format.

This follows the U.K. example. In October of this year, Minister for the Cabinet Office Francis Maude told a Conservative Party conference that their freedom of information act will be amended so that all data released must be in reusable and machine-readable format. The change in the U.K. will mean that freedom of information data will be, and I quote, "available to everyone and able to be exploited for social and commercial purposes". I believe the closest we come to that in Canada right now is the Department of National Defence, which lists all completed access to information requests on its website and invites the public to request a copy informally at no cost. That's a start, but it's not as good as we can and should do.

In conclusion, this is by no means the full solution. Rather, it is a modest starting point. There's open data, open access to research, open source software initiatives, and many other possibilities. Like many others, I believe that our goal should be to maximize open government. In doing so, we reduce costs, unleash economic value, increase transparency, and generate greater public confidence in our democratic institutions. I look forward to your questions.

● (1545)

The Chair: Thank you.

Please go ahead, Mr. Sauve.

Mr. Eric Sauve (Vice-President, Newsgator Technologies): Thank you all for allowing me to appear in front of you. It's a nice treat. I've never spoken in such a beautiful room. I wonder if that fireplace works.

My name is Eric Sauve, and I'm vice-president at a local company called Newsgator. I suppose I'm here to represent an entrepreneurial voice in the discussion on why you would bother going down this road of open government.

In terms of my experience, I'm a vice-president at Newsgator. I was formerly the CEO of a company called Tomoye, which was recently acquired, and I sit on a few boards of start-up engineering companies that basically produce software.

My experience in the government space has been, over the last decade, in providing these types of software solutions to government, primarily in the United States but also to certain government agencies in Canada. I've had the privilege of being able to support probably about half a million government users working in the realm of collaborative government, open government, and that kind of stuff.

I was invited here to speak as an entrepreneur. My message for you today is that it's important to think about open government as an economic issue, not a political issue. Aside from access to information and all of these things advocacy organizations might be interested in with respect to the workings of government, in a modern economy, in an information economy, data are basically what creates companies.

One of the easiest examples to think of is Google. Google has no data. What it does is create a valuable service for people by using other people's data. It makes it readable. It does interesting things with it. It creates visualizations for it.

I would argue, and my experience is, that in fact open government should be viewed as a way to create economic wealth in this country. Information and data are really a kind of modern resource that companies can tap into to produce economic value and jobs.

What I'm going to do is walk you through just a couple of examples of interesting uses of open data that have created economic value.

There's a website called CrimeReports.com. For those who are not familiar with it, you can check it out online. Essentially, it takes local crime data, puts it on a map, and allows citizens to see what crime is happening in their area. A company was formed to provide that service, and that creates jobs.

Another example, which is a little bit more of a historical example but that I think is useful nonetheless, is the Weather Network. Companies don't collect data on weather. That's provided by the government. Of course, anyone who's on the Internet sees weather data everywhere. It's a big engine to draw people onto sites and keep them connected to sites. Of course, that can produce economic value in terms of the products they buy or the advertising they consume on the sides of those sites. I don't know exactly how many people work in the weather industry, but that industry certainly wouldn't be possible if it weren't for open data.

Another example, a more local example, is a website called Zoocasa.com. This is a site owned by Rogers Media, and it competes with the MLS site. Basically they take real estate listings and combine them with census data to provide a full picture of the neighbourhood people might want to move into. They see the house

they want to buy, and then they can see the schools and maybe reports on how well those schools are doing. They can see the makeup, financial and otherwise, of the community they might move into. That's a really valuable service, because obviously it helps people to make more informed decisions about the houses they might buy.

The economic lens on that is increased competition. We all know that MLS is a site we all go to, and maybe it's a good idea if there are other sites. Economic value is created through competition. Of course, that competition is driven by producing that interesting value that consumers want to see. They want to see the full picture, as opposed to just what they get on MLS.

• (1550)

Another example is a company called PASSUR Aerospace. They take open air traffic control data and data that they collect as well about airplanes and their current trajectories and resell those data as a service to airline companies so that they can better predict when planes are going to land and, as a result, when they're going to take off. Of course, that has tremendous value to airline companies, because unless they can achieve the logistical perfection that's required to manage those huge operations, they're losing money all the time.

Google Maps is another and more famous example of value that's being created using government data. Another example, let's not forget, is the whole industry that has come out of GPS. It was Reagan's decision to basically make it possible for commercial entities to use GPS data, to get satellite signals and use them to create devices that.... Those of you who have phones may have bought an exercise app that uses GPS data. That's one small example of an industry created around data that were collected by government and made open for commercial gain.

In closing, I would say that I don't know a tremendous amount about government, but I think government has been essentially collecting data about all aspects of Canadians and Canadian topography—Canada, generally speaking—since Canada was created. The more we can start to think about making those data available and think about it from a perspective of economic value, jobs creation, and enterprise creation, the more we're doing a great service to the people of this country.

That's it.

The Chair: Thank you very much, Mr. Sauve.

Now we're going to go to the first round of seven minutes.

Ms. Bennett is first.

Hon. Carolyn Bennett (St. Paul's, Lib.): Thanks very much.

Last Tuesday we heard that at certain conferences—the GTEC conferences, or whatever—at present the federal bureaucrats are not allowed to use the words “open government”; they’re only allowed to use the words “open data”.

Could you explain what you think they think the difference is, and why one would be allowed and the other would not?

• (1555)

Mr. Paul Macmillan: Well, I’d have to think about it.

You’ll notice that we used “data” in our subtitle. We did so because we thought that was getting to where the value was in terms of what citizens and businesses could use. We also use the term “unlocking of government”, because our view has been that most of this type of information has been squirreled away and locked up for quite some time at all kinds of levels within government. Even within government departments and ministries, there’s not as much sharing of information inside government, let alone with the public outside, as you might expect.

One of the things that we think will be a useful and a significant byproduct of an “open data” or “open government” phenomenon—and I tend to use the terms interchangeably—is that as data are viewed more as a public asset than a ministry or departmental or government type of resource, there will be more sharing of information and more understanding of policy implications of various decisions within government than there would be otherwise.

My feeling is that many of the types of data we’re now seeing shared publicly by other jurisdictions were not being shared internally; access to those is not common inside government. I think you’ll see much more responsiveness and ability to analyze policy options, etc., by virtue of opening up these data sets, but I don’t know why you would want to differentiate. I’m sure there are good reasons, but I wouldn’t want to comment on what they might be.

Dr. Michael Geist: I think they are largely interchangeable. I actually think “open government” has been the more popular term from other governments, and I think part of it just comes down to marketing, quite frankly. Some governments have seen the marketing value in being portrayed as open and have latched on to the “open government” term, but the reality is that people in the area who are talking about what governments could and should be doing are largely talking about the same thing, whether they’re talking about open government or open data.

From my perspective in Canada, I don’t care what we call it, but we need to recognize that there’s a certain amount of urgency here, when we contrast the pace at which we’ve been making change on some of these issues here in Canada with the pace of some of these other jurisdictions. Whether we call it open government or open data, we need to get on with the job.

Hon. Carolyn Bennett: Do you see access to information requests as open data?

Mr. Paul Macmillan: Yes.

Hon. Carolyn Bennett: There’s the data, and then there’s a revelation of how a decision came to be taken.

Mr. Paul Macmillan: Well, there are a number of types of access to information requests. At the provincial government level, for

example, there are environmental assessments of property. There are still many jurisdictions in which, to get the results of an environmental assessment of a property, you go through an access to information request. Data such as that could be made available online. The results of environmental assessments of properties could be made available online; the data could be released without the need for a request. Certainly citizens make requests for information that that would fall into the category of data that would be otherwise available through an open government approach. That would potentially be one of the efficiencies that would be gained.

A while back I had a conversation with one of the senior provincial government people, who indicated that their ministry spends something like \$10 million or \$12 million a year responding to access of information requests, with an average cost of something like \$2,400 each. Many of those requests could be addressed through having data already available so that the information would not need to be asked for. That is an important matter, and we think it represents an opportunity.

Hon. Carolyn Bennett: The witnesses said also that in open government the default position is collaboration and cooperation.

Can you explain why the CAIRS website was shut down, meaning two steps forward and three back? Obviously you are saying that the next iteration of CAIRS should be machine-readable.

Last week we were concerned about the translation piece and the responsibility in Canada to have things in both official languages. Is there any solution to that, or has there been an understanding that things would be available in the language they were written in?

• (1600)

Dr. Michael Geist: To unpack those few questions, I don’t have an answer for why the decision was made to cancel the CAIRS database. I recall there was a fairly robust discussion at the time. I still think that, as was said at the time, it was a mistake, largely because the information is, of course, still available; this only creates a bit of a speed bump or barrier for those who might want to access it.

Fundamentally, even just from a basic economic perspective and not just in terms of government spending, the amount of duplication when there are multiple requests for basically the same sort of information.... If we’ve taken the position that this information ought to be made available by law and have gone to the expense of pulling it together and have gone through some of the various limitations that exist within the Access to Information Act, it seems to me to make a whole lot of sense to try to make it as readily available as possible. Clearly that view is shared by governments from across the political spectrum, whether you’re talking about government in the U.K. or one that’s in the United States.

Hon. Carolyn Bennett: In his book I think Donald Savoie quotes Andy Scott about how, as minister, he was quite astounded at how many little carrels of people and so on it takes to do access to information, and how much money could be saved if the default position were to just put it out in a proactive way.

I'll come back to crown copyright later.

The Chair: There will be another round.

Thank you very much, Dr. Bennett.

Madame Thi Lac, you have seven minutes.

[*Translation*]

Mrs. Ève-Mary Thāi Thi Lac (Saint-Hyacinthe—Bagot, BQ): Good afternoon, gentlemen. I will ask my questions in French. I will give you time to prepare your answers.

Carole Freeman is the Bloc Québécois critic on this standing committee. Unfortunately, she could not be here today. I know she has worked very hard on this file. This is an issue that is very important to her. I will start by asking you some of the questions she had for you.

The first one is for Mr. Macmillan. Do you think it is necessary to take a different approach for each level of government, depending on whether it is national, provincial or municipal, or a public body?

[*English*]

Mr. Paul Macmillan: I don't think there's any evidence. We see as much happening at the federal or national level in other countries as we do at the local level. I don't think the approach is necessarily different; it's more the philosophy, I think.

We're not suggesting that all data that government possesses would be made available to the public. There are clearly categories of information that would include personal or commercially confidential information or the like, but there are vast amounts of information that don't fit into those categories and that could be made available.

I don't think it's really a question of the level of government in terms of the trends we're seeing.

[*Translation*]

Mrs. Ève-Mary Thāi Thi Lac: I would like to hear Mr. Geist's answer.

[*English*]

Dr. Michael Geist: Yes, I think at times there are. Depending on the type of data, there can be differences between the federal, provincial, and local levels.

I'm thinking, for example, that it's a good opportunity to reference what exists right now with legal information. I would hope most people would agree that of all the sorts of data that ought to be made freely available, court cases and statutes are certainly towards the very top of the list. Citizens can't possibly be expected to follow the law if they don't actually have access to the law. That's why CanLII, the organization on whose board I sit, was established by lawyers across the country, who pay out of their dues every year a certain amount of money to help make legal materials freely available.

The approach that is taken at the federal level is different from what some provinces take, and different again from what some municipalities take. We can debate the importance of local bylaws and other municipal-related materials, but surely both federal and provincial information is critically important.

I'm a new member of the board, but I know that CanLII has faced issues, particularly at the provincial level, because some provinces even see access to things like provincial statutes as a potential revenue opportunity and thus create restrictions for people to be able to access that information. We are just talking about the laws that people like you help enact.

There are some differences, and I think that if we were to move forward on whether to call it open government or open data and we're talking about universal access to law in a free format—which I think is absolutely essential—there is a role to play in ensuring that not just the federal government but also various provinces are on board as well.

[*Translation*]

Mrs. Ève-Mary Thāi Thi Lac: Thank you very much.

My next two questions are also for Mr. Geist. At a committee meeting last week, I asked a question about official languages. You gave examples of open governments in Australia and the United Kingdom.

Do you think Canada has more hurdles to overcome because of its duty to respect two official languages, which is not the case in Australia or the United Kingdom, where they have just one language? Could that lead to additional hurdles when it comes to implementing an open government approach? What would those hurdles be, in your opinion?

You also talked about Bill C-32 and copyrights, and what is happening with that. Researchers will provide documents to the government, but I would like some clarification on that.

What copyrights should be respected? I would like you to elaborate on that. Earlier, you said that the government could assume those rights. Do you think the work of researchers should be covered by those rights?

• (1605)

[*English*]

Dr. Michael Geist: You asked first about translation.

I'm not an expert on the Official Languages Act who would know just how far or how broadly those implications would go. To highlight one of the examples I raised in terms of things like committee proceedings and the like, which are made available in both languages and are being translated right now, I do know that it's already translated material. It's translated work. In this case, it's either audio or video, and it's being translated in real time, so the notion of allowing the public to use that sort of material for alternative purposes strikes me as obvious. The notion that one might be held in contempt of Parliament, so to speak, if one used those materials without permission strikes me as wholly inappropriate.

With respect to Bill C-32, crown copyright isn't touched by that bill. The issue was raised by a number of groups during the copyright consultation held in the summer of 2009. I don't know if that's a huge surprise. I appeared before the committee studying Bill C-32 last week and I spoke of the legislation, in many areas, quite favourably. I think there are issues that ought to be addressed, but in the absence of crown copyright being dealt with in Bill C-32, there is still an opportunity to deal with it outside the legislative framework and to provide, effectively, the same level of access from a public perspective without the need for prior permission.

On its part, Bill C-32 would deal with things such as researchers' notes, let's say, if you were dealing within a legislative or House of Commons committee, and these would also be subject to crown copyright in the same way that almost anything else produced by government would be.

[*Translation*]

Mrs. Ève-Mary Thāi Thi Lac: We often hear about the economic considerations. In your view, are they relevant, essential or secondary in terms of open government?

That is for all three of you.

Mr. Eric Sauve: Do you mean costs?

Mrs. Ève-Mary Thāi Thi Lac: Economic arguments are often put forward. For example, the cost of translating documents into both official languages is said to be astronomical.

Do you think that could be a hindrance to a more open government? I mean from an economic standpoint.

Mr. Eric Sauve: That is something different. I should have answered the question before, and drawn the distinction between open data and open government. Access to documents on parliamentary proceedings and the workings of government is one thing, but even if you make that information available to the public, a company cannot use it as a money-making opportunity.

In my view, it really has nothing to do with the documents, because they are just numbers. They are 1s and 0s that have been collected by the government for a hundred years. You do not have to translate GPS data.

We should distinguish between two aspects of open government. On one hand, there are the databases that can create an economic advantage, and on the other, there are all those other legal, problematic and political considerations. They either have to be translated or they do not. Those are all things that cost money, and my colleagues can speak to that. There are other problems, not just cost.

It is best to split them into two categories, so as not to impede the economic benefits, because it is not known whether the information will be translated or not, since a lot of data are not relevant.

•(1610)

Mrs. Ève-Mary Thāi Thi Lac: Thank you very much.

[*English*]

The Chair: *Merci, Madame Thi Lac.*

Go ahead, Mr. Siksay, for seven minutes.

Mr. Bill Siksay (Burnaby—Douglas, NDP): Thank you, Chair, and thank you, gentlemen, for being here today. My apologies for being late.

I'm sorry I missed your presentation, Mr. Macmillan, but I will look at it in the record, and I'm sorry to walk in in the middle of yours, Professor Geist.

I want to ask all of you this, just to follow up on something that Madam Thi Lac was asking about in terms of the official language question. Are any of you aware of a country that has more than one official language, that has a good open data or open government policy, and that is a good example we could look to?

We look to the U.S. and we look to Australia with one official language, but do you know of a country with more than one official language that has a good policy on this, a country that may have struggled with this issue?

Mr. Paul Macmillan: I'm not aware of one off the top of my head, no.

Mr. Bill Siksay: Okay.

Nobody has a suggestion there.

Dr. Michael Geist: I would note that it would probably bear taking a closer look at how the European Union as a whole is addressing some of these issues. There have been some open data initiatives at the EU level, and the EU is obviously more than just bilingual. They're dealing with large numbers of languages all at once; there are translation requirements there as well, and they seem to manage to deal with some of those.

Mr. Bill Siksay: Is there any conversation that you know of at the UN—you're making me think out loud—of this kind of policy? Do you know of similar kinds of issues they might have struggled with?

Dr. Michael Geist: What I've seen at some UN organizations is a gradual shift towards greater openness of documents that previously were either closed or fee-based. I think, for example, of the ITU, the International Telecommunication Union, the leading UN body dealing with telecom-related matters. Previously many of their documents came at a fairly significant expense, which, by and large, had the effect of excluding many from participating in some of those activities and left it to either governments or corporations involved in telecom issues that had the financial wherewithal to pay for it. There has been a gradual shift—and it's gradual—towards trying to make more material openly available by recognizing that cost for those sorts of government documents represented a significant barrier.

Mr. Bill Siksay: Thank you.

Professor Geist, when you were discussing crown copyright and abandoning crown copyright, you talked about the failure to recover any monetary value because of the \$7,000 in revenue and the \$200,000 administration cost. You talked about abandoning it and moving completely away from a crown copyright system, although you did talk later about overlaying.

Are there various possibilities here? Is it either/or, or are there other possibilities? Are there any other models? Is there some other model of getting some value for taxpayers for the information that government holds?

Dr. Michael Geist: That's a good question, and it raises a number of issues.

The starting position of some countries—the United States is the best known for us—is that copyright doesn't attach to these documents, full stop. I think many of the examples we heard about unleashing the economic value—which I thought were terrific—originated in the United States, where they started from that position.

You see the origins of crown copyright in the Commonwealth countries, and we've seen two approaches there. One is to just abolish it altogether. As I mentioned, New Zealand is an example of a country moving in that direction. The other is to overlay the licence. It's not either/or; you could establish a licence and later decide to eliminate crown copyright.

The attractiveness at this stage of moving forward with a licence solution—and I think it's precisely why we've seen Australia and the U.K. move toward this—is that it doesn't require legislative change. We're simply dealing with a policy change in how government chooses to deal with its own documents. We retain copyright, but we establish a licence that will permit uses, reuses, and the like without the need to ask for prior permission. Perhaps just attribution would be required. The official document will still be the government's document, but we want to give publishers the opportunity to republish, in some instances, and add economic value, as we've heard about, and allow the public to use these various works without fear of receiving the kind of cease and desist letter I mentioned *The Globe and Mail* got in connection with the takedown notification when they dared to publish a chapter from the Auditor General's report.

•(1615)

Mr. Bill Siksay: Is there a bureaucracy implied in making those kinds of decisions about how it can be used or what licence applies? There are varying degrees of creative commons licences, right? Is it going to take a new bureaucracy to administer those kinds of decisions?

Dr. Michael Geist: I don't think it's going to take a new bureaucracy; we just have to make some choices. There are a number of different creative commons licences. A number of the countries that have looked at this issue have come to the conclusion that there is no creative commons licence ideally suited for government documents.

One of the chapters in the book is by my colleague Elizabeth Judge. She argues for a crown commons licence that would be specific for government. I think she makes quite a persuasive case that there's an opportunity for Canada to try to lead the way in creating a crown commons licence and to attract a certain marketability to the notion that this would be an open licence for government documents. We might see other governments follow suit.

Mr. Bill Siksay: That's interesting. Thank you.

Mr. Macmillan, I read one of your articles after missing your presentation. In one of them in the *Public Sector Digest*, smarter government is one of the sections. You talked about how government policy needs to turn inward in how it prepares its data to be used in an open government setting.

Maybe you addressed that point in your opening statement, but could you talk more about it?

Mr. Paul Macmillan: I didn't address that in my opening statement, but we did a section on what we called “smarter government”. What we meant by that was government's ability to analyze and understand their data sets, and what it might mean in understanding different policy options and outcomes.

There's a good example in British Columbia. They've created a pilot project in which they've pulled together data on individuals. They have a secure data lab where they look at the question of homelessness. They can look at health data, crime data, and information related to social services to get a better picture of what we know about homeless people and the conditions associated with homelessness.

That's an example of what we see as the opportunity for governments to get a better understanding of what we call “data analytics”. It is an opportunity for governments to leverage tools and capabilities that now exist within industry to have a better understanding of what information they really have and what insights they can get from it from their own decision-making perspective.

Mr. Bill Siksay: How do the analytics affect the open government argument, or do they? I imagine there's some benefit to understanding what you have and how it can be used.

Mr. Paul Macmillan: We've put them together. In the paper we talked about three or four different topics. We included the smarter government one because of the recognition that this unlocking or unleashing of government for the public is also going to provide opportunities for governments themselves to get better at understanding the cross-implications of decisions they're making, which today are very difficult to get a handle on, given the way the data are stored and locked up within various programs.

The Chair: Thank you, Mr. Siksay.

Go ahead, Mr. Poilievre.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): My question pertains to crown copyright. Thank you all for your testimony; I found it very informative.

Professor Geist, can you give a more precise description of the restrictions that crown copyright imposes at present? I think we'd all agree that government documents are widely used right now, and used without penalty or price.

Your prolific blog can quote government reports regularly. You can quote the Auditor General's report. Is the restriction on the reproduction of a full document with letterhead on it? Is that the restriction that worries you? What in particular causes concern about crown copyright on documents?

•(1620)

Dr. Michael Geist: Where I quote something on my blog or in an article, I'm often going to rely on an exception within the Copyright Act. Fair dealing would give me the right to use works, whether government documents or otherwise, for research purposes, criticism purposes, news reviews, or whatever it happens to be. There are five categories. Bill C-32 proposes to expand that in a number of directions. That's relying on an exception, though.

The rights that the government has with respect to its own information are the same rights that any other rights holder has, which are absolute rights. It can happen that the use of a government work falls within one of the exceptions. That's why you'll see sections of a report quoted in the newspaper. They have a news reporting exception that they can rely upon within fair dealing. They rely upon that with government documents in the same way that they'd rely upon it with anything else.

Once you move beyond that, as I said at the Bill C-32 committee, it's fair dealing. It's not free dealing. It's not a matter of anything goes. When you go through a fair dealing analysis, you go through a full analysis about how much you're using, and the like. The same would be true for government documents. There are restrictions that someone might face in trying to use a government document.

Take a textbook that's a compilation of various materials. I had this for my Internet law text. We were looking to use a number of different reports from the government over time. Many publishers take a fairly conservative, risk-averse view, and we went to the government first for permission. That would be true for many publishers today.

Mr. Pierre Poilievre: Was it granted?

Dr. Michael Geist: It was granted in that case, and, as I say, in most instances it is granted. There are two problems. One is with instances in which it's not granted, because it feels like a misuse of copyright. As well, from a cost and policy perspective, layering those costs onto Canadian publishers and authors, or onto government itself, with no real return, doesn't justify the expense.

Mr. Pierre Poilievre: Fair enough. I understand where you're coming from.

What is the distinction, then, under the current crown copyright regime, between quoting a government document and reproducing it? Without expressing the argument one way or the other, just tell us where the line is now, as you understand it.

Dr. Michael Geist: Under the current regime, from a pure copyright perspective, there's no real difference between the crown and Margaret Atwood. It's the same. The amount that someone may use of those documents is going to depend on whether they qualify under the fair dealing exception. Fair dealing isn't a bright-line test. It's hard for me to tell you that you can use this and not that. It depends on circumstances and the like, but if you don't qualify for fair dealing, you have to ask for permission.

Mr. Pierre Poilievre: You're saying *The Globe and Mail*, for example, could quote an Auditor General's report, but could not reprint it and feature it in their weekend magazine.

Dr. Michael Geist: The Auditor General took the position that they couldn't even take a chapter. I think they had a reasonable argument that they could have taken a chapter under fair dealing.

Mr. Pierre Poilievre: Fair enough. I'm not arguing one way or other. I'm just trying to get a sense of exactly where the line is right now, so that we can consider whether or not it needs to be moved.

I wanted to ask you about crown corporations. Some of these crown corporations are in competitive marketplaces and produce things that they would not want competitors to have in their possession. How would your proposal affect crown corporations?

Dr. Michael Geist: I don't think it necessarily would affect crown corporations.

If we use the U.S. model and we say we're trying to create an open licence on this, or a freer licence, then we're taking the position that anything that government itself produces, as well as works that it commissions—whether we're talking about government reports by the government or by third parties and the like—could theoretically be covered by this.

The truth of the matter is that if you're using a licence rather than making a legislative change, then there is a flexibility to decide what the licence applies to and what it doesn't. If, for example, you are concerned with the CBC, which would fall outside of this anyway, the CBC and others are not going to be subject to this standard, although there are efforts to try to make more publicly funded broadcasters' work more openly available as well, under some of the same sorts of premises.

•(1625)

Mr. Pierre Poilievre: If, for example, Canada Post did some research on efficiencies and mail delivery and didn't want FedEx or some other mail delivery enterprise to know about that research, this would not have any impact. The change you're proposing would not impact.

Dr. Michael Geist: Of course not, and I'm glad you raised the question. It's important to distinguish between works that are commissioned and created internally and works that are published and made available.

The notion of putting an open licence on government works is not saying that everything you produce would now be openly licensed. It's saying that everything you make available to the public now comes with an open licence.

Mr. Pierre Poilievre: You're not really even talking about what should be made public. You're saying documents that are already made public should be reproducible in their existing form without having to seek crown consent.

Dr. Michael Geist: I think that's right. I think there may be instances in which we'd be dealing with information that is disclosed, say, through the access to information office. That would similarly qualify as information in the public sphere, but of course there are exceptions for some of the kinds of confidentiality and business concerns you noted.

Mr. Pierre Poilievre: I think you have put a very interesting subject on the table for us. I hope the committee will have time to visit this in some more discussion on that point.

Thank you.

The Chair: Thank you, Mr. Poilievre.

We're now going to start with the second round of five minutes each.

We're going to start with Mr. Easter.

Hon. Wayne Easter (Malpeque, Lib.): Thank you, folks. I appreciate your being here and outlining your points of view.

Eric, everyone talked a fair bit about data, and I think one of the concerns we have is accuracy of data. We're finding in the world we work in that there are some facts and there's a lot of fiction. We're even seeing it in the government's decision to do away with the mandatory long-form census. It will cost more money and give less accurate information.

How do you deal with the issue of accuracy of data, which is crucial to what the end result may be?

Mr. Eric Sauve: Well, it would be nice if humans were perfect, but they're not.

I think the data don't have to be 100% accurate in order to be valuable. In some cases the data can be purposely distorted and still be valuable, as in the case of GPS data. You can't get accurate GPS data because you'd be able to shoot down a plane with your cellphone as a guide, right?

There are ways in which data can be released with caveats, with a certain legal basis for it. You can say that people who use these data use them at their own risk, and that kind of stuff. If businesses are using those data, they too have a role in verifying the accuracy. I think it's a matter of disclosing the nature of the data and the underlying assumptions, and those who choose to use the data can do so by being informed in that way.

The census is a good example. Of course the census is not meant to represent a 100% depiction of the Canadian persona; it's there as a guide for folks to understand certain patterns. Is it still useful? Yes, it is, for sure.

Hon. Wayne Easter: Thank you.

Mr. Macmillan, you talked about how even within government they're not sharing across departments, and that's for sure. I think all of us around this committee have had some experience trying to deal with one issue that related.... In my case it would be, let's say, a wharf with DFO, Environment, and Parks Canada, and it becomes nearly impossible, because they operate in silos, especially in the federal government. They each have their little power turf within the bureaucracy.

You made some points about unlocking government in your paper here. How do you see open government breaking down those silos so that it's easier for the public to deal with governments in a more holistic way on issues?

• (1630)

Mr. Paul Macmillan: When you move to looking at data as a public asset, you change the philosophy completely around how organizations view, control, and manage that asset. At the moment, in most large organizations the individual who controls the database has power and tends to control a lot of decision-making. It's very hard, culturally, to change that philosophy.

Private organizations would look at data as an enterprise asset, as enterprise-wide information that could be shared and leveraged for decision-making. Most government organizations are not at that point, but this really offers an opportunity to almost leapfrog that whole cultural transformation. Rather than having to work program by program to get individual program areas to free up information, once you've taken a specific policy position or stated a principle, the releasing of that information to the public will enable governments to cooperate better internally.

Hon. Wayne Easter: You go through this to some extent on page 30 in the chapter called, "Three ways data analytics can foster smarter government", and you talk about combatting fraud.

One of the other areas this committee deals with is privacy, and certainly one of the problem areas, I would think, is the conflict between openness and crossing the line into privacy. How do you see safeguarding that side?

Mr. Paul Macmillan: I think there are different standards and different conditions that would be applied to different types of data. Clearly, personal information data, which could be used for looking for fraud, are not the kind of data we're talking about displaying publicly. Those operating principles are now getting more defined across government. More maturity is developing around how to make those decisions. There are certainly different applications, if you like, of data analytics for different data sets.

When we get to things such as drug programs, workers' compensation payments, or any of the large-scale transactions that governments would be doing—and claims management, claims processing, and these sorts of things that are individual payments—and talk about analytics and reducing fraud either on the individual side or the corporate side, we're talking about governments applying tools to try to understand that in better ways. This is already happening in areas such as revenue and taxation, but it could be applied in other parts of government as well.

The Chair: Thank you very much, Mr. Easter.

Mrs. Davidson, you have five minutes.

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): Thanks, Mr. Chair.

Thank you to the witnesses for being here this afternoon.

Mr. Sauve, one of the questions mentioned the difference between open data and open government. I think you indicated that you felt there was a difference between them. You made the statement that perhaps we could separate them and start with open data, and that there might be more costs involved with open government, as you defined it. I think it was in relation to the translation costs with the bilingual issue.

Could you elaborate on that? First of all, what do you see as being the difference between open data and open government?

Mr. Eric Sauve: For me, the benefit of separating open data and open government is to leverage some of the value of the open government movement without getting it bogged down in more complex issues. It's just a way of making a differentiation.

To me, these definitions are very fluid, so it's difficult to know exactly what they actually mean, except in common parlance. When people talk about open government, it's in relation to people wanting to know what government is doing and how they can get involved in that. That is infinitely more problematic than releasing data that government has collected, data that could be used for commercial value but that has absolutely no privacy implication at all.

I think it's a useful differentiation because it allows us to make progress on certain fronts without getting bogged down on the ones that are more difficult.

I talked about businesses that can be created using open data, but there's also another metric of looking at it. Maybe in austere government times there might be an opportunity to provide a little bit less government service, so that instead of government being the only utilizer of that data in providing service to citizens, the private sector perhaps could do some of that work.

Value can be created there in government efficiency by not thinking of government solely as the collectors of data and as the only ones that can use it, and thinking that this is the service that government will provide. Instead, they could collect the data and give it to somebody else. Someone else can provide that service so that they don't have to do it. They won't do it unless it's a service that's not being done effectively or efficiently by someone in the private sector.

• (1635)

Mrs. Patricia Davidson: You're saying the government could provide the raw data and private enterprise could analyze it. Is that correct?

Mr. Eric Sauve: Yes, absolutely. There's nothing political about GPS data, and not to release it is just not thinking about it from an economic growth perspective.

Mrs. Patricia Davidson: Mr. Geist, when we were talking about the crown copyright issue, you suggested that Australia's model would be a good model to follow. Could you elaborate on that, please?

Dr. Michael Geist: Yes, sure. Australia and, increasingly, the U. K. are examples of countries that have crown copyright and have not amended the law to eliminate crown copyright. Instead they are

moving toward a licensed approach whereby they would use an open licence associated with crown copyright documents.

Government would retain crown copyright in those works, but would ensure that the public has the ability to use and reuse those works freely and without the need for prior permission, because that would come attached as part of the licence.

Mrs. Patricia Davidson: You said that 95% of requests under copyright were approved.

Dr. Michael Geist: Right. We should be clear about what that is. I think it was one of the first times someone tried to do it. I launched an access to information request for data on all requests that government had received on crown copyright within one government year. By my calculation, about 95% had been approved.

The Chair: Monsieur Gaudet is next. You have five minutes.

[*Translation*]

Mr. Roger Gaudet (Montcalm, BQ): Thank you, Mr. Chair.

Mr. Sauve, what does open government mean to you?

Mr. Eric Sauve: You are asking what open government means?

Mr. Roger Gaudet: I am talking about a government, not the government. It could be municipal, provincial or federal. What does an open government mean?

Mr. Eric Sauve: I am not sure whether I have a good answer to that. It is really hard to define. For instance, if you compare our government with the Congolese government, ours is excellent in terms of transparency.

Mr. Roger Gaudet: No.

I was the mayor of a town for 14 years. The salary of municipal employees was the only information that was not disclosed. The salaries were combined to give a total amount. But everything else was audited every four years, including my expenses as mayor and those of the reeve. I would get a call from a lawyer asking for the mayoral expenses, the RCM's expenses and the municipality's. And we would send that information.

That is what I want to know. A government, whether it be in the Congo or elsewhere, can be open or not. What does an open government mean to you?

• (1640)

Mr. Eric Sauve: I would say what I already said. It would be good if the government's data collection efforts could be more profitable for society.

As for the issue of transparency, I am not nearly as knowledgeable as the other witnesses.

Mr. Roger Gaudet: Mr. Macmillan, what does an open government mean to you?

Get ready, Mr. Geist.

[English]

Mr. Paul Macmillan: I have a few different ways to answer that question.

The standard for transparency has increased substantially in the past 24 months or so. The idea of a transparent and accountable government certainly has been around for a long time. What we're seeing with respect to the Internet age is that citizens have a much higher expectation for transparency. I'll use the example of scorecards that are produced by government.

In the health care sector, for example, there are wait times. Governments historically would produce scorecards or performance indicators, and that would be the idea of a transparent approach to results. Today citizens want to understand what data went into the scorecard. They don't want to see the bar graph; they want to see the raw data. They want to make their own decisions as to whether or not what's reported by government is supported by the facts and the data. What you're seeing increasingly is that citizens are asking for the underlying fact base that went into the report.

Now, not all citizens are able to analyze and manipulate that information, so in a way you're in a bit of a catch-22, because other citizens actually want the report because they don't have the capacity to go off and analyze data and create their own. This is what we're seeing, for example, at the provincial level in the education area. The education area is a good example. Community groups are starting to get together to look at the data available across government programs and put together their own report cards on school performance. They want, for instance, to combine data on teachers making salaries of \$100,000 or more with what the average student score is in the classroom.

Ministries of education are finding they'll have reports on school bus utilization. A parent group will say, "I'm standing on the street corner and I'm seeing the bus go by. That bus looks full to me. I don't know why you think it's not full and why we have to collapse the route. Could you please give us the data that you're using to determine that the buses are full?" It's increasingly difficult for governments to say that they're not going to give them those data. Once you start down that path, it becomes a matter of getting the next piece of data, and the next piece of data, and now they can combine data from five or six different sources and create their own scorecard.

That's what citizens want when they talk about open government: open data. That's what citizens are after.

What you find is this: if the U.S. releases 304,000 or 305,000 data sets, or if B.C. releases 500 data sets for the purpose of their environmental contest, it gets very difficult for governments to justify why they're not releasing 501 or, if they have 500 data sets, why they released just 499. If they had 300,000, why did they only release 250?

It's a philosophy. If it fits a certain kind of criterion, we're going to make it available. It's easier to default to why it's not being made available than to justify every single data set that's made available. You can split hairs on open government, open data, unlocked government, etc., but it's really a question of trying to get to what

citizens in today's Internet world expect of their governments with respect to transparency.

[Translation]

Mr. Roger Gaudet: Mr. Geist, what does an open government mean to you?

[English]

Dr. Michael Geist: I have to admit that I like a lot of what Mr. Macmillan just had to say. I think it starts from a presumption that it's open, full stop. Once you start from the presumption that access to our democratic institutions is going to be open, everything follows from there.

We've seen that happen in other countries that have adopted that position, particularly the United States. It's startling to see a country go from virtually zero data set availability to hundreds of thousands in the span of 18 months or less. It's literally been just a matter of months—less than two years—based on the presumption, the starting point, that it's open, and that if it's not going to be open, you have to justify why. As I think was rightly noted, once you start with the presumption that it's going to be available unless there's some powerful reason that it shouldn't be, you open up your government and you open up all sorts of opportunities, whether we're talking about democratic accountability or the economic potential we just heard about.

• (1645)

The Chair: Thank you, Monsieur Gaudet.

[Translation]

Mr. Roger Gaudet: Thank you, Mr. Chair.

[English]

The Chair: Just before we go to Mr. Albrecht, I'd like all three witnesses to deal with an issue that I consider to be a challenge unique to Canada: the Official Languages Act. You've quite rightly described the whole concept, and I certainly sense your enthusiasm. I agree with most of what you're saying, but the Government of Canada has taken the position that anything they post or publish has to be in both official languages in accordance with our legislation.

You both elaborate on 305,000 data sets published by the United States, which is very impressive, and you've also related the experiences in New Zealand, Australia, and Great Britain, but none of those countries has the unique circumstances that Canada has, in that the data set, if it's published by the Government of Canada, would have to be in both official languages. I believe that would be the interpretation. In some cases, I suggest those costs would be prohibitively expensive. I'm not suggesting we should do away with the concept, but I think this is going to be a unique and real challenge facing Canada that was not faced by other countries that you are comparing Canada to. I'd like all three of you to give your thoughts and opinions on how you see the country facing that particular challenge.

Mr. Paul Macmillan: Perhaps I could start. It's a journey in terms of how data would be made available. There are some reasonably simple examples, such as public accounts data. That information is structured and wouldn't be difficult to release in both official languages, but at the moment, it's not provided in a way that citizens could manipulate, understand, analyze, and compare to other things. There are categories of data, and as you get into numerical information, numbers of transactions, numbers of cases, etc., you're into less of a translation issue.

If you're talking about volumes of records that are more text-based than other things that need to be translated, I wouldn't profess to be an expert on how that would happen or how that would evolve, but I think significant amounts of transactional information could be easily formatted in both official languages and could be released.

The Chair: Go ahead, Professor Geist.

Dr. Michael Geist: Former industry minister John Manley appeared before the Bill C-32 committee yesterday, and I believe that in talking about the bill, he said, "The perfect is the enemy of the good".

I think that applies here. The notion that we have to jump from zero to 300,000 on day one and find a way to ensure that every single piece is translated is going to ensure it never happens. There is an awful lot of documentation and a lot of data already translated, so when I talk about all this crown copyright material as an example, this stuff is made available and is already translated.

As was rightly noted, there are many sorts of data sets, especially when we're largely dealing with just numbers. The ability to translate some of that stuff in relatively short order—stuff produced out of StatsCan, produced out of some other government departments—I would have thought would be fairly straightforward. Will other data sets that are more text-based present a challenge? Absolutely.

If it were me, at that point I would suggest that we go for the low-hanging fruit and make available just about everything we can, recognizing that this is going to be an issue for a lot of other stuff. When we get to that point, or even before, we start having the discussion about whether it is a requirement that everything be translated or whether we can adopt an approach of translating these things on demand. In this way, if a Canadian citizen or a certain number of Canadian citizens make a formal request that the document be available in English or French or in whatever language it isn't available, there is an undertaking to ensure that it is made

available in that language, but we don't start from the position that everything has to be made accessible before it can even be released.

• (1650)

The Chair: I'm not so sure that's the way it works. I don't think you can.... It's not an if or an either/or, and then they can request that it be translated. I think if the government is going to publish it, it has to be translated.

Dr. Michael Geist: I recognize what the law says now. I also recognize we're a country of 33 million people. If a single person comes forward asking for this document to be made available in English if it was originally in French, I would suggest that the notion that we're going to stop making it available to large numbers—millions of people—in whatever the language happens to be doesn't help to further the ultimate goals of the Official Languages Act.

The Chair: Go ahead, Mr. Sauve.

Mr. Eric Sauve: My view on this is quite brief. If you commit to having more data transparency, it's just the cost of doing business. I don't know if it really makes a difference. If you want to do it, that's how much it costs. It's more expensive than it is for people who only have one language, but if you see the value, then that's what it costs. We're not going to have to call the troops back from Afghanistan if we decide that we're going to do it. We're not going to run out of money, right? At least, I don't think so. Are we?

My view on that would be a little bit pragmatic. If you can confirm to me that we're not going to run out of money, then my answer to you is that it's simply the cost of doing business.

The Chair: Well, we can always print more money.

Voices: Oh, oh!

The Chair: We'll go to Mr. Albrecht.

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Thank you, Mr. Chair.

I'm sure the Liberals can find some way to do some financial gymnastics to make sure that we don't, but I won't try to answer your rhetorical question.

During the conversation today I've certainly become more convinced that it would be preferable to call it open data rather than open government. I think all of you have agreed that there are pieces of government information that, for many reasons, need to be kept confidential, whether those documents relate to cabinet, international trade, or foreign affairs. I think there may be a misconception on the part of people that when you say open government, it means that everything cabinet is discussing will automatically be open and available online, which you've confirmed for me today is not the case.

I want to go back to the crown copyright question for just a bit. Currently it's possible to reproduce sections, paragraphs, and reasonable amounts of information. I know that in reproducing it within a report or document, there's a risk of intentionally misquoting what the original said. That's probably very rare. I'll acknowledge that. If that were to happen, it would be fairly easy, in my opinion, to go back and compare it to the original and see that in these two paragraphs, for instance, three words are changed and the intent has been changed.

If you have the possibility of reproducing the entire document, is there a risk at all of misrepresenting what the entire document may have said? It may be seen by multiple people, maybe dozens of people, who would assume that it is in its original format, whereas in fact it has been altered. Is that a risk, or doesn't it worry you at all?

Dr. Michael Geist: I don't think it represents a significant risk. I don't think it's a copyright issue, quite frankly. It's an issue of whether you trust a particular source. I think what happens over time, as you make the works available, is that you come to trust.... In some instances, you may feel that you're only comfortable relying on the authoritative source.

Law is a good example. Initially many cases and other materials were made available, but lawyers, when citing for court purposes, would still go to official sources, just to be sure. Even the citation system didn't lend itself to allowing people to cite the non-official documents. We've seen this change over time. Now we have neutral citation with respect to court cases. You can more easily cite documents that might not have come from what we previously would have viewed as the most authoritative source.

I recognize, of course, that there is the possibility that someone may take the document, purport that it is accurate, and then make it not accurate, but I don't see it as a significant risk.

Mr. Harold Albrecht: It's not a big worry.

Just to follow up on that, then, you mentioned in your opening statement that the lawyers have taken a collective approach and have charged a fee to make certain statutes available for searching. Did I understand you correctly?

Dr. Michael Geist: No, in some ways it's the opposite. It's the lawyers who are paying to make works available.

•(1655)

Mr. Harold Albrecht: That's what I meant. The lawyers themselves are paying to make this particular...

Dr. Michael Geist: I should clarify. What has happened is that as part of the dues lawyers pay, they pay a certain amount—it's about \$30 a year—to fund this site organization called CanLII. CanLII then

has agreements with underlying courts and governments and tribunals that they will make their cases and decisions available to CanLII, and then CanLII posts those on the site. The lawyers are funding, effectively, to keep the website going.

Mr. Harold Albrecht: As a follow-up to that question, is that material available to the broad public, or only to those who have paid into it?

Dr. Michael Geist: It's available to all.

The lawyers saw the opportunity to have that material available so that they could reduce some of their expenditures on other legal material from mainstream legal publishers. The nice consequence—and, I would argue, the intended one—was that not only would the legal profession have access to this material, but so too would the Canadian public. Indeed, essentially the entire world has access to Canadian material.

Mr. Harold Albrecht: First, I have a question regarding the data that you three would assume to be the most valuable to have on an open forum. Is there a prioritization? If we were to say that we can't go from zero to 350,000 overnight, where would you recommend the Canadian government begin in making this material available?

Second, Mr. Macmillan mentioned the Facebook phenomenon. Would Facebook be a reasonable source for finding out what Canadians think would be the highest priority of data they'd like?

Mr. Paul Macmillan: There are a number of categories. I think public accounts—financial-type information, which is published and produced, and which citizens have an interest in—is more or less readily available. It's just another way of publishing. In many respects, it is another way of publishing government information and reports, of which there are a vast number.

Also, a number of data sites are already available. The challenge is that there isn't a clearing house or a consolidated place to get it, so it can be very difficult to find. One of the exercises will undoubtedly be to understand what's already available and how to make it more easily available. The natural resources area is another one where there is potential opportunity for economic spinoff. Those are just a couple of ideas.

As to whether Facebook and other social media sites would be a good way to elicit citizen input, I would certainly think so.

Mr. Harold Albrecht: Thank you.

Dr. Michael Geist: I think those are good—

The Chair: You can go ahead; it's just that Mr. Albrecht does not have any more questions.

Dr. Michael Geist: Those are good areas. Environmental issues interest a lot of Canadians, but the point to take home about the experience in other jurisdictions is that nobody is smart enough to actually know in advance which data sets are going to be the most valuable. However, that's a feature, not a bug. The beauty of making data more available and providing people with the permission, the encouragement, to go ahead and add value to it is that it doesn't cost the public anything at all. It's basically people taking it upon themselves, whether for commercial benefit or in the public interest. People will make use of data that you never thought they would make use of. They will find ways to combine and reuse data in ways that we never envisioned.

The value comes in making it available, but nobody could ever know in advance precisely what's going to be valuable.

Mr. Eric Sauve: To me that was bang on. We can't predict where our economy and our citizens are going to innovate. Take companies that go down a certain strategic path: often their success comes not from that original path but from something else that comes up along the way. That's the value in having as much data available as possible in as usable a format as possible. When the opportunity arises for folks, they can take advantage of it. You don't know when and you don't know where, so you just have to take that step and make it open.

The Chair: Thank you, Mr. Albrecht.

Mr. Siksay is next.

Mr. Bill Siksay: I get excited about this because I like the idea of transparency and open government, and the economic development aspect of it is pretty exciting, too.

However, I'm worrying a bit as I listen, because it strikes me that when we talk about this public asset, once it's up on the Internet, we're not talking about the Canadian public anymore. It's really international. Everybody who has access to the Internet has access to this asset and can use it.

Does that make this open data policy the information equivalent of the export of raw logs? Are we taking a Canadian asset and allowing it to be shipped out of the country unprocessed? How do we guarantee that Canadians get the economic development part of this? How do we ensure that Canadian entrepreneurs are the ones who get to use this data and repurpose it to find those interesting applications? Am I way off track? Are we exporting raw logs by implementing this kind of policy?

• (1700)

Mr. Eric Sauve: My view on this is that the world is a competitive place, especially when it comes to data and the public Internet. The best way to do it is to release as much data as possible so that we can create as many competitive firms as possible here in Canada. If there are other firms coming from other jurisdictions that are already building momentum around data that have been released by government—for instance, in the United States—those companies are going to come in and demolish whatever opportunity might have been available for a Canadian start-up, because you have a

giant behemoth coming from wherever they're coming from, and they already know how to do it. They know the process. They know the delivery mechanism. They know the distribution channel. They have all their supply chain arrangements completed.

To me, when you talk about resources like things that you dig up from the ground, it's a different economic model. In the information age and on the Internet, there's no stopping competition. The best thing you can do is create an economic centre where you get that innovation that truly drives it.

Why is Silicon Valley so successful? Where are all the other information technology firms growing in the United States? It's hard to find large companies outside of Silicon Valley that have had the explosive growth that some of these Internet firms have had. They go from zero to billions of dollars of valuation. It's because they create that innovative nucleus.

By making available the assets that can be mined by these information technology companies, to use your metaphor, and by doing lots of it, you create companies that can then be successful, and we can export our companies over to other countries that are doing those things and we can start to compete.

That's definitely my view.

Dr. Michael Geist: We're not talking about a scarce resource. The only scarcity we have with respect to it is an artificial scarcity that's been established essentially by government in not making it available. The fact that others may have access to this information doesn't mean that Canadians don't and can't try to compete in terms of making it available. I would argue that Canadian citizens are the ultimate beneficiary, regardless of who ultimately takes this information and adds sufficient value to give some real benefits to it.

If a foreign company comes in and finds ways to add value to Canadian data so that Canadians know more about their environmental conditions, their communities, or whatever the issue happens to be, there's still a benefit to Canada. Some of the economic benefits may accrue to a company that has come in and provided that, but that's what competition is all about. In some ways, not making this available has hamstrung the ability of Canadian businesses to actively engage at home in this area and to compete in some of the bigger markets. Canada is a small market in terms of these data. The real value would come through building some Canadian companies and letting them compete in a market with 10 times the population and presumably 10 times the amount of data.

Mr. Bill Siksay: I think in Australia... The information officer from the City of Edmonton talked about local competitions that those governments have done to stimulate development in these areas. Does that mean there is still a role for government economic development programs associated with this kind of open data program? Would government still have a role in that? Have they been effective programs, necessary programs?

Mr. Paul Macmillan: What governments have been trying to do with these competitions is to engage citizens. It's one thing to make the data available, but what they also found was the issue of how we instill the energy, the imagination, and the creativity in people to try to apply it, so they run competitions to bring attention to what they're doing. There have been a number of them. They've had all sorts of different ones. Some were strictly cultural and social, while others had an economic bent to them in terms of what's come back.

I fully support the previous comments that it's really about encouraging creativity in the provision of public services, because there's a stream of this that is all about getting citizens engaged in delivering better public services, and there's another whole stream that is about economic development, innovation, and investment. Both of those can be achieved through the same means.

There was an earlier comment about not really being able to predict where that creativity is going to come from. I think that's really key, because there can be a tendency to hold things back while you're trying to think about what the right thing to do is. In many respects, that can really be counterproductive.

• (1705)

The Chair: Go ahead, Dr. Bennett.

Hon. Carolyn Bennett: I just want to go back to the.... Did you call it the crown commons? Maybe we all need to read the chapter.

Mr. Chair, are you going to buy us all a Christmas present?

Dr. Michael Geist: I'd be very happy to provide you with copies.

Actually, your colleague, Mr. Lake, asked me specifically about this book when I appeared for Bill C-32. I'm happy to make copies of the book available, but I should note that it's actually available under creative commons licence by the publisher, so all articles are free to download.

The Chair: We can download the whole book?

Dr. Michael Geist: You can, but I'm happy to get you copies.

Hon. Carolyn Bennett: At least we'll get the chapter downloaded. Maybe the clerk would circulate at least the chapter you want us to read, or at least the link. That way we don't have to cut down the trees. That would be great.

We'd be better off to read it and figure it out. I don't know what the work of the committee will be, but it sounds as though there is some low-hanging fruit that we could pick, even if this ends up being a fairly long study. You've given us some food for thought on what could be done as an interim report and on some things like CAIRS, which I think this committee has already sent a motion to restore.

As you know, the Information Commissioner said that if we're going to do this thing, one of the things to do is involve the public as we go. We've been quite excited by the response of both the House

of Commons and the Library of Parliament to help us do that at this committee.

We would love your advice as to how you would proceed and the kinds of questions we should be asking the public as we proceed. As my colleague asked, what information would you want up first and in terms of prioritizing? There is the issue around language and translation on demand. If it meant you could release much more, would that be a possible approach?

Give the committee any advice on how to proceed, who else we need to talk to, and whether we should bring you back when we're part way along.

Mr. Eric Sauve: In the United States, basically Mr. Obama signed a presidential directive that said that each agency had to release a set number of data sets. These are not documents, but data sets. He set a timetable and said that they need to release this number of data sets by this date, and this number of data sets by this date, and put them on a site.

In terms of being able to tap into the enthusiasm of the public, that was all public. They bring the data sets to the government, so it's a little bit less about telling us what you think we should do and more about having all the stuff available so that you can tell us what you think about it.

At the agencies, DOD had x amount of time to produce these data sets, and they just kept releasing them. Then they did some of these innovation contests and that kind of stuff. They engaged the public in different ways, but that's probably from my side. There are different ways, I think, for other....

• (1710)

Dr. Michael Geist: I think the point is to create, in a sense, almost some inter-agency competition in which there are expectations set for every department about what will be released. In that way there's a certain amount of accountability and a requirement to move forward within the departments. If you want to know what people want, you can ask within the departments themselves to see what people are asking for. You may find that people are asking for certain kinds of information that the department is not providing at the moment, or is not in a position to provide, because of certain policies that may be in place. That's one way to identify what's out there.

As well, the kinds of competitions that we see taking place at the local level to try to encourage the use and reuse of that information could clearly be replicated at a federal level.

The other thing is to think about some of the people you bring in, as was the case with President Obama. They not only created this fundamental presumption and tried to push it forward, but they also brought some people into that administration with a clear commitment and expertise on open government and open data issues, whether that's the chief technology officer or people like Beth Noveck. Beth Noveck is a law professor who spearheaded what's known as the peer-to-patent project in the United States to try to deal with issues around patent review.

One of the big concerns around patents is whether or not there is prior art and whether or not a patent should be issued. The peer-to-patent project essentially tries to crowdsource that by opening up the various patent applications to the public to see if the public, as a whole, can identify particular kinds of prior art, which would thereby strike out the prospect that something could be patented. The USPTO in the United States has done trial runs of that peer-to-patent process, and I know that our own CIPO has been talking about the prospect of doing those kinds of things.

I'd note that many of these sorts of possibilities lie squarely within the prospect of being included within the digital economy strategy. If it's not clear that there is a direct link between what we're talking about today in terms of spearheading and unleashing potential innovation and using these sorts of new tools in a digital economy strategy for the country, it certainly ought to be. One would hope that as we move forward with the final strategy in the spring, there will be a role for open data and for openness more generally. That was mentioned in the consultation document that the government released on this issue last spring.

Mr. Paul Macmillan: I think you'll find there are many examples. The good news about where the Government of Canada is today is that it can learn from others who've gone before, in both the municipal and the provincial levels in Canada, as well as from the other examples we've cited.

I think the idea of setting targets around the data sets that will be released is a very good one. I think you'll find a lot of enthusiasm from Internet social networking society and from the Internet activists. I don't think you'll be disappointed in that. I also think that consulting through online channels is an important thing.

The Chair: Thank you, Dr. Bennett.

Go ahead, Monsieur Gaudet.

[Translation]

Mr. Roger Gaudet: Thank you, Mr. Chair.

Aside from the data of the Department of National Defence, the Privy Council Office and, in some cases, the international trade department, information should be available to the public. I may have overlooked other cases. Data related to the environment, government operations and public accounts should be disclosed automatically. Anyone looking for information should be able to access it immediately.

Do you share that view, or do you think having to wait years with nothing to show for it is acceptable?

As I said earlier, when we were talking about open government, there are some cases.... There are members who deal with files such as National Defence, and you never hear another thing about those files. No one asks questions. Everyone is aware of what goes on, and no one is. Four members take an oath to deal with that portfolio, and that is the end of it. That is fine. At least, there are some people who know what is going on. The same goes for the Privy Council Office. Some data need to remain confidential, and I have no problem with that.

But when it comes to everything else, including the environment, if someone wants to know what the government has done in that area, why would you not disclose that information? That is what I call a lack of transparency.

What do you think, Mr. Sauve?

He does not like it when I ask him questions.

Some hon. members: Ha, ha!

Mr. Eric Sauve: You ask really tough questions.

In the U.S., even the Department of Defense is required to disclose

Mr. Roger Gaudet: I agree with that. It is a matter of national security.

Mr. Eric Sauve: That is not my position. I am just telling you what others are doing.

Obviously, databases that pertain to the safety of a mission are not accessible. That is for sure.

Of course, there are all kinds of different applications. The health sector is a unique example. The U.S. has a program called pillbox. It is a system that brings together a great deal of information on pills that people take. It provides a photo and a description of a product, as well as information on the effects of taking that product. For example, seniors often take pills without knowing what they are. Some take 10 pills without knowing what each one does. That can lead to complications, and some people even end up in hospital. The problem is that they do not know what they are taking. For instance, the number 50 may appear on one side of a pill, as well as on another. People do not know what they are. One health application the U.S. put in place was a telephone service for people to call and describe their pills so they could figure out what those medications were and whether or not they should be taking them. Simple things like that.

There are scores of applications. It is hard to say exactly where they will be used, because there are some that no one would have thought of. The more there are, the better it is.

• (1715)

Mr. Roger Gaudet: What do you think, Mr. Macmillan?

[*English*]

Mr. Paul Macmillan: I agree. I think that if you start looking at—

The Chair: Under the Standing Orders of the House of Commons, I have to suspend or adjourn. What I'm going to recommend to the committee is that I allow Mr. Gaudet to complete the two minutes he has left. Then I'll ask for closing comments, and then we'll adjourn.

Is that okay with everyone?

Some hon. members: Agreed.

The Chair: Mr. Gaudet, you have two minutes.

Go ahead, sir; I'm sorry to interrupt.

Mr. Paul Macmillan: I was just going to say that I think there is a tendency in the first round, without some specific targets for government departments, to release what's already in the public domain, but to do it as part of a program like this.

I think it's important that an exception principle be put in place, which means saying that we're looking for broad public availability of data. Clearly there are principles and guidelines that we need to establish, just as others have established them, to make sure that the risks associated with the wrong sorts of information making it into the public domain are avoided.

Dr. Michael Geist: I think a number of questions we have had highlight something that we ought to make clear, which is that when we're talking about open data or even open government, we're not necessarily talking about sensitive stuff. I know there is a tendency to think that you're just trying to tear down the gates and reveal everybody's dirty secrets. That's not at all what's taking place here.

Yes, there is great value in transparency in government more generally, including in the way decisions are made. I think that's an important element in ensuring that we have appropriate openness. However, when we're talking about open data and open government

in this context, we're talking about an awful lot of data that isn't sensitive to anybody at all, but that has real value.

Much of that value is being lost right now by virtue of the way in which we are not making it as readily available and as openly available as we otherwise might. Let's be clear: we are far behind many other countries in this regard. It's not as though we're venturing off the edge of the cliff and nobody else has done it before; many others have taken this leap and have recognized that there are huge opportunities before you ever get to the point of starting to worry about potentially embarrassing documents being released. Very much of the stuff isn't embarrassing to anyone; the embarrassment is that we are losing the real potential in value by not making it available.

The Chair: *Merci, monsieur Gaudet.*

That concludes the questions. On behalf of all members of the committee, I want to thank all three of you for your knowledge and your wisdom in this area. Your testimony has been extremely helpful to all of us.

I'm going to now invite anyone who has any closing remarks or comments they want to leave with the committee to speak.

I'll start with you, Mr. Sauve.

Mr. Eric Sauve: I think it's a journey our government should embark on as a way to create economic value, as I have said. It has the potential to position Canada as an innovative place to build next-generation information-centric companies. It's a shame that we don't see it that way, and it would be great if we did, because there would be more space for employment creation across companies both large and small.

Thank you.

• (1720)

The Chair: Thank you very much.

Mr. Macmillan, would you like to comment?

Mr. Paul Macmillan: I would just add that I've been consulting to governments for over 25 years. This is a legitimate, significant trend in public administration. It has the potential to seriously transform and improve how services are delivered, how citizens can participate in the democratic process, and how social and public services are designed and delivered.

I'm glad to see that you're studying the topic and I look forward to the results of your work.

The Chair: Would you like to comment, Professor Geist?

Dr. Michael Geist: I'm glad as well.

I emphasize that this is not a partisan issue by any means, nor is it an opportunity for one side to embarrass anybody else, whatever it happens to be. In many ways, making these materials readily available can instill greater confidence in all politicians and in government more generally.

What we have to do—this is the point from the very outset—is go for the low-hanging fruit and get some stuff done. Some concerns may be legitimate, and we'll have to deal with them, while others have been overstated to begin with, but we have to start moving on this, because we really are losing time compared to others.

The Chair: I want to thank you very much for your appearances here today.

Go ahead, Mrs. Davidson.

Mrs. Patricia Davidson: I have one quick question, Mr. Chair.

I think next Tuesday we have the lobbying commissioner coming. Are you going to have a document for us before that meeting, or will that come later?

The Chair: It's taking longer to produce than I thought, but there will be a draft available for the standing committee on Tuesday.

Mrs. Patricia Davidson: Thank you very much.

The Chair: The meeting is adjourned.

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