



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

43rd PARLIAMENT, 2nd SESSION

---

# Standing Committee on Industry, Science and Technology

EVIDENCE

**NUMBER 028**

Tuesday, April 6, 2021

---

Chair: Mrs. Sherry Romanado





## Standing Committee on Industry, Science and Technology

Tuesday, April 6, 2021

• (1105)

[English]

**The Chair (Mrs. Sherry Romanado (Longueuil—Charles-LeMoyne, Lib.)):** Good morning, everyone. I call this meeting to order.

Welcome to meeting number 28 of the House of Commons Standing Committee on Industry, Science and Technology. Today's meeting is taking place in a hybrid format pursuant to the House order of January 25.

The proceedings will be made available via the House of Commons website. Just so that you are aware, the webcast will always show the person speaking, rather than the entirety of the committee. To ensure an orderly meeting, I'd like to outline a few rules to follow.

Members and witnesses may speak in the official language of their choice. Interpretation services are available for this meeting. You have the choice at the bottom of your screen of either the floor, English or French. Please select your preference.

Before speaking, please wait until I recognize you by name. When you are not speaking, please make sure that your microphone is on mute. I also ask you, for the sake of the interpreters, to make sure that if you move your microphone when you're not speaking, you put it back in the position between your upper lip and your nose, and also that you do not talk over each other, because it will prevent the interpreters from being able to do their good work.

Please be reminded that all comments by members and witnesses should be addressed through the chair. As is my normal practice, I will hold up a yellow card when you have 30 seconds left in your intervention. I will hold up a red card when your time for your intervention has expired. Please make sure that you have the gallery view on your Zoom so that you can see me waving the card.

Pursuant to Standing Order 108(2) and the motion adopted by the committee on Friday, March 19, the committee is meeting today to resume its study on the proposed acquisition of Shaw by Rogers.

I'd like to now welcome our witnesses.

We have with us Professor Michael Geist, Canada research chair in Internet and e-commerce law at the University of Ottawa; Professor Dwayne Winseck, a professor in the School of Journalism and Communication at Carleton University; Ben Klass, senior research associate at the Canadian media concentration research project; and, from the Competitive Network Operators of Canada,

Mr. Matt Stein, president and chief executive officer, and Mr. Geoff White, director, legal and regulatory affairs.

[Translation]

Also with us is Jean-Philippe Béique, the CEO of EBOX.

[English]

We also have with us, from Red Deer County, Mayor Jim Wood, and from Vivic Research, Ms. Robin Shaban, co-founder and senior economist.

Each witness will present for up to three minutes, followed by rounds of questions. With that, we will start with Professor Geist.

You have the floor for three minutes.

**Dr. Michael Geist (Canada Research Chair in Internet and E-Commerce Law, Faculty of Law, University of Ottawa, As an Individual):** Thank you very much, Chair, and thank you so much for the invitation and the opportunity to come back and appear before the committee.

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, and I'm a member of the Centre for Law, Technology and Society. I appear in a personal capacity, representing only my own views.

To the best of my recollection, a three-minute opening statement is the shortest I've experienced for a committee appearance. In this instance, however, I think it's appropriate, as it doesn't take more than three minutes to understand what is at play and at stake with the proposed Rogers-Shaw merger.

To start, I'd like to make three points.

First—and I think this is stating the obvious—the deal will result in higher prices and less competition in the Canadian wireless market. There's no need to overthink this. Removing a company that some have touted as the best chance at a viable national fourth carrier leaves some of Canada's biggest markets—notably, Ontario, Alberta, and B.C.—without a much-needed competitor.

While some seek to justify it or explain it away, the simple reality is that Canadians already pay some of the highest prices in the world for wireless services. If this merger is approved, the situation is likely to get worse. Indeed, when Rogers promises that it will not raise prices for Shaw/Freedom mobile customers for three years, it effectively signals that it will be raising them as soon as the clock runs out on that timeline.

Second, this represents a major wireless policy failure. Successive governments have pledged to address high wireless costs, but have often instead taken half-measures or even backtracked at opposition from the incumbent providers.

The CRTC is little better, with the current leadership having dispensed with the prioritization of consumers. It's the CRTC that initially rejected mandated MVNOs. It was the CRTC that signalled it was supportive of increasing consumer broadband costs with new levies in its "Harnessing Change" report. It was the CRTC that sparked a consumer group boycott of the development of an Internet code that was ostensibly designed to protect consumers.

Third, what should the committee be recommending? The preferable choice is no merger, since it's likely to result in lost jobs, higher prices and less competition. If approved with conditions, the grab bag of goodies proposed by Rogers is really just asking consumers to ultimately pay for rural and remote connectivity initiatives. We need that connectivity, but funding it through a harmful merger is not the right way to do it. Instead, the focus should be on competition, particularly wireless competition.

For the purposes of this transaction, I think that means full divestiture of the wireless assets. More broadly, it means doubling down on policies designed to address wireless competition and, in particular, support for mandated MVNOs that would help change the competitive landscape, as well as efforts to increase foreign entrants into the marketplace.

I look forward to your questions.

• (1110)

**The Chair:** Thank you very much.

Next we have Professor Winseck and Mr. Klass.

I understand you are sharing a six-minute slot. Please go ahead.

**Professor Dwayne Winseck (Professor, School of Journalism and Communication, Carleton University, As an Individual):** Thank you very much. It's a real pleasure to be here. If you would like to follow along, we have tweeted out our presentation under the INDU hashtag. We cover some data, and you can see some of the visuals that we made to go along with it there.

The proposed megamerger between Canada's second- and fourth-largest communications and media conglomerates, Rogers and Shaw, would—if approved—significantly lessen competition. The merger would catapult Rogers even further ahead in the mobile wireless market, and it would become the biggest cable TV and Internet access provider in Canada.

It triggers all the criteria used by competition and communication regulators to assess these kinds of deals. It would also overturn a decade and a half of policies by successive Conservative and Lib-

eral governments alike to foster a fourth maverick mobile operator in all regions of the country.

That policy has made solid progress: Vidéotron has carved out close to 20% market share in Quebec and the NCR, while Eastlink has roughly 10% of the mobile wireless market in the Maritime provinces and Shaw has gained just over 8% market share in B.C., Alberta and Ontario.

This transaction would eliminate Shaw-owned Freedom Mobile as a significant competitor in those three provinces, which include two of our biggest cities—Toronto and Vancouver—and the nation's capital, with knock-on effects across the country.

The deal would also significantly raise concentration levels nationally in the mobile wireless market. 5G will require substantial [*Technical difficulty—Editor*] handled similar challenges in the past though, and there's no reason to doubt their capabilities now.

Shaw actually plows proportionately more of its revenue back into upgrading its fibre and mobile wireless networks than Rogers.

**The Chair:** Professor Winseck, one moment. I think we have a point of order.

Mr. Lemire.

[*Translation*]

**Mr. Sébastien Lemire (Abitibi—Témiscamingue, BQ):** There was a substantial pause in the interpretation, but it picked up again when I signalled it to you. We may have missed a sentence or two.

**The Chair:** All right. Thank you.

[*English*]

Professor Winseck, perhaps you could slow down a little—I know you're pressed for time—just so that the interpreters can do their work.

Please go ahead.

**Prof. Dwayne Winseck:** I'm very sorry, Mr. Lemire, and I apologize to the translators.

The merger, we need to recognize, is not the only option. Rogers and Shaw could build on existing network-sharing agreements like Rogers does with Quebecor in Ontario and Quebec, and as Bell and Telus do nation-wide, or they could strike deals to share fibre and radio access networks.

We also have to wonder about Rogers' debt equity load, which is twice that of Shaw and will soar further if this deal is approved in light of the upcoming 3,500-megahertz spectrum auction, and when it renews the *Hockey Night in Canada* rights in 2026.

How can Rogers and Shaw verify their commitments? How can they be tracked and verified?

While Rogers and Shaw anticipate deploying 5G and other wireless networks to meet their pledges, most communities want fibre, not wireless connections. Regardless, those communities that are trying to build their own networks across the country are facing endless obstructionist tactics from incumbents, rather than willing and reliable partners.

Canada's lucrative \$29.2-billion mobile wireless market is not a small market. In fact it's the eighth-largest mobile wireless market in the world.

I'll pass it over to Ben.

**Mr. Ben Klass (Senior Research Associate, Canadian Media Concentration Research Project):** Compared to the big three, Shaw offers more affordable wireless plans, more monthly data, no overage fees and other unique innovative features. Its presence has forced Bell, Rogers and Telus to respond by lowering prices and offering new features. This is how competition is supposed to work.

However, there is still room for improvement. Prices in Canada have fallen more slowly than in other countries, while data caps have not kept pace. This is confirmed by a preponderance of the independent research on Canada's high wireless prices, shown for instance by the Wall-Nordicity reports commissioned for CRTC and ISED, the U.S. FCC, the OECD, the ITU, Rewheel and the Competition Bureau, amongst others.

With Shaw out of the picture, the trajectory of improvement that we're currently on will be reversed. Rogers' pledge, furthermore, to maintain prices for Freedom customers isn't nearly good enough, even as an opening bid. We know this because Bell made a similar promise when it absorbed MTS in 2017. Today Manitoba's mobile services, once the envy of the rest of the country, have lost their edge.

We need to be hearing about lower prices, more data and greater adoption of new services. These are all things that are delivered by competition, not consolidation.

For over a decade, adoption levels for mobile wireless services in Canada have languished at the bottom of the ranks amongst OECD countries. This merger promises to keep prices high and will, therefore, only help to cement our position as a laggard.

In addition to lowering prices, regional operators like Shaw have increased data caps. However, mobile data usage in Canada is still only one-half of the OECD average and about one-third of what it is in the U.S. We are about three to five years behind the U.S., and letting Shaw disappear would set us even further back.

Dwayne.

• (1115)

**Prof. Dwayne Winseck:** Twenty-five years ago, Rogers and Shaw carved up cable and Internet access markets into "cable

monopoly east" and "cable monopoly west". This lead some to believe that a tie-up today will have minimal to no effect on either of these markets. While it is true that they did not compete with each other head to head thereafter, Shaw's earlier embrace of new cable network and set-top box technology revealed it to be the more innovative of the two firms, while also forcing Telus to roll out IPTV and fibre to the home five years earlier than Bell in Ontario and Quebec.

Shaw's decision to not enforce data limits on Internet subscribers after Netflix arrived in Canada in 2010, while other big ISPs did, revealed these limits for what they are—artificial constraints on people's use of the Internet. If this deal goes through, Shaw's customers will have to get used to counting their downloads against the meter. The proposed Rogers-Shaw deal will also have a considerable impact on Canadian TV, film and culture.

Ben, take it home, please.

**Mr. Ben Klass:** Let's be clear: This merger is simply a play by Rogers to extend its dominance from coast to coast. Now is not the time, during the pandemic, for even more consolidation. This merger will result in higher prices and less innovation, when what we need is greater affordability. Regulators and policy-makers should do what they can to oppose this merger.

Thank you.

**The Chair:** Thank you very much.

I'll now turn it over to Competitive Network Operators of Canada for three minutes.

**Mr. Matt Stein (President and Chief Executive Officer, Competitive Network Operators of Canada):** Good day, and thank you. I'm Matt Stein and I'm appearing today as chair of the Competitive Network Operators of Canada, or CNOC. I'm joined by Geoff White, our director of legal and regulatory affairs. Geoff also teaches communications law at the University of Ottawa.

Unlike many of my co-panellists, I'm not an academic. I'm a business person. I'm the CEO of Distributel, one of the largest independent ISPs in the country. In other words, if you have questions about the state of telecom competition, I live it every day. CNOC is the industry association for the competitive side of the industry, the side of the industry that acts as a check on the market power of the large telephone and cable companies. Our more than 30 members use wholesale access to the large companies' wires to compete against them on price, innovation and customer service. It's called service-based competition, which is different from facilities-based competition. The difference is who owns the infrastructure. The infrastructure owners own the wires or the spectrum, and we lease part of it from them. That's all.

The Rogers-Shaw deal does not benefit Canadians. If it proceeds it will benefit only those two companies and Bell and Telus, unless our government and its regulators get on the same page about the need for service-based competition.

Simply put, there are only two ways this merger can go ahead. Freedom Mobile, originally Wind, was the competitive instigator in most of Canada's largest wireless markets. Eliminating that instigator is unacceptable. Without an adequate mandated MVNO regime that allows competition to flourish, Freedom Mobile, its customers, its network and, importantly, its spectrum must be divested to a party that is committed to service-based competition in all of its forms. Failing that, and only if we have an adequate, mandated MVNO regime that enables service-based competition to take hold in the wireless space, the Freedom brand and its customers would need to be divested, but still to a party committed to service-based competition.

Canadians need service-based competition. On the Internet side, with access to the big companies' wires, we offer innovation, better prices and better customer service. However, the incumbents have been trying to beat us down for years through lawyering and lobbying, because we threaten their world-leading returns.

Frankly, they're winning that fight, because small competitors, despite our innovations, lower prices and customer service, are a threat to those returns. We don't get a free ride, nor have we ever asked for one. We pay for what we use at the rates the CRTC designs to compensate the infrastructure owners for the use, plus a markup.

With the discussion of the business case challenges of building fibre and wireless networks, there's never going to be a business case for a new competitor to step in and build yet another wireless network.

I'll conclude. How do you preserve competition? The same way we did it for nearly 30 years, through service-based competition, just like in long distance, home phone and, as it was working, Internet.

Let me ask you this final question. If Canadians want more choice, better price and better customer service, have these large companies earned the benefit of the doubt?

Thank you.

• (1120)

**The Chair:** Thank you very much, Mr. Stein.

[*Translation*]

Our next witness is Mr. Béïque.

You have three minutes. Please go ahead.

**Mr. Jean-Philippe Béïque (Chief Executive Officer, EBOX Inc.):** Thank you.

My name is Jean-Philippe Béïque, and I am the CEO of EBOX, the largest alternative telecommunications provider in Quebec.

EBOX provides services to more than 90,000 customers in major markets such as Montreal and Toronto, as well as in areas like Abitibi, where competition is scarce. The area has certainly felt the detrimental impact of the lack of competition. With service-based competitors Videotron and EBOX coming on the scene, retail prices have dropped by as much as half.

According to a *Protégez-vous* survey, EBOX scored highest in customer satisfaction of all the telecommunications providers.

Our critics like to call us resellers, but we actually invest tens of millions of dollars in our customer experience, transport network and data centres, as well as the in-house development of digital TV software. Those are just some of the many investments we make, proportional to the company's size.

We have spent every day of the past 20-plus years waging a David and Goliath battle. It goes without saying that the competition [*Technical difficulty—Editor*].

As far as EBOX is concerned, one question is fundamental: How is this deal good for Canadians?

In a market where all but the big players know that Canada ranks low on the service affordability scale, how can we turn to our members of Parliament and genuinely ask for more competition?

Shaw, a \$5.4-billion company, claims that, without a merger, it will no longer be competitive. However, Videotron, a \$4.3-billion company, is prepared to invest to achieve the same position, without having the benefit of an existing wireline subscriber base in the western markets. What an ironic situation, one that serves the current interests of already powerful business people.

Honourable members, the only real solution is to bring in regulations so that mobile virtual network operators establish market discipline. That model would allow for more than four companies in all the markets.

What we are looking for is not a parasitic presence in the market, but a solution to the competition problem. That means restrictions are needed to prevent the dominant players from using their power, for example, discount brand competitors owned by big companies, which very often price their services close to regulated rates in the hope of choking off the competition. To quote a popular saying, it takes a parasite to know one.

Lastly, you should know that EBOX, like many other companies, has made repeated attempts to become a mobile virtual network operator on commercial terms. Our efforts were unsuccessful; it was even suggested that we merge our activities with those of existing operators. It's unrealistic to think that mere trade negotiations will give rise to serious competition nationwide.

Thank you.

**The Chair:** Thank you, Mr. Béïque.

We couldn't hear you very well.

[*English*]

Mike, I'm not sure whether you were hearing it. The audio was really cutting out a lot. I just want to double-check Monsieur Béïque's connection.

• (1125)

**The Clerk of the Committee (Mr. Michael MacPherson):** Yes. I believe it's a connectivity issue. There's not much we can do in the room.

**The Chair:** Okay. Perhaps IT could reach out to him.

We'll go to the next witness.

Mayor Wood, you have the floor for three minutes.

**Mr. Jim Wood (Mayor, Red Deer County):** Good morning, Madam Chair, and good morning to the honourable members of the committee.

I am grateful for this opportunity to appear before you today regarding the Rogers and Shaw merger.

My name is Jim Wood, and I'm the mayor of Red Deer County located in the heart of central Alberta. Red Deer County is sparsely populated with a land mass of about two-thirds the size of Prince Edward Island.

My opinion about the merger is that while it may make financial sense for these companies and their investors, it will probably do nothing to improve the gap between urban and rural Internet service, and certainly nothing will improve in Red Deer County.

I've talked to people from Rogers and Shaw prior to this meeting and while their pledge to invest billions of dollars into rural areas will likely expand the Internet access footprint, improved services will only happen as profits allow. Often, companies choose to service cities and towns only and this leaves many rural areas with no broadband service at all. I know that there's no business case where

servicing fewer than 20,000 people over 4,000 square kilometres returns a profit on investment good enough for any of Canada's telecommunications companies. If there were, my county would already have the same services as Calgary and Edmonton. More competition, not less, is needed to ensure a healthy marketplace.

Government financial assistance to develop shared infrastructure and open networks is absolutely necessary. Legislation will also be needed to ensure that telecommunications companies share assets better, avoid duplication and reduce costs, creating technological equality for all Canadians.

However, my constituents can't wait for this to happen and that's why Red Deer County has invested millions of our own dollars into an open fibre optic network. We've partnered with a service provider that will be profitable without having exclusive control of the market. We are developing better, faster and cheaper services than the ones provided by the incumbents in Alberta's cities.

This do-it-yourself approach is not new. I remember as a boy, my father—a farmer—climbing poles and stringing wires so that our farm could get basic phone services.

Times have changed and our businesses now must compete in a global marketplace, but sadly, the system is broken and those few companies in Canada's telecommunications industry have no reason to change it. Unfortunately, much of rural Canada has poorer Internet and cellphone service than many third world countries. Merger or no merger, the impact on my citizens will likely be the same.

Thank you.

**The Chair:** Thank you very much, Mayor Wood.

Next, we will go to Ms. Shaban for three minutes.

**Ms. Robin Shaban (Co-founder and Senior Economist, Vivic Research):** Thank you, Madam Chair, and the committee. It's a pleasure to be here with you today.

My name is Robin Shaban. I am the principal economist and co-founder of Vivic Research, an economic consulting firm. I am also a Ph.D. candidate at Carleton University studying Canadian competition law.

The focus of my research is the notion of economic efficiency that has come to be the core philosophy underpinning Canada's competition law. On March 16, I published an op-ed in *The Globe and Mail* outlining what I saw as a potential outcome of the Competition Bureau's review of this transaction. As you heard from other witnesses, Canada's competition law, the Competition Act, contains a provision that may make it impossible for the bureau to block this merger, no matter its impact on Canadians.

The provision in question is section 96 of the act, commonly known as the “efficiencies defence”. This defence allows businesses to merge even if it harms competition and consumers, because it creates cost savings for the business. Under the efficiencies defence, cost savings, often including layoffs, are weighed against the economic inefficiency that comes with higher prices after the merger. For instance, Superior Propane’s acquisition of ICG Propane in the 1990s was permitted because of the efficiencies defence, despite it being predicted to increase the price of retail propane by about 8%. As a result, the merger created monopolies in 16 communities across Canada.

Unlike legislation in other jurisdictions, Canada’s merger laws are not intended to protect consumers. Again, the Superior Propane case is illustrative. It was calculated that consumers would collectively pay about \$40 million more per year due to higher prices, but this number was largely irrelevant because, according to economic theory, it does not represent an inefficiency.

Rogers and Shaw claimed in their press release that the transaction will create \$1 billion in synergies or efficiencies per year. If their claim is truthful, then the bureau may be unable to take any action to protect competition in telecommunications markets. At this point, the only people who can assess the veracity of efficiency claims made by the parties are officers at the Competition Bureau and the members of the Competition Tribunal.

My intention here today is to provide information and insight into Canada’s merger control laws, grounded in my academic research. My hope is that committee members walk away with a deeper understanding of competition laws relevant to this transaction, as well as inspiration to reform our competition laws to better serve Canadians.

Thank you. I look forward to your questions.

• (1130)

**The Chair:** Thank you very much.

We’ll now start our round of questions.

Our first round of six minutes will go to MP Dreeshen.

**Mr. Earl Dreeshen (Red Deer—Mountain View, CPC):** Thank you very much, Madam Chair.

Ostensibly, this meeting is to review the recent proposed merger between Rogers and Shaw. We’ve heard testimony from several witnesses opposed to the deal, and we’ve also heard from the companies involved about their commitments to invest in rural broadband networks and the 5G networks in western Canada.

It certainly seems to me that the one perspective we haven’t heard from in this study is that of the rural communities who might most be impacted by the agreement and by rural broadband issues in general. There’s a whole host of issues related to access to infrastructure in rural municipalities and what they face, and the local elected officials are on the front line and are having to deal with this.

I’d like to direct my first question to you, Mayor Wood. What are some of the challenges rural municipalities face in accessing adequate broadband services? As the mayor of a rural county, what ex-

periences have you had in providing access to broadband services for communities in your area?

**Mr. Jim Wood:** Thank you very much.

In response to the question, I think one of the key things we’ve seen most recently is that COVID has shown the need for a really good broadband system. Currently, we have many of our children on and off going to school. They’re required to be able to learn online. What we’re finding is that we have a disparity between the ability of children in the urban centres versus rural centres to even learn at this time.

What we’re also finding [*Technical difficulty—Editor*] many people would be able to work from home, but they’re not able to do so because of the lack of the broadband services. Today, I drove 80 kilometres to my office. Typically, I would have liked to be able to do this testimony from home, but I do not have a good enough service at home that’s anywhere near reliable enough to do this.

To the second part of your question—what have we done?—what we’ve done is realized that there is just not enough profit involved for any telecommunications company to come in and service our vast area with our sparse population. What we realized was that, if we could in fact put that backbone, that fibre and some towers, into the community, we could have companies come in and want to service our area.

I basically look at it as the same as building the first roads in our communities. It’s the same as the first power line that was built by my great-grandfather in our area for the rural electric [*Technical difficulty—Editor*] where there was no power, or the gas co-op that just came in. I think that we need to, as levels of government, provide that service. I think that if we can do that together...

We’ve taken a huge bite out of this on the Red Deer County side, but I think that if we were able to get a little bit more help from other levels of government, we could set that backbone up so that we could have an access where we don’t give this to one company or another. We, in fact, could share that road that we all drive on, because we don’t need to build a bunch of roads. If we had one good road and everyone had shared access, we could have a system that would rival none.

I hope that answers your question.

• (1135)

**Mr. Earl Dreeshen:** Yes. Thank you very much.



We know that Shaw has benefited from access to cheap spectrum through the set-asides, but it has let much of that rural spectrum in Alberta go unused while it has focused its investments in urban areas of the province.

I guess one question is whether the federal government should be imposing a stricter deployment requirement, such as what is considered the “use it or lose it” licence condition to ensure spectrum is being put to use to connect rural communities.

Have you had any experience with Shaw that would indicate their seriousness about connecting rural parts of the riding?

**Mr. Jim Wood:** I've seen nothing positive at this point in time. I wanted to ensure.... We did have a brief conversation to find out where they were at. I was not confident that we would see any improvement after that meeting.

What we have seen though is that areas where a communications company picks a small town within our region and they don't go beyond that boundary, it limits anyone else from coming into the region after that, because—I would call it cherry-picking or whatever—they've picked the best area and left the others out.

Somehow or other we need to ensure that when companies come into our regions, they don't just take the gravy and leave the rest. I think that's extremely important. That's why we're developing a backbone system that will allow everyone to come in with no restrictions. I think that if we were to take this proposal to all of Canada, we would see the competition necessary.

I remember back a long time ago when long distance calls were extremely expensive. There was a point in time when we were able to have many different competitors come in and we watched the cost of long distance drop. It is extremely important that we have that competition. We need more competition, not less competition.

**Mr. Earl Dreeshen:** Thank you.

I just have one last question before our time is up. Have you been able to access any money from the federal government's rural broadband fund? What other experiences have you had being able to source money?

**Mr. Jim Wood:** We actually have applications into the federal government for two different programs. We have not heard back on our grants yet. We're very hopeful that we will be able to see some of those funds. I think we could show all of Canada what is possible, should we be able to get that grant funding.

I'd take a look at it. We're being very bold at this time in doing what we're doing.

**Mr. Earl Dreeshen:** Thank you very much.

**The Chair:** Thank you so much.

Our next round of questions goes to MP Ehsassi for six minutes.

**Mr. Ali Ehsassi (Willowdale, Lib.):** Thank you, Madam Chair.

Allow me to start by thanking all of the witnesses for their very useful testimony.

I will start with Dr. Geist. Thank you for your remarks. It's important to highlight your concern that a merger would have an ad-

verse impact on competition, in particular in Ontario, Alberta and B.C.

I want to go to the third recommendation you made, where you touched on the issue of divestiture. If you were holding the pen and you could compel Rogers and Shaw to divest certain assets, what would those assets be?

**Dr. Michael Geist:** The starting point is to recognize that the wireless assets have to go. One can understand why there may still be significant value for those two companies on the cable side. Of course, there's also the kind of competition that exists given that, as Dr. Winseck noted, a divided-up market dating back decades has fewer implications for the everyday consumer, although it may have some broader market impact.

On the wireless side, the impact is obvious, so full divestiture of the wireless assets to find some mechanism to maintain at least the prospect of a fourth national player has to be the starting point.

**Mr. Ali Ehsassi:** Thank you for that.

My second question for you is on your second recommendation, which touched very much on the failings of the CRTC. I was wondering, after the Governor in Council order in 2019 whereby the CRTC was ordered to consider consumer interests, whether you think that's going to make a difference. Is that going to be sufficient to compel the CRTC to really put that at the centre of its consideration of this merger?

• (1140)

**Dr. Michael Geist:** I wish I could say the answer is yes, but I have significant doubts, to be candid. I don't believe—and this is with all respect to the current chair of the CRTC—that what we've seen over the last number of years is a prioritization of consumers. I identified several examples of how that is. The GIC that we saw go back certainly referenced consumers, but it referenced other factors as well. I have some concerns that the way the CRTC is going to interpret that is not to put consumers at the centre of its policy, in the same way it hasn't put consumers at the centre of its policy on a number of different issues, including even ones that were designed specifically to address consumer concerns.

**Mr. Ali Ehsassi:** Thank you for that.

I'll turn to Mr. Stein. Mr. Stein, in your testimony, you talked about the spectrum licensing process. Similarly, if you were holding the pen on that process, what would your recommendation be?

**Mr. Matt Stein:** Is that specifically regarding spectrum licensing, or regarding this merger?

**Mr. Ali Ehsassi:** With respect to spectrum licensing as it implicates this merger.

**Mr. Matt Stein:** My comments in my opening were about the merger itself, and what I was saying with respect to this merger was that the only way this could go ahead—while still protecting what was set up and what was intended by the spectrum licensing—was for Freedom, its customers, its network and, most importantly, its spectrum to be divested before this merger were allowed to go ahead.

**Mr. Ali Ehsassi:** Okay, and in your opinion, the prerogative already exists to do that.

**Mr. Matt Stein:** Yes, the Competition Bureau could do that, etc. Yes, absolutely.

**Mr. Ali Ehsassi:** I'm just talking about the spectrum and the approach to spectrum licensing.

**Mr. Matt Stein:** My colleague, Geoff White, was trying to get a comment in there.

Geoff, do you want to go ahead?

**Mr. Geoff White (Director, Legal and Regulatory Affairs, Competitive Network Operators of Canada):** There seems to be a lot of focus at this committee on what tools we have and what measures could be imposed. Let's be clear: The Competition Bureau has all the remedies it has and needs to deliver the right outcome for Canadians here; so does the CRTC. The CRTC doesn't need new tools; it has plenty of tools and so does the Competition Bureau, and the policy direction you asked Dr. Geist about speaks to competition, affordability, consumer interests and innovation.

**Mr. Ali Ehsassi:** I understand that, Mr. White, but as you know, one of the processes is via ISED, which obviously has a say insofar as the spectrum policy is concerned. With respect to ISED, would you have any specific recommendations?

**Mr. Geoff White:** The biggest tool in the government's [*Technical difficulty—Editor*] with the CRTC at the moment in terms of opening up access to the airwaves of Rogers and Shaw to bring more competition to consumers. That's the quickest and easiest solution if this merger goes ahead, but I think you're hearing a loud consensus that this deal should not go ahead.

**Mr. Ali Ehsassi:** Okay. Then, with respect to the three processes, what do you think the essential timelines will be?

**Mr. Geoff White:** The regulators aren't sharing their timelines on these and I think we should not be in a hurry to approve this deal. The first thing we would like to see, as service-based competitors, is for the CRTC to come out with a decision on mobile virtual network operators, because that's the quickest and easiest remedy, and it's already within the regulator's power.

**Mr. Ali Ehsassi:** Thank you, Mr. White.

**The Chair:** Thank you very much.

[*Translation*]

We now go to Mr. Lemire for six minutes.

**Mr. Sébastien Lemire:** Thank you, Madam Chair.

My question is for Mr. Béïque, from EBOX.

Mr. Béïque, you said you had previously tried to become a mobile virtual network operator.

Can you tell us about your experience and the process you had to follow?

**Mr. Jean-Philippe Béïque:** Thank you for your question, Mr. Lemire.

Yes, I would be glad to tell you a bit about it. Obviously, some information is confidential, so I'll have to watch what I say.

As I mentioned, EBOX has made repeated attempts to become a mobile virtual network operator, but unfortunately, we always had trouble reaching an agreement. The fact is that the only proposals we received revolved around launching a brand on the condition that the company be controlled by one of the existing big players.

• (1145)

**Mr. Sébastien Lemire:** A company looking to gain a foothold in the market has to go through a process of negotiating, by mutual agreement, with the existing companies because it's difficult to access network services.

**Mr. Jean-Philippe Béïque:** Precisely. Our experience and that of the operators we've spoken to has been that reaching an agreement on commercial terms is absolutely impossible. The only way to obtain an agreement is basically to sell the company.

**Mr. Sébastien Lemire:** That does not encourage competition or the presence of a fourth company in the marketplace, let alone more.

**Mr. Jean-Philippe Béïque:** That's correct.

**Mr. Sébastien Lemire:** What do you expect the CRTC, the minister or the competition bureau to do about the issue the committee is studying?

You said the only answer was to regulate. Can you elaborate on that?

**Mr. Jean-Philippe Béïque:** We believe introducing service-based competition is the key to solving Canada's competition problems once and for all. Mergers between the big companies will continue. The only way to foster viable competition for all Canadians and keep prices in check is through service-based competition, in other words, the entry in the marketplace of mobile virtual network operators.

**Mr. Sébastien Lemire:** According to Rogers and Shaw, the merger will likely accelerate 5G deployment in rural and remote areas, including indigenous communities.

What are your thoughts on 5G technology? Do you offer that service?

When it comes to regions, what should the priority be? Should we focus on 5G or fibre optic technology?

**Mr. Jean-Philippe Béïque:** No, we do not provide 5G service currently. As I explained, we weren't able to reach an agreement on commercial terms to become a mobile virtual network operator, so that isn't a service we can offer at this time.

The deployment of 5G service is a natural progression in technology, just as important as the emergence of high-speed Internet service and all the other innovations we have seen. It's absolutely vital.

Does that answer your question?

[English]

**Mr. Geoff White:** Mr. Lemire, if I could...?

[Translation]

**Mr. Sébastien Lemire:** Go ahead, Mr. White.

[English]

**Mr. Geoff White:** Mr. Béïque's company is a member of CNOC, so could I just add to that?

[Translation]

**Mr. Sébastien Lemire:** Of course.

[English]

**Mr. Geoff White:** That 5G isn't going to help Mayor Wood and his constituents. The real discussion right now is 4G and Internet to the home. I mean, we can't seem to get that right despite the regulator having all the tools it needs to make that happen, and we're talking about 5G.

That 5G isn't the issue right now. It's 4G. We've got to get that right before we can even think about something in the future. At the rate it's going, we'll just fall into the hands of the big companies. The solutions are there today.

[Translation]

**Mr. Sébastien Lemire:** Thank you.

I sympathize with Mayor Wood and his situation. It's a reality we know all too well in Abitibi-Témiscamingue. We are nevertheless confident about what the future will bring. That said, I really sympathize with him.

Mr. Béïque, what happens when a company wants to become the fourth or fifth competitor? Can you tell us more about the process, especially as it relates to the deployment of fibre optic technology?

If you wanted to use infrastructure that Rogers or Shaw might build, what would you have to do to compete in that market?

**Mr. Jean-Philippe Béïque:** I believe you're talking about fibre to the home connectivity.

**Mr. Sébastien Lemire:** Yes.

**Mr. Jean-Philippe Béïque:** Before the service can be made available, the CRTC has to decide on the final network configuration and determine how it should be built. It also has to set the final rates, which have to make sense and allow for viable competition. That's what matters most right now.

**Mr. Sébastien Lemire:** What are the biggest factors in ensuring viable competition?

**Mr. Jean-Philippe Béïque:** It's simply a matter of bringing in regulations.

• (1150)

**Mr. Sébastien Lemire:** Companies also have to adhere to those regulations.

Thank you, Madam Chair.

**The Chair:** Thank you, Mr. Lemire.

[English]

Our next round of questions goes to MP Masse.

You have the floor for six minutes.

**Mr. Brian Masse (Windsor West, NDP):** Thank you, Madam Chair.

Thank you to our witnesses and thank you for your quick three minute presentations. That was my idea to get a lot of witnesses in here, so you can blame me, but I also reached the conclusion early in this discussion that eliminating any one of the four players is not good public policy. I guess I am in the unenviable position here of defending the *Titanic* in terms of the current system, because all I can see is its getting worse by what's taking place here.

I'm going to go to Mr. Geist with my first question.

I'm a little concerned about how we're almost gerrymandering the assets of Shaw here by peeling off Freedom Mobile and then expecting it to be a winner in the market. It seems like a big gamble to me, as opposed to where it currently resides [*Technical difficulty—Editor*] couple of different ways and revenue streams. If we just siphoned off one part of it, I don't know what would be left. It just seems like a bad approach, in my opinion, to trying to provide more competition.

**Dr. Michael Geist:** As you know, I started with the recommendation that this not go ahead. I think you're right that the best case, quite frankly, if our concern is competition and ensuring a viable fourth player in all markets, and preferably even a national player, frankly, this merger simply wouldn't go through.

We see from the perspective of many consumers that bundle-type offerings, where there's an expectation that they're going to buy more than just a wireless service and will buy multiple services, are a pretty accepted part of this for a lot of consumers. Peeling it off into a wireless-only play—and a smaller play at that—at that point in time presents some significant challenges in the marketplace. I don't think there's any doubt about that.

I mean, on the notion of full divestiture—if this does go ahead—then the question was, “Well, what do we do?” That seemed to me to be the best available approach, but I don't disagree: I think it still leaves us with a setback with respect to competition in Canada.

**Mr. Brian Masse:** Thank you.

Ms. Shaban, with regard to the efficiency defence, you brought that out. I disagree with.... There are a lot of great people at the Competition Bureau. I think we have the good skill sets etc. of the people there, but I don't think it has the proper tools to really defend consumers in a modern economy. We've only tweaked it. I've been around for a while, and we've tweaked it only recently, and it wasn't very strong.

What other countries have an efficiency defence? I think that's an important part of the conversation that gets skimmed over.

**Ms. Robin Shaban:** Yes, for sure.

I want to reiterate that it is incorrect to assume that the Competition Bureau has the tools it needs to act in the best interests of Canadian consumers.

When it comes to the efficiencies defence, Canada is, by my understanding, the only OECD economy that has an efficiencies defence like this. I reviewed a database of competition laws across the globe for the last two centuries, and there's only a handful of other countries that have a provision like this—Mauritius, Malta, Barbados. These are small economies that are trying to develop this provision so that their businesses can scale up and compete on the international scale. That's my assumption.

**Mr. Brian Masse:** It can be played almost like an excuse to go ahead, although it's actually going against the principles of reviewing it and protecting competition. It just becomes like a card to be played, to go ahead regardless of the consequences.

**Ms. Robin Shaban:** Yes, exactly. It is a defence, in the sense that it allows businesses to engage in harmful mergers if there are sufficient economies of scale arising from them. The problem with this mechanism is that it puts the burden on consumers. We give these businesses a free pass to undermine competition in the hope that maybe they will be able to compete better internationally, but it's consumers who are paying the price for that.

It raises the question of politics and the political nature of competition policy, which gets swept under the rug when it comes to conversations in Canada.

**Mr. Brian Masse:** I agree with that for sure.

I'll go over quickly to Mr. Winseck.

With regard to this whole issue of profitability, you had an interesting graph on the amount of money that's being made, ranking Canada eighth. We often hear the excuse that we can't reach places like Mr. Wood's, and we've taken in over \$20 billion to \$25 billion—depending on how you want to add up the spectrum auctions over the last number of decades—and then you're showing us that there's quite a profit margin in there.

It just seems kind of complacent to allow the companies.... You know, they're making a profit—even during COVID-19 they're doing quite well—but they can't afford, without massive public subsidies, to take a loss anywhere else in their business plan. It seems kind of an absurd proposition to accept, especially since we're sheltering them from foreign competition.

• (1155)

**Prof. Dwayne Winseck:** Yes, they've maintained extremely lucrative profit margins, in the 30% to 40% range, which is three to four times the average of Canadian industry as a whole.

This idea that we have the eighth-largest market—I was stunned when I gathered this data up over the week—speaks directly to Robin Shaban's point. The efficiency defence may be fine in a small market, but we have the eighth-largest market in the world and what we see is that when it comes to investing in the towers that are necessary to bring service across the country, our big carriers fare very poorly.

**Mr. Brian Masse:** Thank you, Madam Chair.

**The Chair:** Thank you very much. We'll now start our second round of questions.

[*Translation*]

Mr. Généreux, we now go to you for five minutes.

**Mr. Bernard Généreux (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, CPC):** Thank you, Madam Chair.

Thank you to all the witnesses for being here today.

Ms. Shaban, in terms of size, Barbados would probably fit in my riding. Isn't it flawed to compare Barbados and Canada?

[*English*]

**Ms. Robin Shaban:** Could you expand on what sort of explanation you're looking for?

[*Translation*]

**Mr. Bernard Généreux:** Barbados is tiny compared with Canada. Representatives from Rogers and other witnesses told the committee that, because of Canada's vast size and low population density, huge investments were needed. [*Technical difficulty—Editor*] in today's analysis.

In comparisons that take population density into account, Canada ranks quite low in relation to European countries such as France and Belgium. Canada also ranks low vis-à-vis South Korea, a country with which we are often compared. Size matters. Canada is huge, and so are the costs.

When the people at Rogers say they need this acquisition to be able to invest further, does that make sense to you, economically speaking?

[*English*]

**Ms. Robin Shaban:** I understand your question.

I think this comes back to the previous point I made about what the most appropriate way is to support businesses in achieving that scale. Is it acceptable for us to allow businesses to merge in order to achieve the scale they need to, say, cover Canada with telecommunications infrastructure or to compete internationally on the world stage, allowing them to essentially exploit consumers and reduce competition domestically?

The funny thing about the [*Technical difficulty—Editor*] it privileges businesses that have these expensive, expansive infrastructures. The number one user of the efficiencies defence, historically, has been Superior Propane, which is the company I talked about in my opening remarks. They operate a propane distribution network and have successfully used the efficiencies defence three times. Two of those times they were permitted to create full-blown monopolies in several communities across Canada.

There's a trade-off if we choose to create a mechanism like the efficiencies defence to achieve scale. I think scale is important. If Shaw and Rogers are committed to expanding their networks to serve rural Canadians, that is good and important, but I question whether this tool is the right approach, in part because it cripples the competition [*Technical difficulty—Editor*] ability to protect consumers. I think that's really the core of the public outrage that we're seeing with respect to this merger.

• (1200)

**Mr. Bernard Généreux:** Thank you.

Mr. Stein and Mr. White, do you agree with that assertion?

**Mr. Matt Stein:** Go ahead, Geoff.

**Mr. Geoff White:** All right.

I'm happy to talk about the population density argument, and all of these arguments, and explain why they're distractions from the main issue of the day, the main issue that should be before this committee and the main issue you should be focusing on when you speak to the CRTC and the Competition Bureau.

I don't think competition law is really where we need to be looking right now. Yes, there is this awful efficiencies defence. Yes, it's in our law right now. If you try to fix the law to try to shut down this merger, I anticipate years of challenges.

The CRTC currently has what it needs to address the rural broadband problem for Mayor Wood and his constituents. It has what it needs to address Canadians in urban settings who know [*Technical difficulty—Editor*] highest rates in the world and to have terrible customer service to the point of—

**Mr. Bernard Généreux:** Why is that? Can you explain that?

**Mr. Geoff White:** It's because there's a fundamental lack of competition. The big three wireless carriers compete upwards. They don't compete downwards on price. It's innovators like the members of CNOC and EBOX that compete.

**Mr. Bernard Généreux:** All right.

Thanks.

[*Translation*]

**The Chair:** Thank you, Mr. Généreux.

[*English*]

Our next round of questions goes to MP Erskine-Smith.

You have five minutes.

**Mr. Nathaniel Erskine-Smith (Beaches—East York, Lib.):** Thanks very much, Madam Chair.

I want to start with Professor Winseck.

We heard from Professor Geist that, in his view, this ought to not go through and you took the same view. Mr. Geist also then said, if it were to go through, there would need to be a divestment of all wireless assets.

Would you agree with that? Should there be other conditions over and above that?

**Prof. Dwayne Winseck:** I think I'd really insist on holding the line at "this deal should not go through". The reasons for that are twofold.

First, trying to create an imaginary, new fourth competitor to replace one that's already existing is a fool's errand. We've already seen that with the Bell MTS deal. The fourth competitor just hasn't gotten off the ground, and it's been a complete failure. I'm referring to Xplornet here.

Second, when we looked at the United States, they were faced with a similar merger in 2011 when AT&T, the number two provider, went for T-Mobile at the time. The U.S. Department of Justice said no, and what happened immediately afterwards? T-Mobile doubled down on its maverick strategy by offering more affordable pricing plans and much more generous data allowances, and by doing something completely unheard of but that would be certainly welcome in Canada, offering "roam like home" deals to T-Mobile subscribers that allowed them to roam in over 100 countries around the world without any extra bolt-on of \$10 or \$15 a day.

If you go to the U.S. they're—

**Mr. Nathaniel Erskine-Smith:** Can you pause there? In relation to the U.S., Mr. Geist also said that we should be open to foreign ownership. If Shaw is of the view that it doesn't want to continue to operate Freedom, and let's say this transaction is cancelled or a spinoff is required, should we be open to American companies coming into Canada to help operate in this space?

**Prof. Dwayne Winseck:** Yes, I believe we should. We have some of the most restrictive foreign ownership rules in the world. The last time I checked on this, South Korea was the only country in the OECD that had more restrictive rules than Canada.

The thing is, you know, we've been here before. We've seen this plot line before, and this plot line does not necessarily translate into reality. We saw this in the great wireless wars of 2013, when Verizon was seen as the potential white knight just over the 49th parallel. It kicked the tires and it didn't come, all right?

We should, I think, double down on Shaw pushing ahead. It doesn't have to get what it wants all the time.

**Mr. Nathaniel Erskine-Smith:** Mr. Geist, [*Technical difficulty—Editor*] spoken also about the need for MVNOs. I agree. I wonder what you think about the Competition Bureau's view.

In a submission to the CRTC, they emphasized the need for greater competition and emphasized a role for MVNOs, but it was almost like a very targeted role to better facilitate or better create and allow for facilities-based competitors to get a foothold and to really grow facilities-based competition, pointing to Eastlink and Freedom in particular. Do you think MVNOs should be used in such a targeted way or should that be used more expansively?

• (1205)

**Dr. Michael Geist:** I think there's room to be more expansive. When I mentioned in my opening remarks the half-measures, I think the approach we've seen on MVNOs is reflective of that, where the starting position of course was “no”, because there's this tendency, seemingly, never to allow for these new forms of competition.

Once we started to see continually the experience of the high pricing in Canada, there was at least an acknowledgement that perhaps this might offer up some possibility, but again, doing so in a slow way.... We see that coming out of the regulator and we saw that [*Technical difficulty—Editor*] as well.

This is a debate that's been ongoing now for so many years. It seems pretty clear that what we've done to date hasn't worked and that we need to be far more aggressive from a policy perspective.

**Mr. Nathaniel Erskine-Smith:** Could I ask about the debate that has been going on for years? You've certainly followed this debate more than I have. When we look at MVNOs delivering lower prices, that certainly matters a great deal to me. The biggest digital divide in this country is the income one.

When it comes to the other digital divide, though, the one that Mr. Wood is most concerned about, and rightfully concerned, we want companies to build. Actually, there is—and Competition Bureau CRTC have noted this—a challenge here with competing interests. The more we allow MVNOs, potentially, the big three tell us, “Well, we're not going to build as much.”

Has there been any conversation in this space about where companies build, in that for a certain period of time they have a monopoly over that build but then it is opened up after...? In other legal spaces, we have this framework. Has this been part of the debate?

**Dr. Michael Geist:** Well, I think there's been a recognition that the companies, given a choice, will double down on urban areas that they're already serving, as opposed to going to the rural and remote communities. They seem to almost hold out for these kinds of situations. We saw it in Manitoba and we're seeing it now. They

hold out those kinds of goodies and say, ““Hey, if only you approve this, then we'll really go ahead into these communities.””

That policy and that strategy haven't worked. I think my view is that it has really been the role of governments to do a better job of saying that we have to invest in these communities if the companies aren't willing to do so and to use a more open approach as part of that.

**The Chair:** Thank you very much, Mr. Geist.

[*Translation*]

We now go to Mr. Lemire for two and a half minutes.

**Mr. Sébastien Lemire:** Thank you, Madam Chair.

My question is for Mr. Klass, from the Canadian Media Concentration Research Project.

In 2019, Rogers, Telus and Bell had 91% of all subscriber-based revenues in Canada, and Shaw had a 6% market share. If Rogers keeps Freedom Mobile, Rogers, Telus and Bell will have 97% of the market.

What is your take on that?

[*English*]

**Mr. Ben Klass:** Any market share that's going to the smaller companies is essentially the result of the government policy to bring in a fourth carrier in all regions of Canada, which began in about 2007. A number of those companies that entered the market in 2008-09—Mr. Stein mentioned Wind Mobile, which is now Freedom Mobile owned by Shaw—have sort of failed and have been consolidated and what we're left with is Freedom, Videotron, in Quebec and Eastlink in the maritime provinces. Basically any of the gains and any of the competition that we've seen have been a result of the sustained policy that's been required to bring in these competitors.

If this merger is allowed, it would be tantamount to the government's admission that it is no longer interested in supporting real competition in this space. I think that is why Dr. Winseck and I are really behind the idea that this merger should not be allowed to proceed. We've started to see these competitors getting over a threshold where they can have a serious effect on prices across the board, not just the lower prices they offer themselves, by having an impact on the existing larger providers and forcing them to respond.

Even if, which I think is a very big “if”, someone else was found who could viably run the wireless assets if they were divested—which I very much doubt—we would be starting from square one. It's like *Groundhog Day* all over again. Canada's mobile wireless market has gone through these attempts by policy-makers to introduce competition in the 1990s and the early 2000s. Finally now we have a situation where these regional competitors are starting to take hold and have a real impact. I think you're saying that the market share for Rogers may go up over 90% in some places. Well, that's what we're going to get here. We're going to get just the large companies left in much of the country, with no real aid in sight.

• (1210)

[Translation]

**Mr. Sébastien Lemire:** Thank you.

**The Chair:** Thank you.

[English]

Our next round of questions goes to MP Masse.

**Mr. Brian Masse:** Thank you, Madam Chair.

Mr. Geist, you mentioned the CRTC and policy. It appears that the CRTC is really good at making sausages. I'm just not sure that's what we need. They're doing something like a directive letter from the minister. Is that what you are suggesting is a policy change with the CRTC? What would be your advice to give it more direction?

Sometimes they'll stick their toe in the water on certain things, but then they just get cold feet at the end of the day and don't go the full distance for consumers.

**Dr. Michael Geist:** It does feel that way. I think we had a brief period under the former chair Jean-Pierre Blais where there was a pretty consistent effort to put consumers at the centre. Respectfully, I think that has changed under the current chair, and I highlighted a number of ways to do that. We've already had policy direction that hasn't worked as effectively. I think government can send signals certainly to the regulator and take a strong stand where it doesn't get the kind of outcome that it's seeking, where the law allows for that. I don't know that there are [*Technical difficulty—Editor*] point in time, given the shift that we've seen. This initially was a more subtle one and now I think is a more obvious one. It does not just cut across these issues that we're talking about; we're seeing it on the broadcast side as well, where there is a draft policy direction to the CRTC on a forthcoming bill, although it doesn't say very much.

**Mr. Brian Masse:** Okay.

Mr. Klass, with regards to the public investment, the spectrum option and even just infrastructure, should we be putting more terms and conditions on those facilities that we invest in? I see right now we have companies [*Technical difficulty—Editor*] that they can get to work and we have a municipality here—as a good example—applying. Should there be more structure provided if there are going to be public assets as partnerships?

**Mr. Ben Klass:** Absolutely, and I think the design of those types of policies is crucial. We saw, when the new entrants came in in 2007, again conditions attached that required companies to offer roaming and tower sharing at commercial rates. [*Technical difficulty—Editor*] spent a decade at the CRTC coming up with rates and

terms that the companies would have to abide by in offering those types of things. To the extent that we can structure the infrastructure arrangements towards sharing and towards efficient deployment of infrastructure that's available to all competitors, we will see better outcomes for consumers and for the industry as a whole.

**Mr. Brian Masse:** Thank you.

**The Chair:** Thank you very much.

Our next round of questions goes to MP Poilievre. You have five minutes.

**Hon. Pierre Poilievre (Carleton, CPC):** Thank you.

Dr. Geist, you said that in the event that this merger goes ahead, the wireless assets of Shaw would have to be spun off and there would need to be policy changes to invite more foreign competition into the Canadian marketplace. Could you describe mechanically what you mean by that? What would be [*Technical difficulty—Editor*]? If you had to write out kind of an IKEA instruction manual for us, what would it say?

**Dr. Michael Geist:** Let's focus on the foreign ownership issue. I think Professor Winseck rightly noted that we've seen this movie before, and it doesn't end well. Certainly the Verizon experience is suggestive of that.

The starting point, quite frankly, is to remove really all barriers and open the market up to foreign entrants. I'm not sure that it's going to result in a fundamental change. When Verizon, as Dwayne said, kicked the tires on Canada, they saw enormous opposition from the big three and just decided Canada wasn't worth their while. There were other places where they could make money without having to fight three large incumbents.

However, opening up the market fully so that a company could think about entering—potentially not just with those assets, but with some of the larger assets as well—might provide at least someone with the perspective that this is an attractive enough market. From a consumer perspective, bringing in that kind of pricing power, that sort of roaming ability on a global level, opens the door, I think, to opportunities that Canadians don't experience, but consumers in many other countries do.

**Hon. Pierre Poilievre:** What regulatory changes would that opening up require?

**Dr. Michael Geist:** In this situation it would certainly require removing any sort of cap that we have right now. You can grow into a larger foreign-owned entity, but you can't take over a Canadian entity above a certain threshold. We could remove those thresholds. We would also have to think about whether or not we want to maintain the current restrictions on broadcast ownership, because of course we've seen that some of the largest companies also own large broadcast assets.

While Bill C-10 actually does remove some of the references to Canadian ownership, so in some way the government maybe already is moving a little bit in that direction, perhaps inadvertently, that's certainly part of the equation. Perhaps it's part of a broader discussion as to our comfort level with foreign ownership of broadcast assets. If the issue or the concern comes around airing Canadian content and some other regulatory obligations, I honestly don't see why those couldn't apply to foreign-owned companies in the same way as they apply to Canadian-owned ones.

• (1215)

**Hon. Pierre Poilievre:** Right. What would [*Technical difficulty—Editor*], if the condition for approval were that all overlapping services of Rogers and Shaw be spun off?

**Dr. Michael Geist:** I think that's the most palatable answer, absent saying no to the merger altogether. There are good reasons for still saying no. Shaw is a viable innovative competitor, as we've already heard, so taking them out of the market in this space is, I think, ultimately a loss for consumers. However, if for legal reasons or other reasons the decision is made that this is going to go ahead, that is the best available alternative.

**Hon. Pierre Poilievre:** You seem to say that, even if the wireless and other overlapping services are spun off, the merger would still be a net negative. Why is that? Why exactly would that be a negative?

Again, if you're removing Freedom [*Technical difficulty—Editor*] assets for which there is competition and you're giving it to some other third provider through an auction or something, why wouldn't that be just as good?

**Dr. Michael Geist:** I think you're injecting a fair amount of uncertainty into the marketplace, because we have to know... The "who" really matters in this case. If it's a who that's comparable to a Shaw that can offer up some of the bundled services and can compete economically with some of the larger players so it's a fairly seamless transition, then the response might be that it's about as good as we're going to get and there are probably fewer negative implications.

I think we talked about this a little bit earlier. If it's just another stand-alone player, harkening back to the days of Wind, I think that is a setback because these assets are stronger in the marketplace from a competitive perspective with a stronger player behind them.

**Hon. Pierre Poilievre:** Do I have any more time left, Madam Chair?

**The Chair:** You have 17 seconds.

**Hon. Pierre Poilievre:** Do you see any prospect for alternative technologies to replace what we have now, as opposed to just changing the regulatory model?

**Dr. Michael Geist:** I think technology is always going to continue to adapt, and we'll see satellite and some other players come into the marketplace. However, at its heart, for so many consumers for the foreseeable future, these wireless assets are absolutely essential from a communications perspective.

**The Chair:** Thank you very much.

Our next round of questions goes to MP Jaczek.

You have the five minutes.

**Ms. Helena Jaczek (Markham—Stouffville, Lib.):** Thank you so much, Madam Chair.

As the member of Parliament for Markham—Stouffville, my primary concern is that my constituents have access to high-speed Internet at an affordable price. For the last three of these sessions, I have not seen any upside for my constituents in the acquisition of Shaw by Rogers. However, as members of this committee, we have a responsibility to make recommendations at the end of this study, and we have heard of a number of potential changes to the mandate of the CRTC and to some of the issues related to the Competition Bureau.

I would like to start with Ms. Shaban. You have, of course, told us about the efficiencies defence and your feeling that Rogers may very well use this defence and may in fact be successful in rendering the Competition Bureau unable to refuse this particular merger. Is there anything in that efficiencies defence that you would like to see retained? I'm assuming you would like to see it removed completely, but could you speak a little about what the purpose was originally and whether there are any elements that might need to be retained?

**Ms. Robin Shaban:** The original purpose of the efficiencies defence was to allow businesses the opportunity to achieve scale, so that they could better compete internationally. That's the more superficial rationale. The layer below that is that the efficiencies defence exists because decades earlier, in the 1960s, there was a fundamental shift in how scholars and legal experts understood the role of competition policy. This shift was away from the original understandings of antitrust in the United States, from a more consumer-focused, economic fairness and justice lens to one that focuses exclusively on efficiency.

It's important to have efficiency as part of the mandate of competition policy. In that sense, it would make sense to retain some of that goal in any revisions to the Competition Act.

The problem with the efficiencies defence is that it's very structured in the way it forces the Competition Bureau and the Competition Tribunal to assess efficiencies. It pits consumer interests against those of businesses and gives preference to businesses.

As our economy evolves and we move towards a more digital age, the philosophy underpinning the efficiencies defence isn't really that relevant. I'm not sure whether the efficiencies defence has actually achieved what it set out to do. Again, the number one user of the efficiencies defence has been Superior Propane, and I'd be interested to know whether Superior Propane has actually become a Canadian champion in the global sphere. There's a lot of research that we need to be doing on the effectiveness of our competition policies, and we actually don't have the tools to do that compared to other jurisdictions.



To answer your question directly, the efficiencies defence as it is, section 96, has to go. Maybe there is a way to imbue the act with a frame of efficiency, but the way that provision is structured is not conducive to creating equitable economic outcomes.

• (1220)

**Ms. Helena Jaczek:** Thank you.

Professor Geist, you surprised me considerably when you said that under the current chair the emphasis at the CRTC seems to have changed. I'm wondering.... Surely the chair has a very clear-cut mandate, or is it in reaction to some sort of policy directives that the chair has received? I'm surprised there's a lack of clarity as to the direction of the CRTC.

Could you address how the CRTC's mandate is structured to allow for some flexibility?

**Dr. Michael Geist:** Very well.

Quickly, with the 30 seconds I have, I'd start by noting that governments have provided what are essentially mandate letters to CRTC chairs.... We had that with Jean-Pierre Blais, for example, so there is some effort at times from governments to try to provide some guidance for what they expect to see.

I guess, more fundamentally, every chair takes on the position with certain goals in mind. Sometimes they're well articulated and sometimes not. Sometimes we'll get a speech where we'll see what some of the priorities are. My view would be that under Blais we saw a really strong emphasis about consumers being at the centre of the communications system, both broadcast and telecom, and we've seen a shift away from that under the current chair.

**Ms. Helena Jaczek:** Thank you.

**The Chair:** Thank you so much.

Our next round goes to MP Baldinelli.

You have the floor for five minutes.

**Mr. Tony Baldinelli (Niagara Falls, CPC):** Hello, everyone, and thank you, Madam Chair.

Thank you, witnesses, for being with us today.

Earlier in the hearings when we listened to both Rogers and Shaw make their presentations, some of the quotes I had taken down, I believe from Mr. Shaw, are that "we see our economy and country at a turning point" and that we need "scale" to do the investments in connectivity that are required. Later on, I'm not sure if it was Mr. Shaw or Mr. Natale talked about 5G being "at the heart of everything" they will do and that scale matters.

In listening to Mr. Klass and Mr. Winseck, I saw your slide that talked about "bigger" not being "better, faster, or more innovative". I was wondering if you could elaborate a little more on that notion. Shaw and Rogers have talked about a \$2.5-billion investment in the 5G network and a \$6-billion investment in western Canada. Is scale as important as the competition?

That's for you, Mr. Winseck or Mr. Klass.

• (1225)

**Prof. Dwayne Winseck:** Sure. I'll take an initial stab at it and then turn it over to Ben.

I think these are not things that we have to trade off against one another. I think what we've seen is that companies like Eastlink, Vidéotron and Shaw have significant scale to make the capital investments in the new fibre and new generations [*Technical difficulty—Editor*] technology that we need. They have done so, and they have carved out significant market share.

As I note in the background data for my presentation, when you look at it, you see that Shaw spends proportionally more of this revenue—something that the industry calls "capital expenditure intensity"—than Rogers does [*Technical difficulty—Editor*] burdened with debt, as Rogers is, and Rogers faces significant new costs coming over the horizon with the spectrum auction for the 3,500 megahertz that's essential to 5G and the Hockey Night in Canada stuff. If this deal comes through, it is going to be so over-leveraged that one has to wonder about its ability to make these investments.

The last point I would make on this is that they can promise the moon, but once this deal goes through, how are you going to verify anything? How are you going to hold their feet to the fire if they don't make the investments that they say they will?

Go ahead, Ben.

**Mr. Ben Klass:** I'll just add that a lot of it turns on a decision about what sort of economy and society we want to have. Do we want to have large powerful champions that we hand a tremendous amount of power to and then put a lot of trust in, or would we prefer to see a more decentralized competitive environment that is operating according to the sorts of pressures exerted by a marketplace?

This is something that's relevant, I think, in the context of this discussion about the efficiencies defence, because Rogers is presenting this as "we're going to spend  $x$  billion dollars". Mr. Natale confirmed in front of this committee that it would be new investment, but they're presenting the counterfactual, the status quo of each company going on its own, as if it's the only alternative.

We heard from Dr. Winseck that when AT&T was not allowed to take over T-Mobile, T-Mobile shifted its strategy and became more innovative. In Canada, we have an example in the network-sharing agreement of Bell and Rogers, which demonstrates that a company doesn't need to merge to provide world-class telecommunications service.

Bell and Telus collectively share a network. They've had this agreement in place since 2001. It's explicitly designed so that neither company has to put out the capital outlay that would be required to cover the entire country with mobile networks, but so both of them are able to offer service. It's a way of achieving efficiencies and scale without the attendant problems of creating a corporate hyper giant that would be, from coast to coast, in control of everything, right?

You see that there are alternatives. If you say no to Rogers, even if they don't invest, Rogers and Shaw, for instance, could enter into such an agreement and come to the same outcome without the problems.

**Mr. Tony Baldinelli:** I just have a quick question.

If allowed to stand without any conditions or stipulations, would there not be a fear that there could be some further consolidation that takes place in this sector, as opposed to more entrants and more competition?

**Mr. Ben Klass:** Certainly there have been rumours for years regarding this merger, but I would point to SaskTel, which I'm sure Telus is looking at very anxiously. It's an example of a company that has done very well in rolling out rural networks, so I think this would open the door to further consolidation.

**Mr. Tony Baldinelli:** Thank you.

**The Chair:** Thank you very much.

Our next round of questions goes to MP Jowhari.

You have the floor for five minutes.

**Mr. Majid Jowhari (Richmond Hill, Lib.):** Thank you, Madam Chair, and all of our witnesses for their testimony today.

Let me start with you, Ms. Shaban. There has been so much talk about the efficiencies defence. I understand that this defence can be used as it relates to gaining economies of scale as well as cost savings, with the purpose of their being able to remain competitive internationally. Is my understanding correct?

• (1230)

**Ms. Robin Shaban:** Yes. I'd say that's accurate.

**Mr. Majid Jowhari:** Okay. Thank you for that.

In your opinion, when Rogers and Shaw merge, what international competition are they trying to fend off? Is this clause really relevant to this merger?

**Ms. Robin Shaban:** I was thinking about that as I was preparing for this committee. I personally would feel more comfortable with the efficiencies defence if it applied to firms that had a real intention to engage in international commerce and were trying to scale up in Canada so they could perform on the world stage.

It's not clear to me how or if Shaw and Rogers are planning to do that and, as I mentioned before, it's not clear how some of the other firms that have benefited from this defence have leveraged that opportunity to increase Canada's competitiveness internationally.

**Mr. Majid Jowhari:** If we have restrictions on foreign investment coming in, do we really have international competition that we are trying to fend off if that restriction is there?

**Ms. Robin Shaban:** I think it's less about fending off competition and more about giving businesses the opportunity they can [*Technical difficulty—Editor*] outside of Canada. I think that better reflects the intention.

What you're describing sounds like a negative consequence of the efficiencies defence where, when we let businesses in Canada get really big, it's then difficult for international competitors to enter Canadian markets and provide that competitive rivalry we need in order to keep prices low and promote innovation. Yes, I think what you're describing there is a negative consequence of the efficiencies defence.

**Mr. Majid Jowhari:** Thank you.

In a sense, if you opened up the competition and allowed foreign internationals—for example, some U.S. company—to come in and invest in Shaw, it might help Shaw enlarge its footprint across Canada, with it therefore not only remaining as a fourth player but also expanding its service range. Is that something we should consider?

**Ms. Robin Shaban:** Yes, and I think that the efficiencies defence works against that plan, because it allows businesses in Canada to get bigger than they otherwise would, and it gives them a dominant position in the market, which they can then use to protect their dominance.

The Verizon example is really illustrative. Verizon contemplated entering Canada. It hadn't entered yet, but the telcos responded to its announcement by lowering prices. It's not like they lowered prices because consumers had options. In my view, they were lowering prices because they were trying to signal to Verizon that if they entered, there'd be a fight, and it would be less profitable for them to do so.

Part of the problem of concentration in the telecommunications sector is that it allows—

**Mr. Majid Jowhari:** I'm sorry. I apologize for interrupting. I have about a minute left and I'd really like to go to Mr. White.

Mr. White, you suggested that between the Competition Bureau and the CRTC, they really have all they need. If I understood you correctly, you specifically said that this is really not about the Competition Bureau. It's about the CRTC, and the CRTC has what it needs. Can you expand on what you meant specifically by saying that the CRTC has what it needs? What is that need?

**Mr. Geoff White:** This is a great discussion. I think it's important that you hear from the small competitors who are here and are willing to serve Canadians.

With respect, certainly there's a competition issue here, and certainly this has to go through the bureau for approval. Certainly there's an issue with the efficiencies defence. You haven't heard one positive thing about it from anyone, from the consumer groups, from Ms. Shaban—

**The Chair:** Sorry about that. Perhaps you'll be able to pick it up in the next round.

Our next round of questions goes to Mr. Lemire.

[*Translation*]

**Mr. Sébastien Lemire:** Thank you, Madam Chair.

My question is for Mr. Stein and Mr. White.

When Pierre Karl Péladeau appeared before the committee on March 29, he listed some of the key conditions that made it possible for Videotron to become the fourth largest provider in Quebec. The first condition was having a roaming agreement in place so Videotron could count on the networks of the big three operators while it—the little guy—built its own network. The second condition was tower sharing among the operators.

Do Canadian regulators need to impose other conditions so that a fourth, fifth or even sixth competitor can establish a solid presence in Canada's telecommunications market?

• (1235)

[*English*]

**Mr. Matt Stein:** Yes. I'll make a quick comment and then [*Technical difficulty—Editor*].

First, it's important to understand that Shaw, with Freedom.... Before it was Freedom, it was Wind, and Wind itself I referred to earlier as the instigator. It was an instigator of competition; it wasn't a vertically integrated, well-monied company that had many other assets and many other types of business in the same region. It was an instigator; it was scrappy; it was trying to find ways to compete in a tough market. It's that behaviour that Canadians need.

What they've had in the time under Shaw has been a very weakened version of that, and you can see many examples of how Shaw, over the time it has owned Wind, has adapted and modified it. It's become far more like the big incumbents we're referring to here. That's important to understand, first of all.

I'm going to turn it over to Geoff to elaborate further.

**Mr. Geoff White:** I feel like we need a CrossFit clock here, so I can watch the time count down.

Mr. Lemire, the fourth player model is clearly broken. We need a full, open, wholesale access model. The CRTC currently has the tools for it.

Mr. Jowhari, you asked where we should look for this. You look to section 7 of the Telecommunications Act, which says the telecommunications policy of Canada is to respond to the social and economic needs of users. You look at section 27 of the Telecommunications Act, which says that the rates charged by Canadian carriers should be just and reasonable. You look at the CRTC's recent consultation on mobile virtual network operators, and you [*Technical difficulty—Editor*] send a strong political message to the CRTC to do something about this problem.

Yes, the efficiencies defence is going to be a problem and this merger may go forward from a Competition Bureau perspective, but the CRTC regulates this industry and has clear policy direc-

tions. It just needs the government to stand behind it when it makes a decision.

**The Chair:** Thank you very much.

Our next round of questions goes to MP Masse for two and a half minutes.

**Mr. Brian Masse:** Thank you, Madam Chair.

Thanks, Mr. White, for finishing that intervention. It was good to get an idea of the specifics.

Ms. Shaban, Rogers made a play for Cogeco earlier this year. We went out strongly against it, or I did anyway, because I was concerned about the precedent it could set. It was a hostile takeover, and it fell apart.

Then the spectrum auction coming up right now was delayed by six months. This clearly has a significant impact on the spectrum auction; it'll have an impact on the number of customers for the auction; it will impact how and whether there are set-asides in policy for it.

Should the spectrum auction now be held off? Do you have an opinion on that? I'm looking for some direction about that. Should it be extended, or...? If Shaw doesn't bid, then we say no, and then later on they're out of the market for this auction, and that's not a good sign.

**Ms. Robin Shaban:** Yes, that's an intriguing question. I don't have an informed view on that.

**Mr. Brian Masse:** Okay. Does anybody else—Mr. White or Mr. Stein or Jean-Philippe—want in on that? You're going to be affected by that. I don't know if you want to comment or not, but the floor is yours if you do.

**Mr. Geoff White:** The problems of high prices, lack of competition and even how to better serve Mayor Wood's constituents are really solved by service-based competition. It's the reason we have competition. We had it for long distance; we had it for home phone. We had, for a period of years, a workable model on home Internet. We pay the incumbents to use their facilities; we pay them a markup as well. If you apply this on the wireless side of things too, there'll be a win for Canadians—

**Mr. Brian Masse:** So do we hold off on the spectrum auction or not? That's what I was looking for. I have only 30 seconds.

Sorry, Mr. White.

**Mr. Geoff White:** I will say it: Yes. Yes, hold [*Technical difficulty—Editor*]

**Mr. Brian Masse:** Thanks.

I know that I only had seconds, Madam Chair. I'll send it back to you.

Thank you to the witnesses.

**The Chair:** Thank you very much.

Our next round of questions goes to MP Dreeshen for five minutes.

**Mr. Earl Dreeshen:** Thanks again.

I wanted to make one comment. It was mentioned earlier that rural communities would be happy just to get good 3G. I agree that's important, but for the agricultural industry, 5G is important to them. Hopefully, this won't be forgotten as we look to the future.

Municipalities have a great many things they have to deal with, certainly, such as laying fibre and putting up towers. All of these things are issues as they go through everyone's communities.

Mayor Wood, has there been any backlash when these projects have been proposed and go through the approval process?

• (1240)

**Mr. Jim Wood:** Through the chair, thank you for the question.

Actually, we've seen the exact opposite. Our community has been very welcoming and understands that we have something really good coming. We're still in our initial stages, of course, but I can talk about some partnerships. We've partnered with some of our small towns as well and what's happened through that is that they've now in fact been able to see the level of service. In our small towns, we're talking about a gigabyte.

We're in fact trying to have high service, not just service, because our standard of service for some of these communities is so small that it does not meet rural needs. One good example, for instance, is that the local medical clinic in one of our towns now has the ability to efficiently upload X-rays. Just the ability to have good health services within our communities is so important. These partnerships are extremely important, and we can't do these alone.

I want to come back to a lot of the comments I've heard today. I'm going to deviate just a bit. I've been all around the world, and I've taken a phone with me wherever I go. I've been to some third world countries and I've seen the costs there, and I just can't believe it. You throw a few dollars down and you get a month of service, including data. We come home and there's no competition whatsoever. There's no incentive to have competition in rural Canada if we don't have that backbone infrastructure here.

I hear people talk about the Competition Bureau and so forth, but what we need to do is get the backbone of all that infrastructure in place and allow all the companies [*Technical difficulty—Editor audible*] that infrastructure. You know what? I'm not worried about where that company is from, whether it's from Canada, the United States or anywhere in the world. We want to be competitive in rural Canada, and as rural Canadians we need to have that level. I don't believe that we even have good 3G right now, let alone.... I have so many dropped calls that I can't believe it.

In rural Canada, we're so far away from what we're hearing about 5G.... I appreciate the question on 5G, but we need to start something here. Our goal at Red Deer County is to get a gigabyte for fibre, to get at least 200 megabytes to our rural people and to in fact have something that's not going to stall out. Currently, people are paying for services that they're not getting, and those services are so slow that the Internet actually stalls out. They've put so many people on that one bandwidth that as people come on it slows down and finally stops.

I think we need to see the change, and that change will never happen without legislation. I know that I'm deviating from the purpose of your meeting today, but if that legislation comes into play, there in fact will be absolutely no need for Rogers or Shaw to merge. They would be able to use that open network that's available, and everyone is going to thrive.

**Mr. Earl Dreeshen:** Thank you very much.

Mr. Stein, your organization [*Technical difficulty—Editor*] telecom sector and in response to the larger telecom companies' extensive lobbying of the government to call into question the CRTC's ruling on wholesale access rates. You suggested that we should adopt a system of retail-minus rate setting, whereby the interim rates are automatically set at the incumbents' own retail price minus a set percentage. Can you explain what that suggestion is about and who it would help?

**Mr. Matt Stein:** Sure. The answer at the back is easy. It will help Canadians.

Let me explain. Retail-minus has been used in a number of places by the CRTC before. Our recommendation was that the CRTC use it to set interim rates. Remember that when the CRTC sets a rate, they have to do a long study and they have to figure everything out, but in the meantime, they know they're going there, so they set a rate in the meantime and, as said, in the words of the chair of the CRTC the last time this committee met on that topic, eventually everybody is made whole and we just need an interim rate in the meantime.

By setting it at retail-minus, by setting the retail-minus at 50% or 30% or something, it's very easy to set that rate and make it a rate that competitors can use to offer competitive services, unlike today, where not enough attention is spent on that rate. Instead, sometimes the interim rate is even more expensive than retail. For example, companies like the members of CNOC obviously cannot go ahead and create a competitive service and pay more for the service than a customer would in their own retail environment.

• (1245)

**Mr. Earl Dreeshen:** Thank you very much.

**The Chair:** Thank you.

We'll go to MP Lambropoulos for five minutes.

**Ms. Emmanuella Lambropoulos (Saint-Laurent, Lib.):** Thank you, Madam Chair.

I'd like to thank all of our witnesses for being with us today.

I apologize in advance if my computer shuts off. I don't think it will, but it's been warning me several times to restart. We'll see what happens.

I'm hearing everybody say that we need more competition. I understand, and I fully agree. I think the prices definitely need to drop. I represent a very socio-economically diverse population. Very many people in my riding would definitely benefit from better prices, even though we live in Quebec. So I agree with you 100%. It's just that currently, not all communities in Canada are connected. We don't have [*Technical difficulty—Editor*] needed in order to connect everyone just yet. Part of this merger is a promise to connect rural and indigenous communities, as many of you I'm sure have heard. This is something that we don't hear very often, because it's not worthwhile for big companies to necessarily go into these communities and have them connected.

I'd like to know from you about the ways in which we can incentivize these big companies to build in these areas, especially if we're going to open the door to competition and allow everybody to use this infrastructure, as some of you have suggested. What are the ways in which we could incentivize and make sure these companies see a reason or a need to actually go into these communities? The goal is really to have everybody connected as soon as we can.

**Mr. Geoff White:** If I may, I'll go first.

It's a very important issue, obviously. It's something our members support. Let me just say that competitors are not just competing on price. There are non-price factors that they compete on as well. Some of our members, for example, respond to the language needs of different community groups in Canada.

The one thing this government and this committee shouldn't do is recommend that a monopoly is somehow needed to solve this problem, because it hasn't worked. The monopoly isn't working. We're talking about these very large companies that were found by the CRTC to have engaged in misleading and aggressive sales practices with their customers in urban areas. There has to be a certain amount of scrutiny on the motives these companies face. With the right regulatory measures, which is wholesale open access, there will be a business case. You will be able to let the smaller competitors ride on those networks.

On these questions about rural investment, these companies that are taking the Canada emergency wage subsidy and paying dividends at the same time, yet earning abnormal rates of return, it's the business model you have to be skeptical of and how they're aligning their priorities. It hasn't been serving the rural and remote areas. It's the smaller competitors that our association represents. Using a model that is tried, tested and true from the CRTC, that we suggest will work....

If I may, when the CRTC appears before you, I would ask them when they will be making their decision on mobile virtual network operators. That is really what's holding us back right now. They won't give us an answer. It's very unusual for a regulator to take such a long amount of time for an issue that everyone understands to be so important. We have zero indication in this industry of when this will happen.

**Ms. Emmanuella Lambropoulos:** Thank you.

Ms. Shaban, you seem eager to respond. If you'd like to add something, go for it.

**Ms. Robin Shaban:** My quick comment is that perhaps the solution is not a market-based one. Perhaps the solution is having communities themselves build infrastructure, just like Red Deer County. I also understand that the City of Toronto is implementing its own initiative to build a Wi-Fi network. Perhaps we shouldn't be relying on the big telcos to build this infrastructure. Maybe there's just no way for it to be profitable to them or to hold them to account to actually follow through on their commitment.

**Prof. Dwayne Winseck:** I'd like to add a couple of points.

I think Robin is dead right. The experience of Mayor Wood there is spot on. The interesting thing is that Mayor Wood's experience is replicated across the country. It has been for over a century.

I think there are a couple of really important things right now. One, the CRTC has just concluded its rural broadband barriers initiative. The story is all laid out there, the evidence is all laid out there, and there's a problem. One of the problems there is the lack of regulatory fortitude. As I like to say, the regulator needs to steel its spine.

The second thing is that we have to stop juxtaposing MVNOs versus the fourth maverick player. As soon as T-Mobile in the United States was told that it couldn't [*Technical difficulty—Editor*] by AT&T, one thing it did was to open up its wholesale access infrastructure to MVNOs. MVNOs in the United States took off. So we need both. It's not either-or.

I will stop there.

• (1250)

**Ms. Emmanuella Lambropoulos:** Thank you very much.

**The Chair:** Seeing that we have a few minutes left, we'll do another round of slots for each of the parties. We'll start with MP Dreeshen.

You have the floor for five minutes.

**Mr. Earl Dreeshen:** Thank you.

I think I'd like to go back to Mr. Stein to allow him to flesh out, a little bit more, the wholesale access rates.

Also, you suggested that we should consider splitting the large incumbents into two parts: retail and wholesale. You suggested, if these things don't happen, competition is going to suffer permanent damage. I wonder if you could expand on what you feel those proposals would be like and how this would address the merger that [*Technical difficulty—Editor*].

**Mr. Matt Stein:** There were a few things in there, but in the interest of time, I think I'll start at the back.

What you're referring to, when you talk about splitting up the major telcos, is structural separation, separation where the infrastructure.... I referred earlier to the infrastructure owners. The underlying infrastructure is owned by one company and the retail operation—the brand, the customers and so forth—is in another. By setting it up that way, as has been done in some other countries around the world, very large economies, the retail body ends up buying on well understood and well disclosed terms from the infrastructure body, but at the same time, other retailer bodies can do so at the same rate, with the same tools, with the same prices, with the same timelines and so forth. This enables service-based competition, which is exactly what I was referring to earlier.

Did that cover your question?

**Mr. Earl Dreeshen:** Yes, thank you very much.

Perhaps now I could go back to Mayor Wood.

We've been discussing some of the concerns and issues, and I think pretty well every one of us—the witnesses and the people from our committee—has talked about the importance of municipalities being able to do what is necessary to make things work for them.

Could you expand somewhat on what you think the federal government could focus its efforts on to encourage smaller companies to provide broadband services to rural areas?

**Mr. Jim Wood:** The first thing is that they're just not going to do it. They will not come in if the dollars are not there. If we're going to, in fact, make this happen, we have to have that open competition to be able to use that network that is already there. If they can use that network that is already there and be competitive in providing that service, we know that the free market will work.

What's happening right now is that the free market is not working, because the cost of the investment is so high that no one can afford to get into these more rural markets. I'm probably going to sound like I'm repeating myself again, but I think it's extremely important that we partner among all levels of government to build that fibre backbone into the most rural areas. If we do that and create an open network, and I saw lots of nods earlier on talking about this, that will be the way that we encourage these small companies. They will come up.

The company that's providing service for us right now is a small company. What I've noticed is that, if we gave them the opportunity to tender in and tender against the larger companies, what we found was that we were getting tenders of 50% less than the major companies—I'm not going to say the names; that wouldn't be fair because it was a tender—but we got 50% less cost and larger service than we were providing.

I would suggest that what we need to get into a competitive network is to build this backbone and have the governments—federal, provincial and local governments—work towards somehow establishing this. We would be very willing to share the part that we've done already. The problem that we're having right now is that we undertook this particular project with some hope that we might get some help from others, but we were not going to wait forever. We've already outlined, as we've heard from many, that this is an essential service across Canada and having a decent.... If we're go-

ing to remain competitive in the world, we have to be able to compete.

In rural Alberta where I live—I'm a farmer when I'm not the mayor; I'm very proud to be a fifth-generation farmer—we need technology. The technology is growing, and I'm finding that we now have people who are sending me emails saying that, if we bring this technology into Red Deer County, they want to move here and they want to bring their business here. We're an area of extreme growth. We're a little different from most, but we're fortunate enough to have a few dollars to put into this. Some of my neighbouring municipalities are not as fortunate as we are, and I—

• (1255)

**The Chair:** Thank you.

We'll now move to MP Erskine-Smith.

You have the floor for five minutes.

**Mr. Nathaniel Erskine-Smith:** Thanks very much, Madam Chair.

Ms. Shaban, you talked about the efficiencies defence. It was brought to my attention from a competition lawyer that we're also unique in some ways in the competition context here in Canada in that if the transaction is approved, the bureau can't review an M and A transaction after a year. Other jurisdictions are able to look back much further. Is this your view as well? Do you think that's another area we might want to consider changing, going forward?

**Ms. Robin Shaban:** Yes. Something that's interesting about the merger review process in Canada is that there are two types of clearance. One type of clearance commits to not even reviewing a merger after it's been approved. I understand too that even if there are these review condition time frames, they may be smaller than in other jurisdictions.

There are all sorts of smaller aspects of the act that, when you take them all together, really hamper the Competition Bureau's ability to do its job not only to monitor competition but also take action when competition is threatened, both in the merger context and in other parts of the Competition Act.

**Mr. Nathaniel Erskine-Smith:** It's beyond the purview, I think, of our focused study on the Rogers-Shaw deal. If you could submit a brief at some point to the committee outlining some other areas of concern in the Competition Act, I personally would find that invaluable.

**Ms. Robin Shaban:** Gladly.

**Mr. Nathaniel Erskine-Smith:** Thank you very much.

I'll move to Mr. Stein and Mr. White, specifically as it relates to service-based versus facilities-based competition. I put the same questions to the telcos when they come to our committee.

There's the resellers space when it comes to broadband, so why not recreate the resellers space as it relates to MVNOs? It seems pretty sensible, from a consumer point of view, to drive down prices. At the same time, if we put the argument back that the telcos make, that we need to build out network more and they hold out this great promise of 5G, how do we...?

When you say that service-based competition can deliver what Mr. Wood wants for his community, isn't it the case that we do want private investment building out additional network, and that if we open up that space immediately there may be disincentives to make those investments? How do we square that?

**Mr. Matt Stein:** First off, you referred to what Mr. Wood would want, but earlier today Mayor Wood talked about the story we all remember of long distance. Most of us should remember spending 30¢ a minute per call from Montreal to Toronto. Those days are long behind us because of service-based competition. We would all remember paying \$40 or \$50 a month for home phone. Those days are behind us due to service-based competition. It's much the same with Internet, although it's sort of faltered in the past couple of years. That's important to understand.

The other side is regarding investment. There are two pieces there. Number one is that the CRTC designs these rates with the cost to build it [*Technical difficulty—Editor*]. They take the cost of capital. They take the cost to build. They take interest. They take everything, and plus they apply a markup. All the [*Technical difficulty—Editor*] ability to directly monetize, or even over-monetize, Canadians. That's all that service-based competition limits.

The other thing I'll just throw out there is that we're talking about the same companies that are receiving millions, or in many cases billions, of dollars of public money and then whining that they need to get a better return. Public money—

• (1300)

**Mr. Nathaniel Erskine-Smith:** I hear you on that. They'll get no sympathy from me on that front.

**Mr. Matt Stein:** Well, I just feel it's important to....

Sorry.

**Mr. Nathaniel Erskine-Smith:** No, I completely agree with the comment.

With the limited time I have left, I have a question relating to this particular transaction. If the CRTC were to say that MVNOs are completely open, away we go, and we're growing competition, would that have an impact on your view of this deal? Are we going to care as much about this deal if MVNOs are approved in full?

**Mr. Matt Stein:** I think you still care, but the most important thing is that there is an instigator of competition. MVNOs, if starting from zero, eventually will build up to become instigators of competition. Wind was there. Freedom to a slightly lesser extent is there now. So it still matters. The way those play together, as I believe Mr. Winseck suggested, would be to have that completely open MVNO and then also to insist that the customers and brand of

Freedom be divested into an MVNO, or into multiple MVNOs, to give them some momentum and see if things get going.

**Mr. Nathaniel Erskine-Smith:** Thanks very much.

When it comes to 5G getting built, it seems like I should get 3G pennies on the dollar. That would address the income digital divide that we have.

At any rate, I've run out time. Thanks very much, Mr. Stein.

**The Chair:** Thank you very much.

We'll go to our next round of questions.

[*Translation*]

Mr. Lemire, you may go ahead for two and a half minutes.

**Mr. Sébastien Lemire:** Thank you, Madam Chair.

Mr. Klass, only 91% of Canadians subscribe to wireless services, but 99% have access to an LTE network.

What do you think accounts for the gap between real and potential usage?

[*English*]

**Mr. Ben Klass:** When you look at adoption levels in Canada, you see that not only are we significantly behind comparable countries' levels, but you find that the disparity is primarily concentrated amongst the lower-income [*Technical difficulty—Editor*]

While you have almost universal adoption amongst those who are well off, those families earning less than \$50,000 or \$70,000 a year are really struggling to pay their bills, right? We've heard that maybe 3G, depending on the dollars, is good enough, but I say that in Canada we shouldn't accept poor Internet for poor people. There isn't some different thing about people earning less money such that they don't need cellphone service. What we need is to bring down prices to meet this crucial need, especially in a time when the economic situation of everyone is being pressed upon and the demand for communication services is greater than ever.

I think this merger is certainly not going to address that problem. If anything, it will exacerbate that concern. To the extent that we've seen improvements in this situation, it has been due to the advances in communications competition from companies offering lower prices and more data.

**Prof. Dwayne Winseck:** I'd just like to add one thing to what Ben said, if I may. It's not just about the kind of downward pressure on adoption rates. It's even that once you do have adoption, it's the pressure and the constraints placed on usage that have kept Canadian rates at half the OECD level or a third of the U.S. levels. Five years ago, the U.S. was at where Canada is now. These are significant constraints on what people can and cannot do with their mobile phones and their mobile Internet.

[*Translation*]

**Mr. Sébastien Lemire:** Mr. White, I think you wanted to comment. You said that low population density should not factor into the discussion.

Do you think it affects the prices we are paying right now?

[*English*]

**Mr. Geoff White:** I understand the question to be, does the low population density affect the price we pay? No. The lack of competition affects the price that we pay in Canada. The rates that members of this association we represent charge for home Internet are 5% to 35% lower, and if you open that up on the wireless base by recommending that in your report, it will be a huge bold win for Canadians.

**The Chair:** Thank you very much.

For our last round, we'll go to MP Masse.

You have two and a half minutes.

**Mr. Brian Masse:** Thank you, Madam Chair. I think we've apparently solved everything in the telco sector here this afternoon, but I'm going to go back to the original premise of what we have here.

Professor Geist, maybe I'll go to you. If we say no to this merger right now, there are going to be a lot of suggestions about the big fallout of not doing this. What do you think is going to take place next? I know that you might need a big crystal ball for that, but we've already seen Rogers make a play on Cogeco in a hostile takeover. We've now seen a shift in our market to consolidating versus building. Should our public policy be really pushing back and saying, no, we need to be building, not consolidating?

• (1305)

**Dr. Michael Geist:** That's a great question. I think Ben earlier referenced the prospect that SaskTel would be next on the shopping list for some of the players if this goes ahead.

I think that in some ways the Manitoba deal set this up. It sent the message that it was possible to get these deals through as long as you provided a grab bag of goodies and just said, "Hey, look at all the nice things you're going to get if you pass this."

But then we do see that there is a cost to be paid. We've seen it in terms of the kind of innovation in pricing that takes place in that market. If the signal coming out of this is that this goes ahead, then I think it becomes open season for some of those remaining players. If we stop it here, I think it reaffirms that strong signal that consumers and competition are the policy priority in the country, and as long as we twin it with things like MVNOs, as we've been hearing about, there is at least the prospect of better competition and better pricing in the country.

**Mr. Brian Masse:** Thank you.

With that, Madam Chair, on a positive note, we will conclude and go back to you—unless you have questions. I'm sorry. That's not my role to say.

**The Chair:** Thank you so much, MP Masse.

Thank you, everyone, for your excellent testimony today. It has been very enlightening.

Before we adjourn, I want to remind the members to get their witness lists to the clerk as soon as possible for the next study.

Ms. Shaban, if you could submit that brief to the clerk, he will make sure that it gets circulated in both official languages to the committee members.

With that, thank you, everyone, for being with us today.

[*Translation*]

Thank you very much to the interpreters. It's always a pleasure to have them with us.

[*English*]

This meeting is adjourned.









Published under the authority of the Speaker of  
the House of Commons

---

### SPEAKER'S PERMISSION

---

The proceedings of the House of Commons and its committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its committees is nonetheless reserved. All copyrights therein are also reserved.

Reproduction of the proceedings of the House of Commons and its committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the Copyright Act. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the Copyright Act.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

---

Also available on the House of Commons website at the following address: <https://www.ourcommons.ca>

Publié en conformité de l'autorité  
du Président de la Chambre des communes

---

### PERMISSION DU PRÉSIDENT

---

Les délibérations de la Chambre des communes et de ses comités sont mises à la disposition du public pour mieux le renseigner. La Chambre conserve néanmoins son privilège parlementaire de contrôler la publication et la diffusion des délibérations et elle possède tous les droits d'auteur sur celles-ci.

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la Loi sur le droit d'auteur. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre des communes.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la Loi sur le droit d'auteur.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

---

Aussi disponible sur le site Web de la Chambre des communes à l'adresse suivante :  
<https://www.noscommunes.ca>