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Official Report of Debates (Hansard)

Tuesday 29 November 2016

Journal des débats (Hansard)

Mardi 29 novembre 2016

Standing Committee on Regulations and Private Bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Protecting Rewards Points Act (Consumer Protection Amendment), 2016

Loi de 2016 sur la préservation des points de récompense (modification de la Loi sur la protection du consommateur)

Chair: Ted McMeekin
Clerk: Christopher Tyrell

Président : Ted McMeekin
Greffier : Christopher Tyrell

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Tuesday 29 November 2016

Mardi 29 novembre 2016

The committee met at 1600 in committee room 2.

PROTECTING REWARDS POINTS ACT (CONSUMER PROTECTION AMENDMENT), 2016

LOI DE 2016 SUR LA PRÉSERVATION DES POINTS DE RÉCOMPENSE (MODIFICATION DE LA LOI SUR LA PROTECTION DU CONSOMMATEUR)

Consideration of the following bill:

Bill 47, An Act to amend the Consumer Protection Act, 2002 with respect to rewards points / Projet de loi 47, Loi modifiant la Loi de 2002 sur la protection du consommateur en ce qui a trait aux points de récompense.

The Chair (Mr. Ted McMeekin): Okay, ladies and gentlemen, members of the committee, we'll call this meeting of the Standing Committee on Regulations and Private Bills to order. Today, we're dealing with Bill 47, An Act to amend the Consumer Protection Act, 2002 with respect to rewards points. As I understand it, there are several people who wish to speak to this—

Mr. Arthur Potts: Chair?

The Chair (Mr. Ted McMeekin): Yes?

Mr. Arthur Potts: If I could have a moment. I know that we only have three speakers. With a whole hour set aside, I think we only set aside four minutes for each of the delegates. Maybe with the consent of our friends opposite, if they wanted to take more minutes, we might allow them to speak longer than the allowed four minutes?

The Chair (Mr. Ted McMeekin): If that's the will of the committee.

Mr. Arthur Potts: Could I have unanimous consent that we move to up to 10 minutes, and then the regular two minutes, two minutes and two minutes, as stipulated?

The Chair (Mr. Ted McMeekin): Is that agreed? Done.

Interjection.

The Chair (Mr. Ted McMeekin): Who said no?

Mr. Joe Dickson: I said no, Mr. Chair.

The Chair (Mr. Ted McMeekin): Put it to a vote, then. You were only kidding, right? Were you? No.

All those in favour of the motion? Please indicate opposed, if any. Okay. Carried.

Today's committee meeting will be broken into two parts. In the first part, we'll be hearing from those who have comments with respect to the bill. That will be maybe the better part of an hour. Then at 5 o'clock, we're instructed by the House to immediately go into clause-by-clause on the bill itself.

With that, we'll move to our fist presenter.

Mr. Arthur Potts: Chair, for clarification, you said "immediately." I understood that we wouldn't be able to do clause-by-clause until 5.

The Chair (Mr. Ted McMeekin): That's what I said.

Mr. Arthur Potts: Immediate? Okay.

The Chair (Mr. Ted McMeekin): At 5 o'clock we'll go immediately into clause-by-clause. I think I said that. If I didn't—

Interjection.

The Chair (Mr. Ted McMeekin): Yes. He's all excited. I know that.

Okay, so we'll proceed.

AIMIA INC.

The Chair (Mr. Ted McMeekin): Is Aimia-Aeroplan's Vince Timpano—I know he's here because he introduced himself to me. Mr. Timpano, sir, you have 10 minutes or so, and then there will be questions.

Mr. Vince Timpano: Thank you very much for this opportunity to address you today as you consider Bill 47, An Act to amend the Consumer Protection Act, 2002 with respect to rewards points. My name is Vince Timpano and I am the president of our coalitions businesses across the Americas at Aimia. Aimia has been a pioneer in the development of the loyalty rewards business, and we now own and/or operate loyalty programs in 17 countries around the world. Aeroplan is by far the biggest of those and the one that you're likely most familiar with.

Last year, our five million active members redeemed for 1.9 million flight rewards, the equivalent of Aeroplan members filling 11 Boeing 777s every single day of the year, or one flight every three and a half minutes earned with Aeroplan miles.

We know that people are passionate about their rewards programs and we understand why this issue is before the Legislature and why this committee is looking at this issue of expiry policies in rewards programs.

Ten years ago, Aeroplan introduced a policy that would have seen Aeroplan miles expire after seven years. This kind of expiry policy is known as date-stamping. Ultimately, though, for a number of reasons, we decided to cancel it before it was to take effect a few years ago. This decision cost us money, both a sizeable one-time hit and an ongoing impact to our profitability. We've had to work very hard—very hard—to make sure that our members and our partners were protected from the impact of this decision.

Today, our program offers its members the best value in the market when it comes to flight rewards, and we want to continue to be able to be the best value in the market. With this in mind, we wanted to draw your attention to what I think might be an unintended consequence of Bill 47 as it is currently written.

While we believe the intention of the bill is to address date-stamping policies, Bill 47 may also prohibit our current policy, which requires that members remain active in the program in order to maintain their points.

Our policy sets a very low bar for members to maintain their active status. It simply requires a single transaction every 12 months to keep all your miles indefinitely. That transaction can involve redeeming some miles for a gift card, earning miles by filling up at Esso, using you card while online shopping or donating some miles to charity.

We believe our policy is reasonable, fair, understandable and, importantly, easy to adhere to. Our policy is fundamental to the health of our business. It encourages members to stay active and engaged in the program, which is a critical part of our value proposition to our partners such as Air Canada, TD, Home Hardware and Toyota.

Because we want to do everything we can to keep those Aeroplan members active, we work very hard to make sure that our policy is well-explained, in both our terms and conditions, and in our monthly member statements, and through our digital communications. Our mobile app, by example, always shows our members exactly what date their miles would expire if they stopped participating in our program.

The long-term health of our business depends on active membership. For us, a member who expires because of inactivity represents a lost customer. But we also recognize that because Aeroplan is free to join and members don't pay for miles they collect, not everyone who joins wants to continue to receive the benefits of membership. Members who don't want to use their membership even once in a 12-month period have effectively dropped out of the program. They have decided that, for whatever reason, Aeroplan is not for them.

We believe that this legislation should allow for loyalty programs to have an activity policy—in our case, our 12-month rule—and that we should be able to expire the miles of those members who effectively drop out of the program by not meeting an extremely modest threshold.

The notion of loyalty, or its absence, has come up a lot in the media in the last few months. I would say that, for us, loyalty is not a one-off action. We need members to stay active in Aeroplan, and in return, we reward them for that ongoing loyalty.

The 12-month activity policy Aeroplan has today is the standard for almost every program in our industry. We believe that it is fair and reasonable. With that in mind, we would request that, if it is determined that Bill 47 should proceed, this committee consider an amendment that explicitly addresses this requirement.

I thank the committee for its time and welcome questions.

The Chair (Mr. Ted McMeekin): Okay. We'll go to questions: to the government side. Go ahead.

Mr. Vic Dhillon: Thank you, Mr. Timpano, for your presentation.

The Chair (Mr. Ted McMeekin): Could you approach the mike a little closer so we can hear you?

Mr. Vic Dhillon: Sure.

In the world of loyalty programs, customers understand that loyalty points are a promise by the company to reward the customer for shopping at a certain store and using the program attached to their credit card. Can you tell the committee how Aeroplan keeps this promise by recognizing the role they have with customers who collect and redeem these points?

Mr. Vince Timpano: Yes, I'd be happy to. When you consider the changes we made in 2013, when we reversed our decision on date-stamping, in addition to that, since that time, we have been entirely focused on ensuring a positive member experience and ensuring that we deliver the best in market value associated with our program. I'll give you three specific examples.

The first one: When we established our new partnerships with TD and CIBC, they were designed to provide more value to our members and help them earn points faster.

The second example I would give you is through the launch of what we call Market Fare Flight Rewards. Market Fare Flight Rewards enable a member to get access to any seat that's available on Air Canada for booking. In essence, if a seat is available for booking, they have the opportunity to use their mileage to redeem for that seat at a current rate, at the market rate.

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We introduced this year something we call cashless redemptions. It's important because what it allows members to do is to use their miles to cover things like fees and surcharges and taxes, as opposed to using cash as a means to do that.

We have a lot of other examples that I could draw to, but the take-away through this is that today our members enjoy the best program in the market as a result of the changes that we've made and the effort that we continue to apply against doing right by our membership.

Mr. Vic Dhillon: Thank you. We understand that your company cancels points for inactive users. But you also give customers ample notice and the ability to use these miles, including donating them to charities before they expire. Can you tell the committee the steps your company takes before you expire points for inactive users?

Mr. Vince Timpano: I'd be happy to. This is something we work very, very hard at. Having an active membership is the core to our program, so there are things that we do to ensure that they understand the policy.

Let me first start with the time of sign-up. When a member signs up, we make it explicit to them about expiry, and it's included in our terms and conditions.

The Chair (Mr. Ted McMeekin): Okay, we'll go to the opposition. Sorry, the official opposition.

Mr. Jim McDonell: You talk about the value for the points that you give out. Is it essentially one for one, or is there some—I know that you have issues where points actually end at some time. Does that allow you to give extra value to these points than if you didn't have some delimiter at the other end?

Mr. Vince Timpano: I want to make sure that I'm clear on the question, because when you accumulate a mile, so long as you stay active, they don't expire.

Mr. Jim McDonell: Yes. I guess my point would be that the points have a value.

Mr. Vince Timpano: Yes.

Mr. Jim McDonell: If you have no ability to—the program you're doing, where they expire after a time—and I get that. If somebody passes away or they don't use the points, there's a program that allows you to get them off the books.

Mr. Vince Timpano: Through redemption.

Mr. Jim McDonell: With that, though, what it does allow you to do is that you can give more value to a point than if you weren't able to do that. Your points would be more diluted in value; is that right?

Mr. Vince Timpano: Yes.

Mr. Jim McDonell: So you're actually providing extra value by doing it that way.

Mr. Vince Timpano: There's no doubt about that. Just so that I'm clear, what you're getting at is the fact that you actually have miles that expire—if they didn't expire, the reality is that the program would feel the economic impact as a result of that, and because of that, it would have a diluting effect on the program. That would be correct.

Mr. Jim McDonell: That's what I mean.

Mr. Vince Timpano: Okay.

Mr. Bill Walker: Are there any other jurisdictions that have gone through a very similar process to what you're going through right now?

Mr. Vince Timpano: Not that I'm aware of. Not to say that it doesn't exist, but not that I'm aware of.

Mr. Bill Walker: In the case of some of the deputations that we've been provided with, if someone has tried very stringently to be able to win and utilize those points so as to not lose them and they've had technical difficulties or challenges, is there any grace period, if that's documented and provided to you, so that you can see a clear track record where they've actually tried to honour what you're asking?

Mr. Vince Timpano: I think it's really important here, when you have a policy, that you adhere to the policy. With that said, we do understand. If there are special circumstances, like a technical one, we would take that into consideration and deal with that on a one-off basis.

Mr. Bill Walker: Can I just ask a point of clarification on Mr. McDonell's question? If someone were to pass away and had 10,000 points—I think I heard you say "redemption."

Mr. Vince Timpano: Yes.

Mr. Bill Walker: But who could redeem them in that case?

Mr. Vince Timpano: The beneficiary.

Mr. Bill Walker: The beneficiary, if they've identified one. And if there's no identified beneficiary? Or is that mandatory?

Mr. Vince Timpano: There's a requirement for them to notify who the beneficiary is, I believe. I'd like to come back to you on that.

What ends up happening is, when the member passes away, the beneficiary would receive the opportunity to use the miles over a one-month period. If they couldn't use the miles over a one-month period and if they wanted to transfer over to their account or create an account for themselves, then there's a fee to do that and then they can transfer over the miles. Then, all that applies is the inactivity rule.

Mr. Bill Walker: Thank you.

The Chair (Mr. Ted McMeekin): We'll go to the third party.

Mr. Jagmeet Singh: Thank you very much for being here. Thank you for your presentation thus far.

For example, someone is five years into your program and they use this program regularly for five years and they accumulate a lot of points and they're very active, and then for one year, they go on a trip around the world and they choose to use another card and they don't use any points for a year. They've contributed five years' worth of value, but just by not contributing for one year, they'll lose their five years of value. Does that seem like a fair proposition to you?

Mr. Vince Timpano: It is the policy.

Mr. Jagmeet Singh: But does that seem fair to you?

Mr. Vince Timpano: I think what's important here is that the member understands exactly what the policy is.

Mr. Jagmeet Singh: But the fairness of someone contributing regularly for five years—

Mr. Vince Timpano: I understand that, but I think what's clear to the membership when they sign up, through the terms and conditions, and with all that we do to articulate through reminders, whether it's on a mobile app or whether it's on a monthly statement, or whether it's easily accessible through aeroplan.com—it should be no surprise to anybody in terms of what the requirements are.

The thing that I would remind is that the threshold to maintain activity is as simple as filling up at Esso. It's as simple as donating a few miles to a charitable donation. It is not an onerous task.

Mr. Jagmeet Singh: The issue is that the fairness piece of it is what people get offended by. This is what constituents have told me. The idea that they could be so active for so many years, and that one year of inactivity would expire all their years of loyalty is exactly what people are offended by. That strikes them as just unfair. It doesn't seem right that they would lose all that they have accrued, just because for whatever reason, for a year—they go on an exchange program; they travel and they choose to use another card; they're not buying any Esso because they're in a different country. Whatever it is, it just doesn't seem very fair. That's the issue. I don't know if you can address that, though.

Mr. Vince Timpano: I'm attempting to, respectfully. The terms of the membership are clear. The threshold to achieve active membership is quite low. We go through a fairly rigorous process to ensure that it's communicated on a fairly frequent basis.

Mr. Jagmeet Singh: That's fine. Thank you very much.

Mr. Vince Timpano: I did want to make—Mr. Chair, if I could—

The Chair (Mr. Ted McMeekin): Time's up, but make your one last point.

Mr. Vince Timpano: There was a clarification that I wanted to make. I may have misspoken. It says, "In the case of a death, the beneficiary has one"—

The Chair (Mr. Ted McMeekin): Can you speak into the mike? I'm having trouble hearing you.

Mr. Vince Timpano: Sorry. There was one point that I made in terms of the question on the beneficiary, and I may have misspoken. It says here, "In the case of a death, the beneficiary has one year to redeem." I just wanted to be clear on that.

The Chair (Mr. Ted McMeekin): Okay. Thank you very much.

Mr. Vince Timpano: Thank you.

MR. MICHAEL JUDD

The Chair (Mr. Ted McMeekin): Is Mr. Michael Judd here? Mr. Judd, if you could cozy up to the mike as best you can.

Mr. Michael Judd: I'll do my best.

The Chair (Mr. Ted McMeekin): I appreciate that. Welcome. It's good to have you with us.

Mr. Michael Judd: It's good to be here. Thank you for inviting me.

The Chair (Mr. Ted McMeekin): The next 10 or 11 minutes are yours.

Mr. Michael Judd: I don't think I'll take that long. I actually didn't prepare anything formal. I'm here to speak to the membership experience. I'm a long-time member, and I don't represent any of the companies here. I'm a long-time collector, specifically in the Air Miles program, and a number—

The Chair (Mr. Ted McMeekin): We're still having trouble hearing you, sir. Speak into the mike, please.

Mr. Michael Judd: Oh, sorry. I'm a long-time member, specifically in the Air Miles program, and in other programs too. I've concentrated most of my efforts in the Air Miles program, and it has been wonderful—for the most part, a great Canadian success story, until recently.

It has been very, very difficult. I've had a very trying time. I've been trying for over seven months now to use some of my miles. I have a great deal of them. I have about 29,000 of them at present. Over the years, I've collected about 80,000, and I've used a lot of them. I spend an awful lot of money with their business partners, and I've tiered my purchasing towards this. That would speak to some of Mr. Singh's statements about loyalty and what's fair.

I have collected a lot and I should be able to get access, and I haven't been able to. I've sought out many levels—many levels of government and also many levels within the Air Miles corporation, by email, by phone calls. At times, those phone calls have taken an entire day, on one phone call, on speakerphone—just continuous holds, circular holds and transfers. It has been very painful.

I have recently had some contact with the president's office, but only because of a formal complaint with the Better Business Bureau. They responded only to that. They did not respond to any of my direct requests.

I have an issue with that. I've spent a lot of money in support of their business. I've been very loyal. It's a loyalty program; I've been very loyal. Now it's a problem.

Speaking again to my own personal case, I wanted a flight recently. I've got a lot of points. I can fly around the world a couple of times with what I have—if I can use them, and I haven't been able to.

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They've tried to, shall we say, help me out of late. They've made some suggestions—however, at much more expense than what I should have. By example, I should be able to go to New Zealand for 14,000 Air Miles. I started trying seven months ago. They now want me to spend just shy of 22,000, because they say, "For that portion, we don't have any real Air Miles anymore. We have to do it through our"—I believe it's vacation packages. They've got a number of divisions. "That's going to cost us more, so we have to charge you more."

Not my fault—it's not my fault if their system goes down. It's not my fault if their system continually goes down. It's not my fault that they don't have enough people answering the phones.

I have a number of individuals in my network, and friends and family, that are having the exact same challenge. We try and we try and we try, and we just can't succeed to get through and use our miles.

I don't think that's fair. I think it's actually a planned thing. They have miles sitting over here as a corporate debt, and as soon as they expire them, it goes over into this column. It's not a profit if they have to carry them on their books as a debt. Unless I'm wrong—maybe I'm doing the math wrong—that's my perception of it. It really and honestly feels like I'm being blocked, with purpose and intent. It's a big challenge.

I don't need to get into all of the details. I've got hundreds of attempted communications, and phone calls not answered and not returned when they said they would. Seven months of continuous work, and I'm still not there. They haven't responded to the BBB in regard to my complaint. The BBB closed it, unresolved. Not good for a major corporation.

Most of Canada is involved in this program in one way or another, or one of the other reward programs—almost everybody. There are so many members that it counts up as more than every man, woman and child.

I really appreciate that this group of people is taking this on as a serious matter.

The Chair (Mr. Ted McMeekin): You have another five minutes if you want—

Mr. Michael Judd: Oh, I can't gobble that up.

The Chair (Mr. Ted McMeekin): Okay, we'll start with the official opposition.

Mr. Jim McDonell: How long have you been involved in the program?

Mr. Michael Judd: I've been involved in the program since just after it started. It would be late 1993 or 1994, I believe—a long, long time.

Mr. Jim McDonell: You're saying you noticed a difference in the level of service you're getting?

Mr. Michael Judd: The level of service, I would say, is less than 1% of what it was in the 1990s. It is, right now, from my perspective, appalling. And it was wonderful when I first started—very easy.

Mr. Jim McDonell: Thank you.

Mr. Bill Walker: Just a point of clarification: In your written submission that you provided us, if I'm reading this correctly—I just want you to clarify. You've used this multiple times; you've taken a trip before. But you've given us an example of now, this time, when you went in and tried to utilize this, there are a number of new, unanticipated fees that you've never been charged before.

Mr. Michael Judd: There are fees; there are roadblocks; there are unanswered calls. There is basically a brick wall sitting in front of me, and that was not there before.

I've done a lot of trips on this. I did my honeymoon on it, many years ago. I stayed a week in the Chateau Lake Louise. It was wonderful.

Mr. Bill Walker: You gave us an example of a flight, and you gave us an example of buying a blender. In both of those cases, how I'm reading it is that it would actually cost you more if you used your miles than if you just went out and purchased directly through either the flight or through a retailer.

Mr. Michael Judd: With those two particular circumstances, yes, because I started doing research into how else I can spend them. I can't get through, as far as flights. I don't want them to go away—if they expire, they're gone—so I wanted to try to get something out of it. A blender was one example that I did give you, and I had to give up a combination of Air Miles and dollars to get that blender.

Mr. Bill Walker: Any notification or communication at all about these new unanticipated fees that you've never paid before, so that you knew when you were going in that you were actually going to experience them? Or was that a total surprise to you?

Mr. Michael Judd: It was a total surprise that it was at that level. I did manage to speak to one or two individuals over the past few months. In regard to the flights, it was very difficult to even get defined what it was. It's services and fees and—okay, what? It was very difficult. The same with the blender. It's very difficult to even get what the dollar value of that service and/or fee would be. But I did a simple check that any member of the public would do. I opened the catalogue to a retailer that I would go to and I said, "Okay, there's the blender. What's it going to cost me?" I was like, oh, hang on, it's actually a $2 difference that I've got to give up—pick a number—with the 600 or 800 Air Miles. And I went, "Okay, this doesn't make sense. What's my return on investment? Less than half a cent." It's ridiculous.

Mr. Bill Walker: I'm going to run out of time, probably. Your last point here is, "If no resolution with Air Miles," you believe that the Attorney General should "charge Loyalty One and all the executives involved directly with fraud." I don't see anything, but I trust you also want to maintain your points until you can actually cash them in because you feel entitled to them?

Mr. Michael Judd: Yes. Very much so, yes. That's how I personally feel. I'm not a legal expert. That's how it's left me feeling and that's how I've written the letter to you. I'm not a legal expert in regard to that, but I feel I made an agreement with a corporation for a service, which I have, and I made that agreement years ago. They've provided that service, and I've provided the loyalty. It was a great relationship for many, many years. Now I'm still providing the loyalty, but there is no service. I can't even get access to the stuff that I collected for what I want to collect, and their explanations are poor.

Mr. Bill Walker: The next fellow's legal. I'm not sure if he's an expert for sure, but he's definitely a legal guy—

Mr. Michael Judd: Excellent. I'd love that.

The Chair (Mr. Ted McMeekin): We'll go to Mr. Singh.

Mr. Jagmeet Singh: This is true. In my past life I was definitely—

Mr. Michael Judd: Excellent.

Mr. Jagmeet Singh: I guess I still am technically a lawyer.

Interjection.

Mr. Jagmeet Singh: I forgot it all in this job.

I just want to clarify a couple of things. I think I followed what you're saying. In your points, and I think the member just alluded to it as well, when you tried to book a flight, the combination of points—well, not even just the combination of points; the dollar amount that you were charged was more than it would take if you booked the flight directly. Am I following you right on that?

Mr. Michael Judd: Yes.

Mr. Jagmeet Singh: Or more or less?

Mr. Michael Judd: Yes. In fact, the taxes and fees on one flight that I looked at—because I was trying to look at ways to spend it. The taxes and fees on one flight that I was looking at, by example, for Frankfurt, were very, very close. They were slightly less but very, very close—just the taxes and fees—as if I booked the flight.

Mr. Jagmeet Singh: If you had booked it?

Mr. Michael Judd: Yes. I was just, "Well, how can the taxes and fees be more than the flight? What's going on here?"

Mr. Jagmeet Singh: Okay. I get that, and you said that before you believed that you would be able to fly to New Zealand on 14,000 points and now it was more like 22,000. How do you know that? What's your—

Mr. Michael Judd: I had a written offer for that through their vacation—I think it's called vacation planning department or package deals and vacations, something along that line. They did some research to try and find me a flight. This was in response to the Better Business Bureau. It took ages. It took seven months to get there. And their response back was, "All our standard Air Miles are gone. However, through this division we might still be able to find you a flight." They came back with one response and I'm like, "Whoa, hang on, that's not fair." I told them so and I said what I wanted back out of it. They took about two weeks to respond to that, and of course, those flights were gone and they had to do it again. When they did it the second time, the price went up again; it went up another 1,000.

Mr. Jagmeet Singh: Okay. And then in that scenario, were there any extra fees that you had to pay or was that just straightforward?

Mr. Michael Judd: Actually, on that scenario for New Zealand, there were taxes and fees that I would say for that flight were reasonable. It was about $200.

Mr. Jagmeet Singh: Okay. And have you tried looking at—it seems like they're suggesting that you should try package flights or something not as specific as Frankfurt or New Zealand, maybe something more like the Caribbean. I'm just inferring. Is that what they're suggesting, that there's a certain package that you could try that's more affordable?

Mr. Michael Judd: Their initial response back was to try and sell me something through their package vacations well in excess of the Air Miles that I had, so I'd be giving some more money. They wanted to sell me a coach tour of New Zealand. My goal was just to go there. That's where all my family is. I just want to go and visit my family. It's very simple. I saved for that and I want to use it the way I have in the past for dozens of years, right?

Mr. Jagmeet Singh: Okay. Thank you.

The Chair (Mr. Ted McMeekin): We'll go to the government. Mr. Potts.

Mr. Arthur Potts: Mr. Judd, thank you very much for coming down here again to meet with us and talk to your experience. You are, in fact, the archetypal consumer, which gave rise to why I wanted to do this bill. I appreciate you sharing your experience, particularly on the customer service side.

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I guess you would appreciate, with the expiration, that there are a lot of people now using the service and trying to get through, probably much larger than they would have experienced in the past. Do you feel they have put in enough resources in order to manage this increased demand leading up to the expiration? And if not, would you welcome an opportunity if Air Miles were to come out and say, "We're going to put a moratorium on the expiration and give people more time to use the resources, to use the points, as they hoped and anticipated"?

Mr. Michael Judd: That's a tricky question. In some ways I would say yes, but in other ways, no. I don't think they should expire. I'm an active member. The last speaker spoke to that, the activity levels and so on. I'm an active member. I have been an active member since it started, yet they're going to be yanked.

I was not informed properly of this, as I would have been by any other corporation—an insurance company, bank, or whatever. I would have received a note in the mail. It would have been bright pink or orange or chartreuse or something and said, "Whoopsie, we're looking at doing this."

But I didn't get anything like that. I actually found out by way of one of their business partners, the Bank of Montreal. They said, "You'd better look into this, Mr. Judd. Your Air Miles are going to expire." Uh-oh.

Mr. Arthur Potts: We've been hearing from many consumers who have had difficulty finding out how many miles they had, because the website, as you explained, was crashing. You'd get a phone call in to actually speak with a customer service rep and they weren't available. Offices would close, and then your waiting time online would disappear. These are the kinds of experiences you explained to me before.

Do you think that the company should have put more resources into the customer service side of this?

Mr. Michael Judd: Definitely, if you're going to make a substantive change to a business agreement—unilaterally, as they have done. I wasn't asked if I was accepting of this. We had an agreement. I was not asked if I would accept this.

Mr. Arthur Potts: And that's the intent of this bill, that on timelines alone they shouldn't expire because you are an active member. Under the Aeroplan group, for instance, you would continue to qualify just by being active indefinitely. That would be, for you, a much more reasonable outcome.

Mr. Michael Judd: Very much so. I enjoyed his presentation, to be totally honest. I thought, "Wow. I wish I had had that experience."

Mr. Arthur Potts: Excellent. Thank you.

The Chair (Mr. Ted McMeekin): Mr. Judd, Thank you very much.

Mr. Michael Judd: Thank you.

LOYALTYONE

The Chair (Mr. Ted McMeekin): Our final presenter, members of the committee, is LoyaltyOne Corp.: Mitchell Merowitz and Todd March, I believe. Perhaps you could tell us which is which, and we could get you on your way.

Good, you're lined up at the mikes. That's great.

Mr. Mitchell Merowitz: Good afternoon. On behalf of LoyaltyOne, thank you for the opportunity to appear in front of you today. My name is Mitchell Merowitz, and I am vice-president of corporate affairs at LoyaltyOne. I am here with Todd March, senior vice-president and chief financial officer of LoyaltyOne.

If I may, prior to our prepared remarks, we would like to acknowledge Mr. Judd and his comments today. Mr. Judd, we know that our team has been in touch with you. We are aware of your concerns and we are working to resolve your issue.

However, let me please say this to the committee: Mr. Judd's experience is not the norm. We receive more than 13,000 direct customer contacts and process over 42,000 redemptions a day. This translates to an order every two seconds, totalling over $2 billion in rewards value over the last four years. The program is working, and the vast majority of collectors continue to have positive interactions with the program.

I'll ask Mr. March to continue.

Mr. Todd March: Good afternoon. LoyaltyOne owns and operates the Air Miles reward program. We're an Ontario-headquartered company with 1,200 employees in our University Avenue and Mississauga locations.

The Air Miles reward program has approximately 11 million collector accounts actively engaged in the program across the country, with more than 220 leading brand-name partners that issue points. Four million of these households are located in Ontario.

Loyalty programs add billions of dollars of economic benefit to Ontario and Canada each year by positively affecting consumer sales, and engagement with manufacturers, service providers and businesses. In fact, more than 12 million redemptions are made yearly across Canada. Think about that.

Compare the yearly redemption activity to the small number of collectors who are expressing dissatisfaction, and you will determine that the Air Miles program is working for the vast majority of consumers.

LoyaltyOne, as well as others who participate in many aspects of the loyalty industry, strongly oppose Bill 47 for the following key reasons:

The bill will have a negative impact on the structure and design of loyalty programs. Simply put, Ontario consumers will bear the brunt of government-directed change, questioning the value and benefit of the loyalty programs.

The bill will have a negative impact on all businesses with loyalty programs that have Ontario consumers, in addition to those who also support the loyalty industry in Ontario. The impacts will be immediate and severe, including employment, operational and capital expenditures, retail sales, manufacturing, and service and supply.

The bill sets a dangerous precedent. It proposes to enable government intervention in a contractual agreement between a company and its consumers, which puts all of Ontario's retail and service sectors on notice that they too may have their contracts and business models disrupted as the government deems politically appropriate.

Of equal concern for LoyaltyOne is the way this bill has been put forward without consultations with the loyalty industry and business community, seemingly without regard for Bill 47's negative impacts and unintended consequences.

As soon as this bill was tabled, we began to engage with MPPs and others at Queen's Park about this bill and its impacts. We understand that the government will be taking amendments here today, amendments that we received late last night, that we strongly believe are ill-advised and uninformed. Had the government taken the time to consult with industry, it would have received the feedback needed in order to address this issue in a more appropriate manner.

Now the government has put all loyalty programs on notice, and has essentially handcuffed business with respect to the management of its own affairs. This will have a negative impact on the loyalty landscape in Ontario.

Let me be clear: The impact of this bill will be far-reaching, not just on large loyalty programs like Air Miles—independent retailer and service organizations running their own programs—but also on global loyalty programs with consumers who live and operate in Ontario. This means that at its core, Ontario consumers lose. Ontarians may not be able to enjoy the benefits of loyalty programs, be they Canadian or international.

What has not been acknowledged by government is that in an effort to protect the consumer, it will materially disadvantage all Ontario consumers, compared with their position today.

Thanks for the opportunity to speak here. I welcome any and all questions.

The Chair (Mr. Ted McMeekin): You have another four minutes, if you want to take them.

Mr. Todd March: I'm good.

The Chair (Mr. Ted McMeekin): You're okay?

Mr. Todd March: Yes, fine. Thank you.

The Chair (Mr. Ted McMeekin): Okay. We'll begin with Mr. Singh.

Mr. Jagmeet Singh: Thank you for being here today. Welcome. Your contention is that—first of all, you would prefer that the Air Miles expire, that there's an expiry set by whatever the particular company is, and that they're able to set their own expiries. That would be what you would prefer?

Mr. Todd March: Correct.

Mr. Jagmeet Singh: Okay. This is kind of obvious, I guess, but you understand that the government does play a role in protecting the consumer, that it is within the mandate of the government to set decisions with respect to what is appropriate or not appropriate, that that's within the government's mandate.

Mr. Todd March: Absolutely.

Mr. Jagmeet Singh: Okay. But in this respect, is there a suggestion that you have? You're saying to just drop it altogether, if I can put words in your mouth. I apologize if I'm incorrect. Is there an alternative that you're suggesting as some way to protect the consumer's interest, instead of just saying no?

Mr. Mitchell Merowitz: I will answer that question. The opportunity for collaboration is there, not just from LoyaltyOne but from loyalty companies, as my colleague has mentioned—national, international and provincial organizations. We believe that there is, and always has been an opportunity to collaborate and work with government, as well as all stakeholders, in finding solutions that are also reasonable to all.

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Mr. Jagmeet Singh: What would that be in this case? What would your suggestion be?

Mr. Mitchell Merowitz: To be frank, sir, I'll repeat it: For us to have a collaborative, comprehensive conversation as it pertains to the interests of all stakeholders.

Mr. Jagmeet Singh: That sounds like me when I'm trying not to answer a question.

Mr. Mitchell Merowitz: No, sir. I'm actually trying—

Mr. Jagmeet Singh: I'm saying it in jest.

That's not really a solution, though. You're just saying, generally speaking, work together, but you're not providing an actual solution.

Mr. Mitchell Merowitz: I believe that if we had the opportunity to have the time to have a conversation with all in the industry, we would be able to address the concerns that others are expressing so we can find a reasonable solution.

Keep in mind that loyalty programs, not just in Ontario but across Canada and around the world, are designed and structured differently. One solution applying to all may not be the approach to be taken because it will significantly impact all of these organizations. As my colleague had said, there are national, international and provincial. These aren't just coalition loyalty programs; there are frequent-flyer programs, coffee shop programs and book store programs, and all of them are structured differently.

Mr. Jagmeet Singh: Just to give you the perspective of the consumer: The consumer does not want to enter a program if their loyalty points are going to expire. Consumers don't want that. They're upset by that, it frustrates them and makes them feel that they've been taken advantage of, so any sort of expiry is not what the consumer wants. The consumer does not like that. That's something to just take back and consider. The consumer is not happy with that. We've heard a lot of complaints about that. People are very frustrated about that. They feel like they've given their loyalty, and now the advantage that they hoped to accrue from that loyalty and was promised initially now is being taken away. That's the frustration. I'm sure you're aware of that.

Mr. Mitchell Merowitz: Thank you, Mr. Singh.

Mr. Jagmeet Singh: Thank you.

The Chair (Mr. Ted McMeekin): Okay. We'll go to the government.

Mr. Arthur Potts: Thank you, Chair, and thank you both for being here. I appreciated our conversation yesterday on some of the issues that you raised. I appreciate that there are reasons some points need to expire.

You started your comments about Mr. Judd's experience. I've been on numbers of call-in shows and, believe me, his experiences—a single person rarely calls in to say, "It continues to be roses out there on redeeming points."

We have another note from Angelo Vitacco from Toronto: "I am ecstatic and grateful to hear that someone is finally addressing the problem of expiring rewards points." A 20-year veteran of using your service had given up on it. That's the frustration I'm hearing.

What I would ask is if you would consider, going into the new year, that you might actually stop the program to expire Air Miles points in Canada—Ontario, specifically, because that's the jurisdiction I represent; just stop it—and we can work with you in the regulatory regime to find ways to address your concerns to reduce the liabilities on your books through a better way of expiring them that has consumer consent.

Mr. Mitchell Merowitz: Mr. Potts, we acknowledge that there are consumers in the province of Ontario and elsewhere who have not been satisfied with the service level. As I had mentioned to you, we have received in excess of 13,000 contacts a day into our call centre. We work diligently to address each and every one of our customer calls.

With that said, we operate across this country and we have in excess of 11 million collector households, representing two-thirds of Canadian households across this country. The vast majority are engaging in the program and not only are they earning miles; they are also redeeming miles. As I had said at the outset, we, today, process 42,000 redemptions a day—

Mr. Arthur Potts: I appreciate that you said that, but if 10% of your customers have miles which will expire because they're over five years old, I don't think that's right. That's the people we're hearing from.

Again, will you commit to putting a moratorium—stopping the expiration of January 1—so we can work together on some really good regulations to assist you in expiring the points in a more consumer-reasonable way?

Mr. Mitchell Merowitz: I believe all loyalty organizations, not just those based here in Ontario but national and multi-national, would commit to having a conversation with all key stakeholders to discuss the issues at hand.

Mr. Arthur Potts: I look forward to having those continuing discussions. Thank you.

Mr. Mitchell Merowitz: Thank you, Mr. Potts.

The Chair (Mr. Ted McMeekin): That would be the collaborative, comprehensive conversation that was referenced, I guess.

Mr. Arthur Potts: Exactly.

The Chair (Mr. Ted McMeekin): To the official opposition.

Mr. Jim McDonell: Thank you. Have you had a chance to talk to the government on any of the issues here, or was there any give or take from the conversations?

Mr. Mitchell Merowitz: Since Mr. Potts introduced the bill, I believe in the third week of October—correct me if I'm wrong—we have engaged with members of provincial Parliament across all party lines to have conversations pertaining to the intent of the legislation as well as what the unintended consequences are of the legislation, yes.

Mr. Jim McDonell: Okay. Are there any other jurisdictions that you operate in where there are rules?

Mr. Mitchell Merowitz: No, there are not. We understand that, a few years ago, the federal government was approached by a public interest advocacy group to consider the opportunity to set rules pertaining to loyalty programs, and that was not pursued. Again, in the province of Quebec, as part of a review of a consumer protection act, the government—which was, I believe, a Liberal government in the province of Quebec—also declined to pursue that.

Mr. Jim McDonell: I have a number of friends and relatives who use these plans every year. They have businesses or—they're quite happy. I'd be somewhat concerned that if we legislate here or regulate here, we may change the plans so either they're not worth as much or they may not be available. Can you comment on that?

Mr. Todd March: I would say that's accurate. We'll need to consider the ramifications of the legislation as it sits today, especially the oncoming regulations. Running a business, as a CFO, we look for certainty in the rules of the game, and with the certainty in the rules of the game, we then have an ability to execute our business inside the rules. This is late in the expiry game to make a change, given that the policy was introduced at the end of 2011. We've operated in good faith for 59 months. We're looking to change in the 60th month. We'd have to look at all those changes to consider our actions going forward, given it's a substantial change in how we would execute. Clearly, we believe that there would have to be lesser value for the customer, for the consumer, on the table at the end of the day.

Mr. Jim McDonell: I have a number of letters here. I guess I'm somewhat concerned that there has been no meaningful dialogue on this bill between the government and the industry. Usually you would expect some consultation to make sure that you were getting it right, but I understand that it hasn't been done.

Mr. Todd March: I would say this: We've been in this game for 25 years. There are several constituents at the table—the people who supply us with our rewards, our issuing retail and banking partners, ourselves and then all of the consumers who are active in the program—and there is a balance of value amongst all of those constituents. We have spent 25 years trying to manage the balance among all of those groups. From time to time, it gets out of balance and things have to be rebalanced. Everyone wants a little bit more, and you have to work to get there, clearly.

This sets a different set of playing rules about how we would manage that balance, right? An ability to talk with the government—we are willing to engage Mr. Potts, clearly, to have a discussion about how we would do that, but I think all constituents of the process need to be present and represented in a way that you can talk about how that fairness is deployed across all groups that participate.

Mr. Bill Walker: Mr. March, you mentioned the changing rules of the game. Again, I think what we're seeing from some of the submissions, certainly, are that the rules, in the minds of consumers, have changed along the way, in mid-process. I don't think it's a case of, from what I'm reading, that they're not trying to redeem those points, because they know that you've told them they are going to lose them, but, coming to my first question, are you amenable—if people can show a track record, that, "I've done as much as I can to try to do this"—to have some kind of an exemption and an addressing of that, through government and through all stakeholders? Even the Canadian Bankers Association has weighed in, saying, "We want to make sure there aren't any inadvertent, unintended consequences." If you're doing 13,000, I'll say, transactions a day that are going well and there's a very small number, it would seem to me you'd want to honour the people who have their points built up. Is that something you're willing to come to the table about and find a way to negotiate?

Mr. Todd March: Let me start by saying this: I would agree with my friend from Aeroplan who said, "We have a set of terms and conditions by which the program ... executes. If there was some sort of technical difficulty or something that caused people not to be able to redeem, it's been our practice historically to stand tall to that and correct our position, Mr. Judd included. We're not going to get it right every single time, but when we don't get it and it's our fault, we do try to deal with it. We do believe that five years, to us, seems like a reasonable notice period for people to be able to use their miles.

I would reiterate in here, these are big numbers. It seems like a lot of collectors. You have to remember that more than 95% of the activity that goes on in the Air Miles reward program goes on online. The majority of the reasons that people call in to the call centre are not about expiry or about redemptions. They're about changing the PIN on their account or changing their address, or a series of other, what I would call administrative items, that sit in there.

At this time, I think we would stand tall to the policy as it sits today, but for those people who were caught out by something that was an error—were caught out in error—we are trying to fix that.

Mr. Bill Walker: I guess where I'm coming from is many people, as we are—it's human nature: We leave a lot of things to the last minute. Maybe we all should learn from that. But at the end of the day, I think what I'm reading is the new fees that have been introduced that weren't there prior.

Again, what I don't understand from the industry side, because I'm relatively new to this group today, is if you've added something in the last couple of months with the program, particularly coming at you pretty fast, and there's new fees, it makes sense to me that people are going, "Well, I can't spend them." If I had been able to book the flight before with no fees, and all of a sudden, there's extra and new fees in there, that is a change of the game and the rules, from a consumer perspective, that you've implemented. You would hope, then, that you would try to find a way to rationalize back to them and say, "Okay, we'll give you an exemption."

Some are saying that even some of the abilities—this last message from Angelo Vitacco is saying that some of the actual prizes have changed and there are limitations that weren't there before. Maybe in year one of the program, they could have bought the TV they wanted. Now, all of a sudden, there's limitations. So they're suggesting to us that the actual game is changing as they move and they're getting caught in the middle.

Mr. Todd March: I would say this: Unequivocally, we have not changed our fee structure over the past few months. That is not something that we've done. I can tell you that that has not happened.

I can tell you that product does move in and out of the portfolio. As either new models come on or we get consumer interest, say, more in Apple products and less in TVs, then clearly, we're trying to build a catalogue to satiate the appetite of the collector. So there are things you could have redeemed for a year ago that are no longer part of the program. It's simply because in our opinion, they have become irrelevant, and we have added something new in the process. What a collector may see in the moment is that we're out of stock on something—and we will notify them that we're out of stock on something. But it's just a continuous rotation of product that sits in there.

Mr. Bill Walker: Okay, because the letter from Mr. Judd, if I go back to the example of the airline and trying to buy a ticket, is talking about how the taxes and fees have escalated.

Mr. Todd March: And I would say this: We do not set the taxes and fees. The taxes and fees are set. We simply pass them through. So you—

Mr. Bill Walker: So they've always been there? Five years ago, if I was trying to book a flight, there would have been the same tax? I mean, the dollar value might have changed, but—

Mr. Todd March: Yes. They're Nav Canada—there are all these things associated if you were to go book through an airline. There are Nav Canada fees, all the various fees that sit underneath the actual price of the ticket. It is those. Whoever is in charge of those—Nav Canada, whoever—can change the fee from time to time. For us, it's a complete pass-through. We don't do anything with them except accept them and move them forward.

The Chair (Mr. Ted McMeekin): Okay. Thank you, gentlemen.

We have about five minutes before we go into opening comments, comments about any questions or amendments, blah blah blah, or whatever—clause-by-clause, right? Why don't we take a quick break, do a pit stop or whatever you need, and then we'll come back here in about six minutes. Okay?

The committee recessed from 1654 to 1701.

The Chair (Mr. Ted McMeekin): Let's get back at it, please. Thank you. We'll reconvene.

With the help of this very good Clerk, Chris, I'm instructed that what we do now is we go to—are there any comments, questions or amendments to any section of the bill, and if so, what section? So general comments—

Interjection.

The Chair (Mr. Ted McMeekin): We'll have those first, and then, when we get into it, if there's a degree of specificity that we need to move into, we'll do so.

Why don't we go to the bill's promoter for his opening comments?

Mr. Arthur Potts: Thank you, Chair. By way of opening comments, I'd like to say I'm delighted that we're bringing this forward and that we have it on a schedule. I appreciate the support of colleagues opposite to the extent that they will support. I'm looking forward to moving forward expeditiously for the rest of the afternoon.

The Chair (Mr. Ted McMeekin): Okay. Other general comments? Mr. Singh.

Mr. Jagmeet Singh: I think the main principle that we need to focus on with respect to this legislation is the fairness component. We've heard from a number of people, and read in their deputations, that people are feeling that there is a lack of fairness with respect to having a loyalty program that then expires their points, or there's a sudden change that they were not made aware of. It puts people in a position where they feel that there's a certain unfairness, and we should do our best to ensure that there is that fairness maintained.

I have to acknowledge Mr. Potts's leadership in bringing forward this piece of legislation.

The Chair (Mr. Ted McMeekin): Okay, very good.

Mr. Jim McDonell: I think this is a bill that has some merit. I have some concerns, though. I can see from some of the letters received that there was not any consultation with the business, the industry, and I'm a little worried that we may end up just losing the service. I know people who use these programs and they would be very upset if there was that asterisk that says, "Not available in Ontario." This makes Ontario different than the 50 states across the way or the other provinces, and I think that's a problem.

We've heard that there are some issues with possible service levels, but this bill doesn't attack that. I mean, bad service is bad service. That's another issue, and I think that's a concern. If that's actually the case, there should be a way of addressing that.

But this issue with making it different here may end up with people either losing service that people very much like, or they'll have to dilute it so that the values—because of some of the termination clauses after years of service, it allows them to put an extra value on points. I know a lot of people who use them. I have relatives who spend it in their businesses and end up paying for a trip once a year. If you have to bring down the value of those points, then maybe it's a trip every two years, and that's a loss for everybody. So I'm somewhat concerned with that.

The Chair (Mr. Ted McMeekin): Okay. Other comments?

Let me make a comment as well, or an observation, picking up on a few things that were said and, actually, to his credit, initiated by the sponsor of the bill. I think he was the first one to use the word "collaboration."

You asked the question of one of the presenters. "Would you be prepared to work with us to find ways to collaborate at the regulatory phase?" was your reference, I think. As I recall, two of the presenters picked up and said yes, but they weren't sure how that would work. Maybe just for the sake of not wanting to lose that particular moment, ask the mover of the bill how he might see that working.

Mr. Arthur Potts: Thank you, Chair. I think we'll get the bill passed, hopefully, with the amendments that we will propose. As we go for proclamation, we'll have a dialogue on the details on ways that miles could expire in a way that's more responsive to the consumer while still addressing the needs. We'll call the parties together and have those conversations.

I appreciate your—

The Chair (Mr. Ted McMeekin): So as to benefit as many people as possible?

Mr. Arthur Potts: Exactly.

The Chair (Mr. Ted McMeekin): Okay. That's helpful, I think. So you're covenanting to do that?

Mr. Arthur Potts: Correct.

The Chair (Mr. Ted McMeekin): All right. Are there any other general comments?

Mr. Jim McDonell: Chair?

The Chair (Mr. Ted McMeekin): Yes?

Mr. Jim McDonell: Just so you know, we're sitting here with a bill that has been amended substantially, when the industry has not seen the bill—no consultation. Now we throw a number of amendments at them and we're saying that we would like to talk. Generally, when you talk, it's before you put something in legislation.

We see a lot of detail here that doesn't allow the government to change, because it's in legislation. Sometimes you would have thought that that might have happened. Lots of times, we hear deputations, and it allows us to put amendments together. On this bill here, the way it was rushed through, they're the same day, and they're typed out before we even heard the industry talk and come forth.

We agree with the member opposite that there needs to be a chance to talk about regulation, but you've already included much in this bill that really is changing. It sends out a message that in Ontario, you have a business here, and then we're going to change the rules without any conversation. That's dangerous, because what it means is, some of the benefits and some of the great programs that we have—businesses are going to shy away from doing it here.

The Chair (Mr. Ted McMeekin): Any response? No response. Okay.

The Clerk has asked us just to take a minute to pause. He apparently wants to obtain some fresh prints of the bill for distribution to committee members. So with your permission, we'll just pause for a minute or 90 seconds while he's doing that.

True to his word: under a minute.

This is where we formally declare whatever amendments are being proposed to the original bill, just for the record. I know there are several, so why don't I just draw attention to that and ask those who are going to be speaking to various amendments to note those for the record.

Are there amendments?

Interjection.

The Chair (Mr. Ted McMeekin): Okay, we're going to go right to section 1. Yes, government side.

Mr. Arthur Potts: I move that clause (b) of the definition of "consumer agreement" in section 1 of the Consumer Protection Act, 2002, as set out in subsection 1(1) of the bill, be struck out and the following substituted:

"(b) the supplier agrees to provide rewards points to the consumer, on the supplier's own behalf or on behalf of another supplier, when the consumer purchases goods or services or otherwise acts in a manner specified in the agreement; ('convention de consommation')"

1710

The Chair (Mr. Ted McMeekin): Okay. Well read. Any discussion on that motion? Is the committee ready to vote?

Mr. Jagmeet Singh: Just a quick question.

The Chair (Mr. Ted McMeekin): Yes.

Mr. Jagmeet Singh: What's the purpose of this amendment?

Mr. Arthur Potts: This amendment just clarifies and brings third parties into a consumer agreement. Instead of being between the customer and the initial supplier, the third party acting on behalf of the supplier is also considered a part to the consumer agreement.

Mr. Bill Walker: Chair, can I just ask a point of clarification? It may be a bit broader than just this amendment, but I just want to get my head around this.

One of the things in 47.1 says that "which rewards points are provided shall not allow for the expiry of rewards points." The folks we just heard from actually put a hard date in there. So is what you're proposing in the overall new bill that there will be no expiry for rewards points, ever?

Mr. Arthur Potts: No, that's not the case. You'll see that that's the general proposition, subject to exceptions, some of which are indicated in the bill and others which will be clarified in regulations, which we can work with the parties on.

Mr. Bill Walker: Why I'm asking here at this point is, you bring a third party in and then they kind of—my fear, Mr. Potts, is that if a company has structured their business plan based on a seven-year rewards program and saying "we're shutting down then" or "we're going to be out of that portion," and then you all of a sudden make it indefinite, that's going to have an impact on them and potentially those suppliers that sign on. So you've kind of changed their whole world unilaterally, without them having any input into it. I'm not saying you shouldn't; I'm just saying I need to understand it a bit more.

Mr. Arthur Potts: The general rule will be no expiry just because of date, on timelines. If there are other legitimate reasons to expire, we'll explore those. It's just as if you had a rewards card which was worth $10. It's still worth $10 10 years from now. That's the intent.

Mr. Bill Walker: It's on the books. I get that.

Mr. Arthur Potts: It's on the books.

Mr. Bill Walker: But I guess what I'm trying to get my head around is that they obviously put a date in there—I don't know why because I wasn't there—

Mr. Arthur Potts: They unilaterally put a date in.

Mr. Bill Walker: Yes, but the business plan, whatever rationale they had, to extend that out forever—

Mr. Arthur Potts: This section just brings them into the equation. It's just a technical amendment to bring the third-party provider into the equation.

Mr. Bill Walker: Okay.

Mr. Arthur Potts: We can talk about the other expiries later.

Interjection.

The Chair (Mr. Ted McMeekin): Yes?

Mr. Jim McDonell: I'll give you an example. I'm assuming a company like American Airlines would be part of the rewards points. Now this brings them in. Their only recourse might be, if they don't agree with what Ontario is doing, is to pull out, and that's a loss. I guess that's the worry I have. These are the unintentional consequences you have. You're tying in companies, many of whom, if not the vast majority of them, do not even reside in this country. To put rules on them—they look at it and they say, "Well, you know, we've set a precedent by accepting the rules that they're putting in in Ontario."

It's fine to say that you've got a lot of rules and regulations here. You've added this third-party part of the agreement in the amendment. We haven't heard from them, and we don't know what the implications will be. In the end, rushing in to save something may just kill it for everybody but your choice of one supplier or a couple of suppliers in Canada that do fly, but maybe their interest is not the regional carriers. Maybe it's not the places that Air Canada goes, and they may not be able to be part of this because of the burden it would place on them as well.

It does worry us when you don't consult with the industry and you come through with these fairly large changes, and some of it is retroactive too. You've retroactively changed rules that are in place and business plans put in place. You're giving people the chance to pull out, because it's not enacted until a date that was put in place, but now that has been taken back.

I'm just worried that it's a great name for the bill, but I know a lot of people would be upset if they found out their points were really worthless tomorrow.

The Chair (Mr. Ted McMeekin): Okay. Any other discussion? Are we ready for the vote on subsection 1(1), amendment 1? All those in favour? Opposed, if any? Carried.

Okay, we'll go to subsection 1(3).

Mr. Arthur Potts: I move that section 1 of the bill be amended by adding the following subsection:

"(3) Section 1 of the act is amended by striking out the definition of 'supplier' and substituting the following:

"'supplier' means a person who is in the business of selling, leasing or trading in goods or services or is otherwise in the business of supplying goods or services, including the supply of rewards points, and includes an agent of the supplier and a person who holds themself out to be a supplier or an agent of the supplier; ('fournisseur')"

The Chair (Mr. Ted McMeekin): Discussion?

Mr. Jim McDonell: An explanation of what this does?

Mr. Arthur Potts: The same: It just brings the definition of a third party into the consumer agreement. It's just a technical amendment so that we can deal with the third party who is providing the loyalty reward miles.

The Chair (Mr. Ted McMeekin): Any further discussion?

Mr. Jim McDonell: Again, the same issue: You have substantive changes to this bill at the twelfth hour or thirteenth hour, and without consultation. You're tying in a lot of consumers who jump on the awards program based on conditions of the program—they're very definite, what they show. Now, all of a sudden, they're changed, and the retroactivity you're talking about here really brings it back a long way. Their only way out may be just to drop the program completely.

The Chair (Mr. Ted McMeekin): Any further discussion? Are we ready for the vote on the amendment?

Interjections: Yes.

The Chair (Mr. Ted McMeekin): All those in favour? Opposed, if any? Carried.

Shall section 1, as amended, carry? All those in favour? Opposed, if any? Carried.

We'll move on to section 2, amendment 3, a PC amendment. Go ahead.

Mr. Jim McDonell: I move that subsection 47.1(4) of the Consumer Protection Act, 2002, as set out in section 2 of the bill, be struck out

The Chair (Mr. Ted McMeekin): Discussion?

Mr. Jim McDonell: Just an explanation: If the bill passes as is, it would affect all reward points providers with unexpected long-term liabilities. The Air Miles expiry has been known to the members—the one we talked to today—since 2011. It has been there for some time. It has been factored into the business plan. This just changes everything.

I think what we want to do is show that when you come to Ontario, the rules are known. You can set up a business plan and you won't be told that, "Okay, we're changing it, and whatever changes we've made, we're not allowing you to make any modifications. This will be retroactive. So your business over the last 10 years is now altered, and these are the new rules."

It's concerning if we're trying to encourage businesses to come to Ontario to set up and to operate some of these programs, because the word comes out that the flavour of the day now rules.

The Chair (Mr. Ted McMeekin): Any more conversation?

Mr. Arthur Potts: We'll be voting against this motion. The reality is, you have to have a retroactive date to protect the consumer so that tomorrow or the next day, before it receives assent, should the House so determine, they can't move on their points. This protects the consumer. We need to leave it in.

The Chair (Mr. Ted McMeekin): Any other conversation? Ready for the vote?

Interjections: Yes.

The Chair (Mr. Ted McMeekin): All those in favour? Opposed, if any? It's defeated. It's lost.

We'll go to 4R, which is a replacement for 4. That's a government amendment.

Mr. Arthur Potts: I move that section 2 of the bill be struck out and the following substituted:

"2(1) Part IV of the act is amended by adding the following section:

"'Rewards Points

"'No expiry of rewards points

"'47.1(1) Subject to the other provisions of this section, no supplier shall enter into or amend a consumer agreement under which rewards points are provided to provide for the expiry of rewards points due to the passage of time alone.

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"'Application and transition

"'(2) This section applies to all consumer agreements under which rewards points are provided,

"'(a) that existed on October 1, 2016;

"'(b) that were entered into after October 1, 2016, but before the day this section came into force; or

"'(c) that are entered into on or after the date this section comes into force.

"'Effect of termination

"'(3) Subject to any prescribed exceptions, on or after the day this section comes into force, and upon providing notice to the other party, the supplier or the consumer may terminate the consumer agreement under which rewards points are provided, and if the consumer agreement so provided, the consumer's accumulated rewards points may expire.

"'Term of consumer agreement not enforceable

"'(4) Any provision or part of a provision of a consumer agreement that contravenes this section or that fails to comply with the regulations with respect to rewards points is not enforceable, but such unenforceability shall not invalidate the remaining provisions in the consumer agreement.

"'Retroactive effect on expiry of rewards points

"'(5) Subject to any prescribed exceptions, within 15 days of this section coming into force, a supplier shall credit back to a consumer any rewards points that expired on or after October 1, 2016, and before the day this section comes into force.

"'Transition: crediting back, supplier termination of consumer agreement

"'(6) If a supplier terminated a consumer agreement under which rewards points were provided on or after October 1, 2016, and before the date this section came into force, the previously terminated agreement shall be deemed to not have been terminated and the supplier shall, within 15 days of this section coming into force, credit back to the consumer all rewards points that expired upon that termination.

"'No cause of action for retroactivity

"'(7) No cause of action arising against the crown as a direct or indirect result of the retroactive application of this section or any regulations respecting rewards points, and no costs, compensation or damages are owing or payable by the crown to any supplier, consumer or person as a result of such retroactive application.

"'Evidence

"'(8) In any proceeding under the act about the crediting back of rewards points mentioned in subsection (5) or (6), despite any contractual provision to the contrary, a court or tribunal may consider records presented by the consumer, determine those records' admissibility and may give those records whatever weight it sees fit.

"'Other expiry allowed

"'(9) Consumer agreements under which rewards points are provided may provide for expiry due to reasons other than the passage of time alone, subject to any limits that may be prescribed.

"'No retroactive offences

"'(10) Nothing in this section creates a retroactive offence.'

"(2) Subsections 47.1(5), (6) and (8) of the act, as enacted by subsection (1), are repealed."

The Chair (Mr. Ted McMeekin): Subsection (3) apparently—it has been drawn to my attention that you said "or" rather than "and."

Mr. Arthur Potts: Effect of termination: I'll read that section again for clarification?

The Chair (Mr. Ted McMeekin): Yes.

Mr. Arthur Potts: "'Effect of termination

"'(3) Subject to any prescribed exceptions, on and after the day this section comes into force, and upon providing notice to the other party, the supplier or the consumer may terminate the consumer agreement under which rewards points are provided, and if the consumer agreement so provided, the consumer's accumulated rewards points may expire.'"

The Chair (Mr. Ted McMeekin): In subsection (7), the Clerk heard you say—go ahead, Mr. Clerk.

Mr. Arthur Potts: I will read subsection (7) again to clarify.

The Chair (Mr. Ted McMeekin): Would you again, please?

Mr. Arthur Potts: "'No cause of action for retroactivity

"'(7) No cause of action arises against the crown as a direct or indirect result of the retroactive application of this section or any regulations respecting rewards points, and no costs, compensation or damages are owing or payable by the crown to any supplier, consumer or person as a result of such retroactive application.'"

The Chair (Mr. Ted McMeekin): Okay. Thank you very much. Sorry to put you through that, but I'm told we have to look at this with a microscope to make sure the words are all right. Discussion?

Mr. Bill Walker: Can I ask for points of clarification on "Effect of termination"? Am I reading this correctly: that if the consumer agrees, then the consumer's accumulated rewards points may expire?

Mr. Arthur Potts: Correct.

Mr. Bill Walker: I would suggest that that should say, "if the consumer's agreement is so provided," because the consumer agreement would be—I want to just make sure. I'm the consumer and I say, "I'm good; I want out of this thing. I'll forfeit any points I have. If that's what I have to do, that's what I'm doing."

Mr. Arthur Potts: Correct. It just means that the consumer is participating in the decision and is giving their okay to the contract.

Mr. Bill Walker: Yes. So they can't be taken away. But I can voluntarily say, "I want to void my agreement with you, and I'm out of here." Right? Clarification—yes?

Mr. Arthur Potts: Correct. Yes.

The Chair (Mr. Ted McMeekin): Mr. Singh.

Mr. Jagmeet Singh: My question is to the legislative counsel. I don't want to pronounce your name wrong. How do I pronounce it?

Mr. Eric Chamney: Eric Chamney.

Mr. Jagmeet Singh: Excellent. Mr. Chamney, my question is, looking at that same passage, subsection 9, "Other expiry allowed," would an agreement at the time of entry into a contract—if it said, "As a term of agreement, your plan is subject to a two-year expiry," and you signed on and said, "I agree"—would that be satisfied? Even though that says "the passage of time alone," would you have consumer agreement? How would that work, in your opinion, legally?

Mr. Eric Chamney: Sorry, just to clarify: Your question is, if the consumer agrees to a provision that says the points will expire, does it affect—

Mr. Jagmeet Singh: I guess it says, "the passage of time alone." But what if it said—I don't know—"You get two times the reward points as usual if you agree to letting it expire in two years?" Would that be an agreement that would fit with that?

Mr. Eric Chamney: I'm sorry. Are we talking about subsection 3 or subsection 9?

Mr. Jagmeet Singh: Sorry. I'm looking at 9. Maybe 3 applies too; I don't know. I was looking at 9.

Subsection 9 says, "Consumer agreements under which rewards points are provided may provide for expiry due to reasons other than the passage of time alone...." I'm asking, if you combine "the passage of time alone" with some other benefit—you enter into an agreement and off the bat, they say, "Okay, your standard agreement, or standard plan, is that for whatever dollar, you get"—I don't know—"one or two air mile points." Then that won't expire through the passage of time alone. But if you enter into an agreement and they say, "Okay, we can give you an added advantage where you get two times the air miles"—so there's that. "By entering into this agreement, you get this benefit of two times the air miles, but then your air miles will expire after two years, though." It's not just the passage of time alone; it's an agreement to get something, an extra advantage, but you agreed, because of this extra advantage, that you'll allow your points to expire after a timeline. Do you think that's—go on.

Mr. Eric Chamney: This is an issue for discussion, but in my view, the provision saying "may provide for expiry due to reasons other than the passage of time alone" suggests to me that it wouldn't just be that you're getting a benefit but then it expires due to the passage of time alone. I would think that the interpretation of that would require there to be something more than just the passage of time, and in return you get some other unrelated benefit.

Mr. Jagmeet Singh: Okay. What would be a reason other than the passage of time, then? Maybe I could ask this to Mr. Potts.

Mr. Arthur Potts: I think Aeroplan explained one of the reasons: inactivity for a long time. It's all subject to regulation. The ins and outs of the details, what would be acceptable and not acceptable, would be subject to regulations and then court interpretations.

Mr. Jagmeet Singh: Yes, okay. I guess inactivity would satisfy it. In the same scenario, where if you're not active, under subsection 9, then, inactivity could still be allowed. You agree with that, Mr. Potts?

Mr. Arthur Potts: I would agree with that, yes.

Mr. Jagmeet Singh: And counsel, Mr. Chamney? Yes. The scenario I was provided with, inactivity in the program, would still be a ground where you could have your points expire?

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Mr. Eric Chamney: Yes, I think that sounds correct.

Mr. Jim McDonell: Just to clarify the effective termination: Are you saying here that either party can cancel with notice? Or is there a requirement that the consumer actually agrees to that? It talks about "on and after the day this section comes into force, and upon providing notice to the other party, the supplier or the consumer may terminate the consumer agreement."

Mr. Eric Chamney: For subsection (3)?

Mr. Jim McDonell: Yes.

Mr. Eric Chamney: Yes. The provision provides that the supplier or the consumer may terminate the consumer agreement. So it applies to either party.

Mr. Jim McDonell: So either side can cancel the agreement, irrespective of the other party. There's no agreement to it; they can just do it.

Mr. Eric Chamney: It allows either party to terminate the agreement with notice and, if the agreement so provides, for the accumulated rewards to expire.

Mr. Jim McDonell: If I give notice I'm cancelling the agreement, that's the end of it? I don't have to keep points or—if I meet those requirements as to timing?

Mr. Eric Chamney: Yes. In my view, that is what the face of the provision says.

Mr. Bill Walker: A further point of clarification on that, just so I understand: The supplier and/or the consumer can cancel the agreement; that's one portion of this. But the other portion, "and if the consumer agreement so provided"—so if the supplier was to terminate, I can lose my points. If I agree with what the termination is, I will forfeit voluntarily my points. Is that clear? Is that what that's saying? When you say, "and if the consumer agreement"—originally I thought it was two-pronged, that I have to have both, right?

Mr. Eric Chamney: It says that either party may terminate the consumer agreement and, if the agreement provides, the accumulated rewards points may expire. It would have to be provided for in the consumer agreement.

Mr. Jim McDonell: Just to clarify: if the agreement says today that if I cancel the program, I lose points.

Mr. Bill Walker: I lose my points.

Mr. Jim McDonell: But if it doesn't say that, then the points don't expire. Or is it just if I'm company five and I say that I don't like the new rules, I'm just cancelling it and I walk away—is that what it's saying?

Mr. Eric Chamney: Yes. I believe the requirement would be that it would have to be set out in the consumer agreement for those to expire at the termination of the agreement, with notice.

The Chair (Mr. Ted McMeekin): Are we ready for the vote?

Mr. Bill Walker: No.

The Chair (Mr. Ted McMeekin): Sorry.

Mr. Bill Walker: But that's different from what I was asking Mr. Potts. This has nothing to do with the consumer's agreement—the consumer individually agreeing with it, if it's in the formal agreement, is I think how you're interpreting this. In the agreement that I originally had with the supplier, it says that if someone comes along and cancels this, I lose my points. I have no choice about this. It's already in black and white. It's written down. I have no choice in the matter, right? So to Jim's point, if supplier five comes along—

Mr. Arthur Potts: I think you're missing the first clause: "Subject to any prescribed exceptions." Prescribed exceptions: regulations. That would have to be a prescribed regulation to determine that we would accept an agreement within the consumer agreement for expiration, that it was an appropriate agreement for expiration between either parties. But it would have to be subject to prescribed—this is providing the opportunity for us to have the flexibility to work with the companies, to come forward and work through details of what makes sense, opportunities for them to reduce the liabilities on their books. That respects the consumer agreement. That's what this thing is basically saying, subject to regulation. So we'll get there.

The Chair (Mr. Ted McMeekin): Are we ready to vote?

Mr. Jim McDonell: I just have a concern because you've changed this around. It's a number of pages and we're trying to look at it. You're prescribing, even in court, what can be used as documents. You've got an agreement in Ontario, and all of a sudden you're not only told it's changing, but you're saying, "Okay, this is what you'll be able to use in court," as far as damages.

It doesn't send a great message that this is the way we operate business here. With the stroke of a pen, the government changes the rules, and not only that, it opens it up for liability. I guess we're lucky these companies are large because they likely won't fail, but if this was a smaller company in Ontario only, it may fail, because now you've changed its balance sheets; you've changed a lot of the financial side of it so that it may no longer be able to be solvent. So that's a concern.

The Chair (Mr. Ted McMeekin): Mr. Walker.

Mr. Bill Walker: Slightly different, just on subsections (5) and (6): Can you just tell me if you've had actual discussion with the business provider, with the stakeholder community with regard to what the impacts of this—because I'm sensing that they came in saying, "In 2016, this is going to expire" for, again, whatever reason; I wasn't party to that discussion. But now if we actually make it retroactive and the crediting back—I mean, they obviously said, "By 2016, we're going to do this." Now, if you're retroactive and it's kind of unlimited—have you had that discussion? Are they—

Mr. Arthur Potts: No, I think you're misreading the section. The section is just protecting expirations while this bill is going forward with royal assent and proclamation. That's why October 1 is there. It protects the consumer. You may not want to protect the consumer. You've got to have this provision here to protect them.

The section that Mr. McDonell was referring to about documents—many agreements say that how many points you have is at the sole discretion of the loyalty reward point holder. We're going to say, "No, if you have a document that shows you have these points"—even if they say, "Our server has been wiped clean. We don't have those things," you can use that document in a court of law to show that you actually had those points.

It's just protecting the consumer. You guys may not want to and may want to vote against it, but—

Mr. Bill Walker: No, no, no. I'm just trying to understand where that is coming from. So it's an interim measure, right?

Mr. Arthur Potts: Yes. It's just an interim measure.

The Chair (Mr. Ted McMeekin): There cannot be an action taken that would be prejudicial to the consumer.

Mr. Arthur Potts: Exactly.

Mr. Bill Walker: Okay, thank you. That's the clarification I was looking for.

Then, Mr. Chair, the other one is "Other expiry allowed," number (9). Mr. Potts shared with me, when I asked my first point of clarification, about other examples. Can you just share with me, Mr. Potts, any other types of examples so I can get my head around what are the types of exemptions that would have been discussed or thought of by you when you were looking at making the amendments to this bill?

Mr. Arthur Potts: I'll let these guys figure out how they want the programs run; I'm not in that business. I just know we have the one example, Aeroplan. We wanted to protect that. I don't have a whole bunch of others that I can talk about.

Mr. Bill Walker: Are you prescribing a very set period of time for this actual negotiation to happen for the regulation?

Mr. Arthur Potts: Like all regulations, we'll listen and we'll come up with the right terms.

Mr. Bill Walker: No, I know, but what I'm saying is, is this, in your mind, going to happen in the next four or five months? Again, I'm trying to think of both sides, the consumer, but also the business and how long they have to carry this to get to some resolve. Because in their mind, this thing was ending, so if this carries on for a year and a half or two years, that's an issue for them, I trust. The consumer is probably saying, "I don't care how long it takes, because as long as I have those points on my card"—and I'm not saying you shouldn't be doing that. I'm just trying to get my head—are you—

Mr. Arthur Potts: Let's be clear: This puts the consumer in the driver's seat. If they would like to find a way of doing it, we leave the flexibility that over the next months—this will be an evolving document, I suspect, as people come forward with new ways that work for their programs, but for now, we're saying you can't do it.

Mr. Bill Walker: Thank you.

The Chair (Mr. Ted McMeekin): Are we ready for the vote? Okay. All those in favour? Opposed, if any? Carried.

Okay. So we skip over 4, because 4R was a replacement, and we move—

Mr. Arthur Potts: I'll withdraw 4.

The Chair (Mr. Ted McMeekin): Thank you. All in favour—

Interjection.

The Chair (Mr. Ted McMeekin): No, I don't have to do that. He withdrew it.

All right. So we go to 5.

Mr. Arthur Potts: Chair, I'm going to withdraw 5.

Mr. Grant Crack: We have to carry section 2.

Mr. Arthur Potts: Oh, we have to carry section 2.

The Chair (Mr. Ted McMeekin): Shall section 2, as amended, carry? Anybody opposed? Carried.

Interjection.

The Chair (Mr. Ted McMeekin): That's been withdrawn, so we'll go to section 3 and we'll look at 6R, which is a replacement for 6.

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

"(2) Subsection 123(5) of the act is amended by adding the following clauses:

"'(j) governing the transfer of rewards points among consumers, including upon death;

"'(k) governing the inactivity of consumer agreements under which rewards points are provided and of the rewards points themselves;

"'(l) governing the termination of consumer agreements under which rewards points are provided and of the rewards points themselves;

"'(m) governing the application of section 47.1 with respect to rewards points and, without restricting the generality of the foregoing, providing for and prescribing anything that that section refers to as being prescribed or provided for in the regulations and governing transitional matters.'"

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The Chair (Mr. Ted McMeekin): Discussion? Mr. Walker.

Mr. Bill Walker: A couple of points of clarification, if I could, Mr. Chair: In the existing document, the bill as it currently sits, you have a section (k), but in your wording you suggest that you are adding the following subsection. Does that mean (k) as it exists in the original document remains? Because it says "clarifying the definition of 'rewards points'...." Is that staying in and then the rest will follow after that?

Mr. Arthur Potts: That's a good point. Let me just—

Mr. Bill Walker: I kind of thought so. I like to do my homework.

Mr. Arthur Potts: Good for you. I'm just looking for a copy of the bill. Here it is. Sorry. Yes, you are actually correct.

Mr. Bill Walker: So (k) remains?

Mr. Arthur Potts: So (k) would come in, I guess, as (n).

Mr. Bill Walker: Okay. Well, there's already an (n), so you're going to confuse me even further—

Mr. Arthur Potts: No, we have an (m), not an (n).

Mr. Bill Walker: (m). Sorry. Well, there is—

Mr. Arthur Potts: As in Nancy.

Mr. Bill Walker: Sorry?

Mr. Arthur Potts: I'm saying (n) as in Nancy.

Mr. Bill Walker: But there is an (n) in your amendment.

Mr. Arthur Potts: No, not in 6R there's not. Are you looking at 6 or 6R?

The Chair (Mr. Ted McMeekin): Hold on a second. Leg counsel is going to clarify.

Mr. Eric Chamney: I just had to clarify. Currently, section 3 says, "Subsection 123(1) of the act is amended by adding" those clauses, and this motion is for subsection 123(5) of the act. So we're dealing with separate subsections between the existing section 3 and—

The Chair (Mr. Ted McMeekin): So we're okay?

Mr. Bill Walker: I'm still trying to clarify: Is section (k), "clarifying the definition of 'rewards points' in section 1 and specifying things that do or do not constitute rewards points for the purposes of this act", remaining in the bill?

Mr. Arthur Potts: It is.

Mr. Bill Walker: It is

Mr. Arthur Potts: We're adding the following subsection, subsection (2). So you'd have 1(k) and then 2.

Mr. Bill Walker: Okay. Thank you.

The Chair (Mr. Ted McMeekin): Okay.

Mr. Jim McDonell: So what is the difference in the reason for the provision? You're just getting rid of governing the dilution of the value of the reward points? Is that the only thing? You're just deleting that one item from your amendment?

Mr. Arthur Potts: The amendment to the amendment, correct.

Mr. Jim McDonell: So this bill no longer includes anything that would stop somebody from diluting the value of the points?

Mr. Arthur Potts: Except subject to regulatory authority. There could be other regulatory opportunities, but it takes it out of the legislation.

The Chair (Mr. Ted McMeekin): Are we ready for the vote?

Mr. Arthur Potts: Yes.

Mr. Ted McMeekin: Are you ready for the vote?

Mr. Bill Walker: No.

The Chair (Mr. Ted McMeekin): You want another comment?

Mr. Bill Walker: I just want a point of clarification. So Mr. Potts has been speaking very strongly about protecting the consumer, but he's removing—to me, it sounds like there's an ability to dilute the value of rewards points. Can you just explain to me why you would remove that?

Mr. Arthur Potts: It speaks not so much to the dilution of the value of the points, but that we can't control the costs associated with the products that they're buying. So the points could continue to have the value, but if the goods or services, like the vacuum cleaner, were $30 more, it would appear that the points were being diluted, when in fact the product itself is more expensive. We realized that it creates a conflict with the capacity to govern what the products are that you're buying with those points, so we have to find, through regulations, other methodologies that will protect consumers in that area. Okay?

Mr. Jim McDonell: Does the government really believe it can create a different program than everywhere else uses? These programs are advertised across the country and internationally. We benefit by jumping on the backs of some of these flyers around the globe.

It appears to me that you're making changes that have to change the way these plans are run, or the only option they have is to cancel them in Ontario, and that's a concern. You can't take something that applies worldwide and say, "Okay, I'm going to make it different in Ontario" and expect the same benefits. If you restrict it, then you the only way to make the plan have the same value to the companies is to either dilute it or do something that allows them to continue at the same level or to say, "Well, we just can't make it work."

You're almost to the point of micromanaging this whole industry, with all of these changes. We have a lot of new changes that came in just for this meeting. It's hard to get our heads around just exactly what we have. I know that the companies haven't had a chance to talk about these amendments, because they're appearing here for the first time.

It's just a concern: Where else do we go after this? It is kind of a free country, but you're also telling people, "Yes, but wait. Not only are we changing the agreement, but we're not allowing you to back out of this. The only option you have is to declare bankruptcy or to do something like that to get out of it."

I just wonder about that message being sent across our industry and across the province.

The Chair (Mr. Ted McMeekin): Okay, are you ready to vote on 6R? All those in favour? Opposed, if any? It's carried.

Shall section 3, as amended, carry? Carried.

Okay, so we'll—

Mr. Arthur Potts: I'm withdrawing 6, by the way.

The Chair (Mr. Ted McMeekin): Okay, thank you. Withdrawing 6.

Shall section 3—we just had that vote carry, as amended.

We'll go to section 4, and motion 7.

Mr. Arthur Potts: I move that section 4 of the bill be struck out and the following substituted:

"Commencement

"4. This act comes into force on a day to be named by proclamation of the Lieutenant Governor."

The Chair (Mr. Ted McMeekin): It seems pretty straightforward. Bill?

Laughter.

The Chair (Mr. Ted McMeekin): Sorry. We need some conversation on this.

Mr. Bill Walker: You pre-empted my thought process, Mr. Chair.

The Chair (Mr. Ted McMeekin): I apologize.

Mr. Bill Walker: I'm just again trying to get my head around—if the member who is proposing the bill could just share with me why it originally had three months, and now they're saying "on proclamation."

It seems to me that it's a little bit of painting themselves into a corner. If they pass the bill and proclaim it, Ontario consumers could lose out on future reward programs. If they pass it but don't proclaim it, and we don't know when they might proclaim it, then Ontario consumers who might have believed that this is all a good thing, and done and over—it's not a done deal.

Can you explain to me why it was three months—very specific, accountable, transparent; people know when it's going to happen—and you've changed it to just "upon proclamation," which you can't control?

Mr. Arthur Potts: Well, the Lieutenant Governor—

Mr. Bill Walker: He can't.

Mr. Arthur Potts: I can't. Exactly.

I appreciate that question. We are facing a Damocles sword over our heads at the end of this month—I think the consumer needs to know that—so we want royal assent.

The three months looked like it gave people a window. I'm hoping that the loyalty rewards companies will respond accordingly, knowing that this is the law and that proclamation can happen at any time. There may be parts of this bill that could be proclaimed faster than others, to protect the general intent, which is to protect consumers in Ontario by the end of this year.

The Chair (Mr. Ted McMeekin): Okay.

Mr. Jim McDonell: That does give you some breathing room. So if your feedback is that something is going to fail, and it's actually going to be detrimental, it allows you to opt out of those sections, and actually never put them in place, if you choose.

Interjection.

Mr. Jim McDonell: It does provide that breathing room and, I guess, some sober second thought. Because we do see this thing being rushed through, and there's certainly some concern. It's nice to say that you're going to protect the consumer, but if you make the rules so hard to follow that you eliminate the program, then you haven't done much to protect them.

Mr. Arthur Potts: Jim, you're a smart man. I'm glad you recognize that.

The Chair (Mr. Ted McMeekin): Okay. Are we ready to have the vote on 7? All those in favour? Opposed, if any? Carried.

Shall section 4, as amended, carry? Any opposition? Carried.

We're into section 5. Shall section 5 carry? All those in favour? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 47, as amended, carry?

Mr. Arthur Potts: Recorded vote.

The Chair (Mr. Ted McMeekin): Recorded vote. Okay.

Mr. Jim McDonell: Can I have a discussion on that?

The Chair (Mr. Ted McMeekin): Yes.

Mr. Jim McDonell: I think our whole point of this is that we're looking at a bill that sounds nice. They haven't consulted with the industry. We see that this is a large industry that's available right around the world. To think that we can make these substantive changes and not affect the program and the benefits we receive I think might be a little naive.

I mentioned that it brings up a thought: You're going to see these programs in the store, and underneath there will be a little asterisk and it will say "Not applicable to Ontario." That just may be what we're doing.

When we came in here today, we had amendments dropped. I've never seen a bill come through where we listen to the outside parties but the amendments are already drawn up before they've talked to them or heard them. And as short a notice as that, we got revisions when we appeared here—substantive. We had one revision that had one point, and then a revision that had seven or eight points.

There are big changes here. I know it gives them some leeway to back out of it by not proclaiming it—to put a date. Really, could we have not just had that discussion?

I heard today from some of the industry. They tried to set up meetings. They were not entertained. So it's worrisome.

Although I think everybody here wants to protect the consumer, at the end of the day if we end up just cancelling the programs, we haven't done very much for them.

We've seen bills that have been years before they've been proclaimed, and some of the parts have never been proclaimed. Is that the intent here, just to put something on the table? Or is it actually something that has been well thought out and put forward? I kind of question that. I just don't think it has been well thought out.

I know that my brother who likes to go down to Las Vegas on points every year would be some upset if all of a sudden he can't go down anymore because of—

The Chair (Mr. Ted McMeekin): So has this been well thought out?

Mr. Arthur Potts: Thank you, Chair, for that prompting.

Mr. McDonell, I've got to say, that's what leadership is all about. We could have done nothing. We could have allowed this just to happen. But I'm telling you that from the response I've had, this is the right thing to do for the consumers of Ontario. We have met with every industry player who has asked us to meet, as quickly as we could. They have met with people from around the House, and I'm delighted by that. I'm delighted with the dialogue we've started, and I'm happy that we can get this thing forward as soon as possible.

The Chair (Mr. Ted McMeekin): Okay. Ready for the question?

Interjections: Yes.

The Chair (Mr. Ted McMeekin): Shall Bill 47, as amended, carry? Recorded vote.

Ayes

Crack, Dhillon, Dickson, Potts, Singh.

The Chair (Mr. Ted McMeekin): None opposed. Carried.

Shall I report the bill, as amended, to the House? Carried.

The committee is adjourned.

The committee adjourned at 1753.

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