

(Mr. Ouellet) and others that a great deal of time was spent on the subject of soft drink bottlers and distributors in Canada. However, the motion now before us concerning the extension of the current market restrictions which appears in Clause 49(7) of Bill C-91 is unchanged from Section 31(4)(7) of the Combines Investigation Act. What does market restriction mean? Well, this practice could take away forms, but it normally describes situations where a manufacturer grants exclusive territorial rights to each of its customers who, as a result, do not compete with each other. I would note the practice of market restriction is only prohibited where it substantially lessens competition. An exemption known as the bottlers exemption, which is Clause 49(7) applies to agreements between a supplier and another person whereby the latter is supplied with ingredients that he processes by the addition of labour and material into an article of food or drink sold in association with a trademark.

Bill C-91 does not propose to change the existing legislation on this matter. However, the Canadian soft drink association made representations before the legislative committee to the effect that the law should be amended to extend the exemption to articles not processed by the second person, a bottler. The existing exemption was put in place in 1975 because it was deemed necessary to preserve the marketing system which had prevailed in that industry for many years, and that is in the bottling industry.

However, the Government does not believe that it would be appropriate to broaden the existing exemption. Broadening the current exemption would have an anti-competitive effect on the market, which is obviously contrary to the objectives of an effective competition act.

Although in a given territory bottlers that are associated with different soft drink companies compete against each other, competition between franchise bottlers marketing the same trade name has traditionally not existed. In recent years new competitive forces have emerged in the market-place. Food wholesalers and retailers and chain stores have sold canned soft drinks at very low prices. This has resulted in intra-brand competition at the wholesale and at the retail level.

If the current exemption was to be broadened the law would allow exclusive territorial agreements to apply to canned soft drinks that the bottlers do not process themselves, but only distribute. Such agreements could prevent wholesalers from obtaining canned soft drinks directly from the manufacturers, and could effectively increase the price at which such distributors are able to obtain the product. This would reduce the overall level of price competition in the market leaving consumers to pay higher prices for soft drinks.

● (1620)

I believe these developments would be prejudicial to the interests of the other distributors of soft drinks and to the interests of consumers. For these reasons this Government believes that in the context of a law designed to promote

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competition the broadening of the current market restriction exemption would not be appropriate.

Mr. Speaker: Is the House ready for the question?

Some Hon. Members: Question.

Mr. Speaker: The question is on Motion No. 6 standing in the name of Mr. Ouellet. Is it the pleasure of the House to adopt the motion?

Some Hon. Members: Agreed.

Some Hon. Members: No.

Mr. Speaker: All those in favour please say yea.

Some Hon. Members: Yea.

Mr. Speaker: All those opposed please say nay.

Some Hon. Members: Nay.

Mr. Speaker: In my opinion, the nays have it.

And more than five Members having risen:

Mr. Speaker: Pursuant to Standing Order 114(11) the record division on the proposed motion stands deferred.

[*Translation*]

The discussion is now on Motion No.7

Hon. André Ouellet (Papineau) moved:

That Bill C-91, be amended in Clause 47 by adding immediately after line 11 at page 42 the following:

"(i) restriction, by a supplier, of the available margin to his customers ("intermediate customer"), by inciting, requiring or compelling an intermediate customer to resell the products bought by an intermediate customer from a third party ("last favored customer"), under arrangements or terms resulting in discounts, rebates, allowances, price concessions or other advantages ("bonuses") offered directly or indirectly to a last favored customer for purchase of identical products intended to be resold to other third parties that are not favored."

Mr. Speaker, I should like to explain briefly why I think that Bill C-91 should be amended. Indeed, by way of this motion, I would like to add another business practice under the clauses dealing with the abuse of a dominant position.

The reason why I am introducing this amendment which will provide, if passed, for another abusive practice on the part of a firm in a dominant position is that we have become aware that in dealings between large automobile manufacturers and their authorized dealers, the latter were unfairly treated considering the special treatment granted to vehicle leasing firms.

The low-purchase cost of vehicles for what are commonly referred to as fleets, and I am referring to car rental companies, is an incentive for these companies to purchase vehicles above and beyond their needs and to sell them at the retail level, where they are competing directly with the dealer.