

**Senator Murray:** Honourable senators, there are two pieces of legislation involved here. One is Bill C-91 which, as the honourable senator well knows, provides full patent protection for pharmaceuticals. However, it is the Food and Drug Act which regulates the issuance of Notices of Compliance.

The regulation issued under the authority of the Department of National Health and Welfare, as the honourable senator says, requires the patent holders to tell Health and Welfare what patents may apply to a product that may be the subject of a generic drug application. Only after a patent holder has provided this information will the generic company be required to state if it agrees with the list of patents provided. Then only if a court is convinced that a generic applicant's claim of non-infringement is not justified will it order Health and Welfare to delay approval to the generic drug pending resolution of the patent dispute.

The onus is on the patent holders to protect their patent rights. The regulation does not take away the ability of the generic companies to contest the patents in the courts.

**Senator Bonnell:** Honourable senators, the newspaper clipping states:

The regulation shifts the onus for enforcement of patent rights to the government from the patent holders, said a spokesman for the Pharmaceutical Manufacturers Association of Canada. ...

It is "pandering to the multinational drug companies," says Barry Sherman, president of Toronto-based Apotex...

In order to clear up the situation, the minister might table these new regulations under Bill C-91 so that we can all see for ourselves where and how the government, by Order in Council, is protecting the rights of the multinationals over those of the Canadian generic drug companies.

**Senator Murray:** Honourable senators, the regulation to which my friend refers is not issued under Bill C-91. It is issued under the Food and Drug Act, if my information is correct. In any case, I will be glad to table a copy of it as soon as I can.

**Senator Bonnell:** Still referring to the same issue, perhaps the Leader of Government would tell us whether he has found time yet to table the regulations concerning the prices review board, something he promised to do three weeks ago.

**Senator Murray:** Honourable senators, I saw the answer some time ago and approved it, and it will be tabled later by my friend the Deputy Leader of the Government.

## COMMUNICATIONS

### FUTURE OF CANADIAN MAGAZINE INDUSTRY— STATUS OF TASK FORCE ACTIVITIES

**Hon. Keith Davey:** Honourable senators, the inaugural issue of the so-called "Canadian" edition of *Sports Illustrated* magazine has captured approximately 40 pages of Canadian advertising, generating an estimated \$250,000 in revenue for its U.S. parent company, Time Warner Inc. This issue, as you know, hit Canadian news stands on April 5, and a second Canadian issue is planned for May.

According to the Canadian Magazine Publishers Association, there are at least 40 American magazines with Canadian circulations of over 50,000 that are in a position to follow *Sports Illustrated's* example and profit from the loophole existing in Canadian legislation by producing pseudo-Canadian regional editions. Like *Sports Illustrated*, these magazines would be in a position to capture a significant share of available Canadian dollars.

Honourable senators, the Canadian magazine industry's profits averaged only 2 per cent in 1990-91, and could be wiped out completely with only a 3 per cent shift in advertising dollars to foreign magazines.

The Leader of the Government has been very patient with me in terms of the task force which the government will form. However, I think there is some urgency, and I would like to ask about the status of the task force. Who are the members? Is there a leader? Has the task force met? When will it start meeting?

**Hon. Lowell Murray (Leader of the Government):** Honourable senators, Senator Davey, who is very familiar with these issues, understands that it is by no means clear that what is being done by *Sports Illustrated* can be captured by the present tariff regulation. The government appreciates the point he has made about the potential danger to the Canadian magazine industry. This is why we have appointed the task force which is under the co-chairmanship of Messrs. P.J. O'Callaghan and Roger Tassé. I am informed that at least the two co-chairs have begun work already. I am not sure whether my colleague the Minister of Communications has named other members to the task force, but in any case those two gentlemen have begun their work.

My friend will have noticed that there is an invitation in the announcement made by the government to the task force to issue an interim or preliminary report, should they wish to do so.

**Senator Davey:** Does the Leader of the Government in the Senate have any idea of the timetable?

**Senator Murray:** Not at the moment, honourable senators, but I can, and will, make further inquiries.