

## In the aftermath of *Chaoulli v. Quebec*: Whose opinion prevailed?

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The June 2005 Supreme Court ruling on *Chaoulli v. Quebec (Attorney General)*<sup>1</sup> has generated considerable public discussion across Canada, much of it sharpening the ideological divide over the future of our health care system. We present here the highlights of our systematic review of opinion editorials published in the Canadian print media in response to this decision.

The print media provide a sustained record of that debate and constitute an important conduit of information for the general public, in presenting the news, framing that information and setting public policy agendas.<sup>2</sup> As such, our review covers a pivotal and understudied dimension of the public reaction to the *Chaoulli* decision.

We used 3 search engines, which yielded 927 unique articles published between June 10, 2005, and Dec. 10, 2005, of which 290 were opinion editorials. (Each article was counted as one

citation even if it was distributed to more than one newspaper; however, we were unable to rule out the possibility that linked ownership of newspapers may have resulted in some articles reflecting similar opinions.) The full list of articles is available in an online appendix ([www.cmaj.ca/cgi/content/full/175/9/1051/DC1](http://www.cmaj.ca/cgi/content/full/175/9/1051/DC1)).

First, we classified the editorials into 3 categories of positions: those in favour of private health insurance, those against it and those for a change in the health care system. Second, we classified the articles by 5 main recurrent arguments that we will refer to by the following topics: Canadian identity, equity, international evidence, the role of courts and economics. A residual category of “other” arguments was also created, which will not be discussed in this article.

We used  $\chi^2$  tests and 2-sample (2-tailed) tests of proportions to compare the prevalence of positions between French- and English-language media, and of arguments by media language and position. Here we present only the results of our analysis of the arguments by position.

Table 1 shows how often each argument was used by editorials subscribing to a given position and summarizes

the pairwise tests of proportions comparing the position-specific prevalence for each argument. These differences were significant overall ( $\chi^2 = 114.96$ , 10 degrees of freedom;  $p < 0.001$ ).

The most striking result is the degree of overlap in the use of similar arguments to support different positions. The topic of international evidence is a good example: although the results of all pairwise tests of proportions were significant, editorials subscribing to all 3 positions made substantial use of this argument, often citing the same countries or regions as evidence. For instance, in one editorial, Day (2005:FP19) argued that “Quebec and the rest of Canada will now move toward a European style system, where public and private health care co-exist to their mutual benefit and wait lists are virtually non-existent in both systems,” whereas Flood (2005:A17) countered that “Britain also has a two-tier system and extremely long waiting lists. The Blair government now seems to be wrestling them down through a combination of better management and more public dollars.”

Similarly, economic arguments were equally prevalent among editorials for and against private health insurance. Kheiriddin and Daifallah (2005:

**Table 1:** Frequency of arguments in opinion articles on the *Chaoulli* decision according to position on private health insurance, and results of pairwise tests comparing prevalence of arguments between positions

Topic of argument	Position; no. of articles			Pairwise tests of proportions; p value		
	In favour of private health insurance	Against private health insurance	For change in health care system	In favour of v. against private insurance	In favour of private insurance v. for change in health care system	Against private insurance v. for change in health care system
Canadian identity	16	5	12	< 0.05	0.58	0.13
Equity	15	50	15	< 0.001	0.80	< 0.001
International evidence	41	17	9	< 0.05	< 0.001	< 0.05
Role of courts	17	15	30	0.80	< 0.05	< 0.05
Economics	34	18	5	0.10	< 0.001	< 0.05
Other	42	29	80	0.44	< 0.001	< 0.001
All	165	134	151	—	—	—

Note: Because the articles could rely on more than one argument, these numbers exceed the total of 290 editorials.

Arg) posited that “[t]he Canadian Independent Medical Clinics Association estimates that the creation of a domestic for-profit health care system would be worth \$10 to \$40 billion to Canada’s economy, providing jobs, encouraging research and technological innovation.” In contrast, Sinclair (2005:A31) warned that “[o]verturning the ban on private health insurance will open the gates for multinational insurance corporations and for-profit health-care companies to storm the Canadian health-care system,” and Picard (2005:A29) stated that “[i]n Canada, individuals and corporations pay higher taxes than in the U.S. But when medicare benefits are factored in, the differences are negligible.”

However, sharp distinctions by position also existed. For instance, editorials against private health insurance made significantly greater use of equity arguments. To illustrate, Bhatia and Natsheh (2005:902) pointed out that “... access to care should be based on need, not on ability to pay. However, this position is impossible to reconcile with endorsing a system that would allow wealthier patients to buy their way to the front of the line.”

Another conspicuous difference came from the argument associating Medicare to a sense of Canadian identity. Indeed, the identity argument was unexpectedly used most by those who favoured private health insurance, as an example of an empty and obsolete argument that should be discounted. Thus, MacDonald (2005:A31) stated that “[Prime Minister Paul] Martin is in denial because he sees health care as a Canadian value, like peacekeeping. We don’t do peacekeeping anymore ... but it’s still how we see ourselves. Similarly, with public health care, we see it as a point of differentiation from the Americans.”

Finally, arguments about the role of courts and other arguments were most

commonly referred to in the articles that called for a change in the health care system. Some were in favour of an involvement of courts in these matters (e.g., Beneteau [2005:A10], who argued that “[t]he court’s ruling was an indictment of the status quo and underscores the need for systemic change that guarantees health care choices. Governments should heed its message”), whereas others warned of risks involved with health policy-making driven by rights-based litigation (e.g., Maioni and Manfredi [2005:A25]).

So what is next for private health insurance in Canada? An important trend among the opinion articles in favour of private insurance during the last few weeks of November and December 2005 had to do with taking the Quebec case as legal precedent and stressing the fact that other provinces could (for some, should) go down the same route if Quebec introduced expanded private insurance with impunity. Yet, Alberta’s Health Policy Framework proposal went from a mid-February release that was decried throughout Canada — including by Albertans participating in the consultation process — to a public retraction 2 months later, at the end of April 2006.

Meanwhile, Quebec’s plan,<sup>3</sup> unveiled less than 2 weeks before Alberta’s framework, drew praise for its prudence and moderation. Whereas Alberta’s plan was ultimately withdrawn, Quebec’s discussion document led to the introduction on June 15, 2005, of Bill 33, which allows for duplicative private insurance for selected surgical interventions.

Three points are to be taken from our review: opinions are sharply divided across Canada; the same evidence can be used to support both sides of the ideological divide; and what ultimately distinguishes those in favour of and those against private health insurance

is the concern with equity. The Canadian health care system’s tribulations with private health insurance are not likely to end with Quebec’s response to the Supreme Court ruling. Canadians must be ever vigilant to critically appraise the opinions that are conveyed in the media to make an informed decision as to the system that they support.

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