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**Comité permanent de l'industrie, des sciences et de la technologie**

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🕒 (1535)

[English]

**The Chair (Mr. Dan Ruimy (Pitt Meadows—Maple Ridge, Lib.)):** Good afternoon, everybody. Welcome to meeting number 118 of the Standing Committee on Industry, Science and Technology as we continue our five-year legislative review of copyright.

With us today we have from the Canadian Publishers' Council, David Swail, president. From News Media Canada, John Hinds, president and chief executive officer. From Wikimedia Canada, Jean-Philippe Béland, vice president.

We'll have up to seven minutes for each presentation.

Before we start, Mr. Masse, you had a...

**Mr. Brian Masse (Windsor West, NDP):** Yes, thank you, Mr. Chairman.

A point of order just to submit a notice of motion. I will be very brief. That this motion be read into the committee hearings right now.

That the Standing Committee of Industry hold hearings to study the proposed purchase by this government of the Trans Mountain expansion project pipeline and infrastructure, including: a) the terms of the purchase, including the costs to taxpayers, and long-term impacts of purchasing and completing this project; b) the direct and indirect impacts on Canadian businesses directly in competition with

pipeline products and the use of those products in respective markets; and c) the plan for the sale of this project once completed.

Thank you, Mr. Chair.

**The Chair:** Thank you. We have received your notice of motion.

We're going to move on to David Swail, president. You have up to seven minutes, sir.

**Mr. David Swail (President, Canadian Publishers' Council):** Excellent, thank you very much.

Thank you for the opportunity to appear before the committee. We certainly appreciate the opportunity to add our perspective to what is a very critical area of concern for ourselves and for all of our stakeholders.

As mentioned, my name is David Swail, and I'm president of the Canadian Publishers' Council. Our organization represents 16 of Canada's largest publishers operating across all segments of our industry, including trade publishing, higher education, K-12, and professional markets. Our members are a mix of Canadian-owned firms, and the Canadian subsidiaries of global publishers such as Penguin Random House, Harper Collins, Pearson, Scholastic and Nelson, among many others.

Our members' aggregate revenue in 2017 was \$853 million, \$384 million of which was with our customers in K-12 and higher education. Collectively, we directly employ over 3,000 highly skilled, knowledge-based workers, and many thousands more in freelance and contract capacities such as writers, editors, subject-matter experts, designers, illustrators, researchers, printers, and the list goes on as you would imagine.

In 2017, we spent \$40 million in advances and royalties with Canadian authors, and our members sell over 90% of the books that are purchased by Canadians each and every year. All of our members are for-profit, tax-paying companies in Canada, and the majority of our members receive no government grants.

I would like to focus my remarks on three main areas that have been affected by copyright modernization, and in particular by the fair-dealing exception for education in particular. Those three areas are: jobs, investment and innovation.

Before that, I would first like to make clear to the committee that the Canadian Publishers' Council members count the education sector among its most important customers. During consultations on CMA pre-2012, we were clearly in support of the concept of fair dealing, including fair dealing for education. Our only ask at that time was for language in the act that would clarify the intent of the education exception, and in particular definitions that would safeguard the commercial market for the resources that our members develop on behalf of education-sector customers. Our understanding then was that this was a shared goal with our education customers.

Much of what has transpired since 2012 has confirmed our deepest concerns with the vagueness of definitions in the act. Therefore, our ask of this committee and this review process is that some clarity and balance be brought back to our market place.

Let me now return to the three themes of jobs, investment and innovation.

As mentioned, we employ over 3,000 Canadians directly, but many more times that number in the important ecosystem that develops educational content for Canadian students and educators. These are predominantly highly skilled jobs that rely on an expert understanding of key subject areas such as math and science, and the ways in which our education sector teaches those subjects to Canadian students from province to province.

Canadian publishing professionals are recognized widely for their expertise by the global firms that employ them, regularly called in to help with international projects where our skills at understanding instructional design and learning outcomes are highly respected. We pride ourselves in developing content that is matched to provincial curricula, has the highest level of quality and relevance and importantly is a strong reflection of the key elements that constitute Canadian identity and culture. This cultural relevance is a core requirement of our customer base, and it is what differentiates our

products from foreign-sourced materials that were previously predominant in Canadian classrooms.

The lost income that has resulted from collective licences being abandoned has had a significant impact on Canadian publishers' margins. You heard a figure of \$30 million, which is roughly 16% of industry profit according to some measures. That makes Canadian publishing firms inherently less profitable and, therefore, less able to support employment levels. Over the past five years our members have reduced their workforce by 5% each and every year, a number that equates to close to 200 jobs year-in and year-out for many years running. At the same time, we have increased our technology-based jobs and we've introduced roles like developers, programmers, webmasters, etc., and related skill sets to our workforce. We've retrained our customer-support people to handle technology support. We send experts to Canadian schools and campuses to help educators learn how to use digital resources in their classrooms effectively. However, net-net we are still down 5% per year in employment even after those add-backs.

Let me speak now to investment.

⌚ (1540)

A critical strategy for Canadian publishers continues to be the development of digital platforms and products to serve the education sector. We do this in response to demand for these kinds of innovations from educators. Canadian publishers have been world leaders in the development and adoption of these key technologies, building Canadian solutions and adapting global platforms for Canadian use.

This effort has led to significant redirect of publishing investment away from print and towards technology that is often adaptive to student needs, therefore, more efficient, more current, and often less expensive for customers. That investment is inherently at risk when the return on investment is reduced. The result is that global publishers increasingly see Canada as a less viable and more risky market than it was pre-2012, and investment levels in our sector continue to be at risk and to drop.

Three of our members—Oxford University Press, Emond Montgomery and McGraw-Hill Education—have exited the K-12 sector since 2012, which has led to a reduction in resources and diversity for K-12 classrooms in particular. Employment has decreased, but as you would expect other areas of publishing investment have also been dropping.

Lastly, let me touch on innovation, which of course is closely tied to investment. I have mentioned our members' strategic shift towards digital resources. This has had a major impact not just on our employment and the nature of that employment, as mentioned, but more importantly on students and teachers, and student outcomes. Today, all of our members have digital solutions that adapt to student needs, presenting only the most relevant and timely material to optimize their study time and learning outcomes. We enable teachers across the entire spectrum of K-12 to assign, grade and assess student outcomes in a far more efficient manner than ever before using these technologies. This is particularly important for distance learners, as you would imagine, which encompasses many first nation students.

This significant progress, in which Canada has been a world leader, is driving our students' abilities to compete in a global economy, but it is at serious risk when investment levels drop. The opportunity to both originate and adapt global solutions for our classrooms is lost when global firms find it more efficient to simply offer unadapted global content with minimal or no Canadian input.

As we make this critical transition in our business, it is clear that some degree of reliance on print will continue to have a role in classrooms. Hence the 600 million pages that are copied without compensation every year in Canadian schools, colleges, and universities. What we ask is that legislative language we have tabled be used to restore this marketplace for content reproduction as a properly compensated one. This will enable critical funds to continue to flow back into the creation of Canadian educational resources with the attendant benefits to students, teachers, creators and knowledge workers that have long been a part of our country's high achievement in education.

Thank you.

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

We're going to move to News Media Canada and John Hinds.

[*Français*]

**M. John Hinds (président et chef de la direction, Médias d'Info Canada):** Bonjour, je m'appelle John Hinds, je suis le président de Médias d'Info Canada.

📞 (1545)

[*English*]

We represent over 700 daily community and weekly newspapers from across the country, from coast to coast to coast, in both English and French. We're very pleased that you're holding these hearings because it's a critical time for the newspaper industry. Our currency is our content, so a good copyright regime is crucial to our business.

As you are aware, we are an industry that is facing a huge challenge, as our business model has been disrupted. We're in the process of moving from a traditional industrial business, where most revenue was from print advertising, to a digital model, where revenues come from readers and advertisers.

The one challenge the industry does not have, however, is a reader challenge. Canadians are consuming more and more newspaper content, with about 88% of people reading every week. They are obviously changing how they consume our content, though print is still read by about six in 10 Canadians every week.

Newspapers in Canada remain the biggest source of news in most communities, employing almost two-thirds of working journalists in the country. And as you're aware, good content is expensive, particularly investigative and public interest journalism, which I think we would all agree is important to the functioning of a civil society. The newspaper industry continues to make big investments to produce quality fact-based stories in every community in this country.

However, we have a big challenge. As an industry we need to be able to get a return on the substantial investments that we make. Unfortunately, under the current copyright regime this is becoming harder and harder to do. As we adapt our businesses to the realities of the digital market, we need to have a better way to protect that investment.

Historically, newspapers have complained about rip-and-read by our competitors at local TV and radio stations. At the time we understood that this was the price to pay for being a leader in news. However, the situation of the digital world is a totally different game. Free riders such as Google News and other aggregator sites are making no investment in content yet are making millions from our content. It's a sad fact of the Internet that many companies, large and small, old and new, Canadian and foreign, systematically scrape and republish newspaper content for commercial purposes, without payment or permission, and the current copyright regime allows it.

I would venture to say that each of you makes use of a news aggregator service in your parliamentary office. What's happening today is that our content is being scraped, copied, and distributed by commercial organizations, which then profit from displaying newspaper content without permission. It's clear that readers and advertisers value the editorial content from newspapers that appear on third party websites, platforms, and search engines, and this brings enormous value to these parties. In addition, publishers are increasingly seeing that these third parties are becoming substitutes for the original publication.

A free and independent press can only exist if there's adequate revenue to pay journalists, editors, photographers, and freelancers, among others. Today these arrangements are being eroded by a loss of revenue. The majority of the advertising revenues goes to search and social media. In addition, we see the unauthorized and unremunerated large-scale use of publishers' content, and the lack of legal recourse to deal with large-scale infringements.

Press freedom is not just a function of law; it depends on a market that can generate sufficient returns to the huge financial investment required to cover the large legal and commercial risk of the news business. A strong and vibrant market with meaningful rewards for success is an essential component of a strong and independent free press. In order for publishers to continue to produce news, analysis, investigative reporting, features, opinions, and to cover institutions

such as Parliament, there has to be fair value exchange between those who produce content and those who distribute.

What we are seeking is a change to the balance of the law, with publishers' having control over their content and being provided with legal protection and clarity. We hope that any new legislation would provide legal protection by introducing rights to protect the unauthorized reproduction and distribution of publications in the digital space.

This is something we see in film, music, and software, whose works are copyrighted. The law gives the creators of content in those industries the legal right to decide how and when their content is made available, and perhaps equally as important, to enter into fair and appropriately negotiated agreements with users. We would like to be clear, however, that this is for commercial purposes only. Any new right would have no impact on anybody's right to link or share articles. Publishers, of course, encourage their readers to link and share their articles through multiple share buttons on a website or application.

We've been continually told by members of the government that we need to embrace new business models. Canada's newspapers have made an important transition to digital over the past decade, with high degrees of innovation and large growth in audiences. We've embraced the digital age, and many newsrooms now contain as many technical staff as editorial. However, large-scale exploitation of the content by third parties, without prior authorization/remuneration, makes it difficult for publishers to sustain quality independent journalism.

It's essential that Canada's copyright regime catches up with today's realities and allows publishers the right to control the commercial use of their content. Thank you.

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

Finally, from Wikimedia Canada, we have Jean-Philippe Béland.

*[Français]*

**M. Jean-Philippe Béland (vice-président, Wikimedia Canada):** Monsieur le président, je voudrais apporter une clarification à votre introduction.

Je représente Wikimedia Canada, mais pas la Fondation Wikimedia, que vous avez mentionnée au début de la réunion.

Mesdames et messieurs les membres du comité, je me présente. Je suis Jean-Philippe Béland, vice-président de Wikimedia Canada, qui a pour mission de permettre aux Canadiens d'avoir accès au savoir librement et gratuitement, en plus de leur fournir les outils et les compétences nécessaires afin qu'ils puissent contribuer à partager leurs connaissances à l'échelle de la planète.

Nous aidons les Canadiens à rassembler, à développer et à diffuser des connaissances et des contenus pédagogiques, culturels et historiques dans toutes les langues du Canada, y compris les langues autochtones, sous une licence libre ou dans le domaine public. Dans ce contexte, une licence libre est une licence que les auteurs appliquent à leurs créations, permettant à quiconque d'utiliser, de partager et de modifier le contenu des créations sans permission ni redevance, tout en conservant la paternité de leurs oeuvres.

Ce travail s'applique en grande partie dans des projets en ligne, sous la plateforme Wikimedia. Le plus connu de ces projets est Wikipédia, l'encyclopédie collaborative qui est consultée par plusieurs millions de visiteurs chaque jour et déclinée en plus de 300 langues. Les projets de Wikimedia sont soutenus par la Fondation Wikimedia, basée aux États-Unis, et dont Wikimedia Canada est un chapitre officiel.

Wikimédia est une plateforme non-marchande, sans publicité, et, contrairement à Google ou à Facebook, la Fondation Wikimedia ne conserve pas de profil de données personnelles sur ses utilisateurs. L'importance de Wikipédia dans le domaine de l'accès à la connaissance n'est plus à démontrer. L'encyclopédie est développée par des milliers de bénévoles à travers le monde, dont un grand nombre de Canadiens dévoués. C'est le sixième site le plus visité au monde et il se classe très souvent parmi les premiers résultats des moteurs de recherches.

Nous pouvons affirmer avec certitude que Wikipédia est l'une des sources les plus populaires d'informations et de connaissances pour les citoyens. C'est même un noeud central de l'écosystème des données du Web, puisque, récemment, Facebook et Youtube ont annoncé que le contenu de Wikipédia constituerait un élément central de leur plan de lutte contre les fausses nouvelles.

Le type de licence utilisée pour diffuser le contenu sur Wikipédia est une pierre d'assise du projet, permettant la plus grande diffusion possible du savoir en autorisant la réutilisation du contenu sans redevance ni permission.

⊕ (1550)

**Le président:** Pouvez-vous simplement ralentir un peu, s'il vous plaît?

Merci beaucoup.

**M. Jean-Philippe Béland:** Pas de problème.

Dans une lettre de ses ministres, le gouvernement du Canada a affirmé qu'un régime de droits d'auteur efficace devrait favoriser un marché et un environnement où les utilisateurs ont un accès à du contenu à des fins d'information et de divertissement, d'éducation et de patrimoine culturel. Wikimedia Canada est fière de constater les efforts du gouvernement du Canada pour un gouvernement ouvert. Pour qu'un gouvernement soit considéré comme ouvert, il doit favoriser tous les moyens qui rendent accessible l'information à ses citoyens, Wikimedia est l'un de ces moyens. Il serait judicieux de mettre à profit la référence exceptionnelle dont bénéficient les projets Wikimedia dans les moteurs de recherche, une information fiable et de bonne qualité devrait toujours se retrouver parmi les premiers résultats de recherche auxquels les citoyens ont accès.

Les contributeurs des projets Wikimedia sont très enthousiastes à l'idée d'avoir accès à du contenu de qualité provenant du gouvernement canadien afin d'améliorer les articles de l'encyclopédie libre. À ce jour, il existe un frein majeur à l'utilisation de ce contenu, puisque celui-ci est protégé par défaut par le droit d'auteur de la Couronne qui interdit son utilisation sur Wikipédia et les autres projets Wikimedia. Afin de remédier à cet enjeu de diffusion des connaissances, il est de notre avis que la Loi sur le droit d'auteur, spécifiquement l'article 12 régissant le droit d'auteur de la Couronne, devrait être révisé afin de rendre libres d'utilisation les données du gouvernement et de ses agences. Ainsi, en toute cohérence avec la division du Gouvernement du Canada ouvert, nous proposons au gouvernement canadien de substituer le droit d'auteur de la Couronne par le versement, dans le domaine public, de l'intégralité de ses oeuvres ou, au minimum, sous une licence permettant sa réutilisation sans avoir à demander de permission, y compris à des fins commerciales. Ceci permettra, en bout de ligne, la réutilisation du contenu canadien et, donc, une plus grande diffusion et accessibilité pour tous les citoyens.

Prenons un exemple simple. Aux États-Unis, où le travail des employés fédéraux est automatiquement versé dans le domaine public, on constate que les photographies produites par le gouvernement sont utilisées pour illustrer les articles de Wikipédia et, par la suite, réutilisées par les journalistes qui consultent souvent Wikipédia comme première référence.

Présentement, un grand nombre d'articles encyclopédiques sur des sujets d'intérêt pour les Canadiens sont illustrés par des photographies provenant du gouvernement américain, puisqu'elles appartiennent au domaine public ou par des photographies de mauvaise qualité. Si le gouvernement du Canada adoptait une politique semblable à celle des États-Unis, les photographies officielles du gouvernement seraient versées dans le domaine public et elles pourraient être utilisées sur Wikipédia afin d'illustrer les articles concernés.

Prenons un autre exemple un peu plus élaboré. Cet exemple englobe toutes les données du gouvernement canadien amassées par ses chercheurs à travers le pays. En rendant ces données accessibles à tous, on permet la réutilisation d'ensembles de données pour de nouvelles recherches et collaborations au Canada et à l'international. Pensez à des données météorologiques, par exemple. Si ces données sont rendues compatibles avec la base de données Wikidata, non seulement les chercheurs et citoyens à travers la planète y auraient accès, mais en plus le gouvernement du Canada et ses citoyens pourraient tirer avantage du fait que la Fondation Wikimedia offre gratuitement l'hébergement dans ses

classes pour la maintenance de ses données. De plus, il serait ainsi possible de les intégrer avec d'autres données afin d'effectuer des recherches plus poussées et d'obtenir de meilleurs résultats. De telles dispositions ne changeraient rien à la production des documents classifiés et autres informations confidentielles qui doivent demeurer secrets ou qui ne devraient pas être distribués publiquement, puisque ceux-ci sont déjà protégés par d'autres lois et règlements qui s'y appliqueront.

Wikimédia Canada tient à remercier le Comité de son invitation à participer à ce processus de révision de la Loi sur le droit d'auteur et nous restons à la disposition du gouvernement pour participer aux démarches qui visent à la rendre plus ouverte et accessible. Je me ferai un plaisir de répondre à toutes vos questions. Merci beaucoup.

🕒 (1555)

**Le président:** Merci beaucoup.

[*English*]

I just want to inform everybody that it looks like bells will go off at 4:00 o'clock, but I thought if we got unanimous consent right now we could do five minutes, five minutes, five minutes, and then we can go when the bells go off.

We're good? All right.

Good. Then we're going to start with Mr. Baylis. You've got five minutes.

**Mr. Frank Baylis (Pierrefonds—Dollard, Lib.):** Thank you, Chair.

[*Français*]

Je vais commencer avec vous, monsieur Béland, juste une petite question.

Si je comprends très bien, comment les droits d'auteurs de la Couronne au Canada se comparent-ils aux États-Unis? Vous avez dit que, comparé aux États-Unis, c'est ouvert, ai-je bien compris?

**M. Jean-Philippe Béland:** Oui. Aux États-Unis, le travail produit par les employés du gouvernement fédéral, ainsi que ses agences — telles que la NASA, par exemple —, est automatiquement publié, et c'est publié dans le domaine public, puisque le gouvernement fédéral considère que les gens ont déjà payé à travers leurs impôts pour produire ce contenu.

**M. Frank Baylis:** Avez-vous des comparaisons avec des pays en Europe ou en Asie?

Ce ne soit pas nécessaire que vous les avez maintenant.

Avez-vous accès à cette information? Comment nous comparons-nous à d'autres pays?

**M. Jean-Philippe Béland:** Je peux faire des recherches et les donner au comité, mais présentement je n'ai pas de données sur d'autres pays.

**M. Frank Baylis:** Ce serait intéressant de savoir comment nous nous comparons. Pouvez-vous préparer cela et le faire parvenir greffier?

**M. Jean-Philippe Béland:** Oui.

**M. Frank Baylis:** Merci.

[*English*]

Mr. Hinds, if we look at things like Wikimedia, people who go to that site on a free licence, they know what they're

doing. You might have, for example, some of your journalists who choose to put something up on the Wikimedia free site, and you accept that.

What is concerning to you is these aggregators. If I understand, there is one of them that just takes whatever article you've published, they reaggregate it. You mentioned Google News. They make the money off of that and then your journalists....

**Mr. John Hinds:** They aggregate the content and then basically sell ads around it, using the content. I think, with Wikipedia, again, it's not a commercial enterprise.

But if you look at—

**Mr. Frank Baylis:** Under what jurisdiction are they doing that? What gives them—

**Mr. John Hinds:** Fair dealing.

**Mr. Frank Baylis:** It's done under the fair dealing of what?

**Mr. John Hinds:** For news gathering.

**Mr. Frank Baylis:** Fair dealing for news gathering?

For example, if I want to read a certain newspaper I have to pay. But if I understand, if I went to one of these aggregate sites I would get around paying for that same article and get it for free?

**Mr. John Hinds:** I think one of the things that we were disappointed with is that we thought that when this legislation came in, that the pay walls would protect us. But what we found is that you can go behind a pay wall, take the content, and then put it out in the public domain.

**Mr. Frank Baylis:** Theoretically, could Google pay for one licence, and then once they have that licence, take every single article with that licence and put it...? Could they take only 10% of the paid newspaper, or—

**Mr. John Hinds:** We have a really good example of this.

From *The Brunswick News*, one of our members in Moncton, during the case of the Moncton shooting, there was that somewhat iconic photograph of the shooter walking down the street. *The Brunswick News* had that behind a pay wall and it was for subscribers only.

The public broadcaster went behind the pay wall, took the photo, and put it on their site—attributed—but put it on their site and made it free for use. So, again, *The Brunswick News* has a business to run and their copyright was taken and put in the public domain.

**Mr. Frank Baylis:** I understand your concerns on that.

How would you see the copyright rules being rewritten to address that?

**Mr. John Hinds:** I think there are two or three ways. I think, if you look right now, we've seen examples in places like Germany and in Spain where government has moved to limit copyrighting titles and things like that.

The European Union right now is looking at a new copyright directive that has a publisher's right, so a publisher's stand-alone right that publishers would have a separate right to control their content.

Another option that we've looked at, and I think it would be an amendment, if you want, to the fair dealing principle, and it would be a sort of hot news exemption. This is something that has been developing in U.S. case law. There is a court of appeal case in the U.S., called the Motorola case, and it is really about Motorola stealing NBA information and putting it up there.



Really what the courts have said is that under the hot news provision—and they have used a 24-hour rule—that for the first 24 hours fair dealing doesn't apply. So the generator of the copyright retains that ownership for the first 24 hours.

🕒 (1600)

**Mr. Frank Baylis:** In my other committee we're heavily into the Facebook scandal and the concerns for people's private data, let alone that you have written something to sell. But for example if I go to see my doctor and he emails me my information, it might get routed to the States, and in that routing they'll take all my private medical data and I have no control over it. So there are these arguments being made that all data should be owned by someone.

Is that in line with something that you're looking for?

**Mr. John Hinds:** I think what we view strongly is that if you create something, you should have a right, similar to a film or music.

I think the music industry has been very effective at establishing their rights of ownership for their contracts, as have software industries, and as have the film industries. I think what we're saying is that for an industry, where information and data are becoming more and more important, we would like to own those rights, and again, for commercial purposes and I think we have to be clear on that.

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

We're going to move to Mr. Jeneroux.

You have five minutes.

**Mr. Matt Jeneroux (Edmonton Riverbend, CPC):** Thank you, Mr. Chair.

Thank you for being here.

I first want to start with the media.

Your organization is responsible for running probably arguably one of the most popular websites in the world making it a lucrative outlet for advertising. However, your organization continues to opt out of putting advertising on Wikipedia.

Can you explain the rationale behind your philosophy?

**Mr. Jean-Philippe Béland:** I will answer in French. Is that all right? Okay.

[*Français*]

La raison pour laquelle on n'a pas de publicité est qu'on veut demeurer indépendant. On croit que la connaissance et le savoir... On ne veut pas être influencé par des organisations externes. C'est le raisonnement derrière le fait de ne pas devenir une plateforme commerciale. On veut vraiment demeurer indépendant et offrir un produit aux gens, qui peuvent avoir confiance que c'est du savoir et de la connaissance développés indépendamment et qu'on est neutre.

[*English*]

**Mr. Matt Jeneroux:** Has there been conversations within your organization, perhaps going down a future path, that you'd look at advertising? Is it the philosophy of Wikimedia and Wikipedia to stay away from advertising?

[*Français*]

**M. Jean-Philippe Béland:** Comme je l'ai précisé au début, les sites de Wikipédia en tant que tels sont opérés par la Wikimedia Foundation, qui est une organisation basée aux États-Unis. Wikimédia Canada est une organisation indépendante. Donc, je ne pourrais pas dire que c'est à 100 %. Toutefois, selon ce qui est publié, il n'y a aucune intention de devenir commercial et de mettre de la publicité. C'est l'une des priorités du conseil d'administration de la Wikimedia Foundation.

[English]

**Mr. Matt Jeneroux:** Thank you.

Mr. Swail, I appreciated your presentation.

Connect me and the committee a little bit with your relationship with Access Copyright and the type of royalties that you receive from a group like Access Copyright and how it would be reinvested.

**Mr. David Swail:** I can certainly do that.

Our affiliation with Access Copyright is really through the individual firms that are members of the Publishers' Council. Pearson Canada, for example, would be an affiliate of Access Copyright. It would therefore be in receipt of royalties from Access Copyright that reflect the model of usage for those resources that are used in the education sector under Collective Licensing which as we know has now been greatly reduced in Canada. The number of \$30 million I mentioned in my remarks. I think that's been in front of this committee before. It's a fairly good estimate of the income that flowed through Access Copyright to both publishers and creators in the sector over the course of many years when collective licencing was more prevalent than it is today. Half of that \$30 million would essentially flow back to creators, individual writers, and other contributors. The other half would effectively reside with publishers for decisions around re-investment in Canadian content. That was the gist of my remarks around investment; that contribution back to publishers and creators, and in my member's case, the publishers, is critical for the support and the return on investment that they can expect to find in a Canadian marketplace. That's what we would like to see restored through legislative change.

🕒 (1605)

**Mr. Matt Jeneroux:** Through Canadian content?

**Mr. David Swail:** Right.

**Mr. Matt Jeneroux:** On that, can you speak about the role that multinationals play in the Canadian Educational Publishing sector?

**Mr. David Swail:** Sure.

Among our members are firms like Pearson, McGraw-Hill, Nelson Scholastic, and on the education side, Wiley-Elsevier. Depending on how you would measure it it's reasonable to say that we're probably doing in the vicinity of 80% of the paid commercial business that is done with schools, universities, and colleges, across Canada. These are all, not exclusive. One big player that's a member of ours is Nelson which is a Canadian-owned firm, or at least, a Canadian-based firm. It's actually owned by some hedge fund money out of New York, I think. These are all global players.

The other element that I was pointing to in my remarks was that these firms all have alternatives to investment in a market like Canada. They could be the UK, Australia, China, India, Latin America, etc. Most of these players have footprints right throughout the globe and attracting investment to build Canadian resources for Canadian students and educators is really based on fundamental return-on-investment criteria that they see being met in the marketplace. The undermining of collective licensing casts real doubt on the viability of this market for those global players who can invest that money in lots of other places.

**The Chair:** Thank you.

Mr. Masse, you have five minutes. Then we're going to suspend to vote and then come back.

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

When we get this done, we'll report back to the minister, and then the minister will review our work and report back to us. If he wants to change the legislation, it will likely have to go back out again. It would be highly unusual for him not to have a comment.

Do you have anything, regulatory-wise or otherwise, to prioritize as needing to be done immediately? Do you have any thoughts on the Copyright Board?

I'll start with Mr. Hinds and then go across. What would you consider as low-hanging fruit that can be accomplished without having to go through legislation?

**Mr. John Hinds:** It would be hard to do without legislation because I think you'd have to deal with the fair dealing clause for news. I can't say whether legislation would be required.

With respect to the Copyright Board, it's not really a Copyright Board issue in the sense that we would be dealing with the real legislative framework.

*[Français]*

**M. Jean-Philippe Béland:** De notre point de vue, c'est certain que mon point principal n'aurait pas le choix que de passer par la législation, notamment si on veut changer la licence des publications du gouvernement du Canada. Si on ne veut pas retourner à la législation, ce que nous suggérons, c'est de ne pas changer la durée de vie du droit d'auteur. Présentement, c'est la vie de l'auteur plus 50 ans. Nous avons entendu des rumeurs qu'il est discuté que cela sera changé. Nous suggérons de ne pas le changer. Cela éviterait de changer la législation.

Sinon, il s'agirait d'améliorer les règles autour du droit du refuge. Par exemple, dans Wikipédia, il y a aussi Wikimedia Commons où nous hébergeons du contenu généré par les utilisateurs. Si les utilisateurs brisent le droit d'auteur ou d'autres lois, on ne voudrait pas que Wikimedia Commons devienne imputable. Ses utilisateurs ont la liberté.

*[English]*

**Mr. David Swail:** On that question, I would point to the opportunity through the reform of the Copyright Board, which is underway almost as we speak, and certainly will be this year, to examine statutory damages in some of the language. This has been pointed out both in the submission that our organization made and in the many other submissions by other organizations.

The effective goal would be to harmonize, as we're saying, the statutory damages criteria in the act such that there are meaningful penalties for violation of copyright law. This exists for some sectors in more meaningful ways than in other sectors, and that imbalance is something that we think can and should be addressed, and can be addressed outside of legislation according to our understanding of the Copyright Board reform process that's right in front of us. Probably the most important thing we would encourage to be done is set the bar to have consistency for penalties involved in copyright violations.

🕒 (1610)

**Mr. Brian Masse:** Thank you. That's good.

**The Chair:** All right. We're going to suspend and we'll be back right after the vote. I believe we have about 20 minutes to get back to the House to vote.

Thanks, everybody. We'll be back.



(1655)

**The Chair:** If we can get everybody in their seats, please.

We're back and thank you to our panellists for sticking around while we went to do the votes. We're going to get right back to our questions and we're going to start off with Mr. Sheehan.

Mr. Sheehan, you have five minutes.

**Mr. Terry Sheehan (Sault Ste. Marie, Lib.):** Thank you very much.

My first question will be for John Hinds.

On May 8, the Fédération nationale des communications that advocates for news and media and professionals, made a number of recommendations to support the remuneration of Canadian journalists. They suggested something to us about a new category for protected work called “the journalistic work”, as well as the establishment of a collective rights society charged with defending the copyright for journalists and working to ensure fair compensation.

My first question is can you give the committee a sense of how the remuneration of Canadian journalists has evolved over the last 10 years?

**Mr. John Hinds:** Well, most Canadian journalists are covered by the collective bargaining process and I think there's been fairly stable wages. The challenge we've had is we've lost a lot of journalists. We continue to lose newspapers across this country almost daily. We've lost 23 of the newspapers in Saskatchewan over the last two to three years. As you know, some places like Guelph and Nanaimo, those are places and of course in Ontario there were some recent closures.

The remuneration is not the issue in the sense of current journalists, it's, really, the lack of jobs, if you want. The other challenge we see is the renewal of the profession. When you're in a profession and people are in the jobs and there are not new jobs created, it's really hard to bring young people into the profession; and, again, it's becoming harder to attract people into the profession because of the precarious environment. I think that would be where I would go on that.

(1700)

**Mr. Terry Sheehan:** It's interesting, the restitution and somewhat your comment about the print media. In northern Ontario through Sault Ste. Marie we've seen the decline of the other media as well. Television is now centralized in Sudbury, they have some reporters. CBC used to have a stringer, now they don't.

There has been a rise of some of the Internet companies, *Inaudible*] Today that has a presence in Guelph, Thunder Bay, etc. I'm sure you're familiar with it.

I think one of the differences, as well, is it seems to me that some of these Internet companies that are starting up aren't necessarily unionized or have a collective agreement—

**Mr. John Hinds:** No.

**Mr. Terry Sheehan:**—and they have different revenue streams that they're trying to work on. I've watched the evolution today in the *The Sault Star* and *The Sault Staris* trying to pick up some of the Internet presence, so I'm getting to my question. One of the things, say, *The Sault Star* will do is put out an article and then share it with Facebook and share it with Twitter.

Really, has there been any thoughts about how any kind of—and Facebook loves it and [*Inaudible*] want to do it as well, because when I share with my [*Inaudible*] followers there is. Is there any thoughts or discussions about how any kind of compensation could happen by using social media and the traditional forms of media if you will?

**Mr. John Hinds:** Yes, I think everybody recognizes the value of social media and I think we all see articles on social media and newspapers put a lot of their content on social media. I think that's a voluntary thing. I think what we're more concerned about is the compensation model when it's not done voluntarily.

I think using social media vehicles to drive audiences is one thing and that's essentially voluntary. Google is another example and there are a lot of them. If you talk to Village Media who owns *Soo Today*, they have a very effective relationship with Google. Interestingly enough, they don't use Google ads in a lot of cases. They sell their own advertising in *The Soo* and in those communities, because you just can't make enough money on the Google ads.

They're selling their own ads, but they're using a lot of the tools, many of which are free. It's the classic friend-of-me discussion that our members have with it, but, obviously social media is absolutely key to the future.

The challenge that we find is about retaining the brand, though, because one of the things you see is even if you talk to people and they say well, I get all my news from X social media site. Well, actually, they're not getting their news there. They're getting the news from a journalistic brand and I think that's a really important connection to maintain in a world where, really, all you have is your intellectual property and your brand.

I think part of the scraping and part of the non-licensed content distribution destroys that brand connection with the reader, because if you get it on social media and it's put there by the brand, the brand is there. It's, say, a *Globe and Mail* story on Facebook and it's clear, but it's not the generic story that you don't know where it came from.

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

We're going to move to

[*Français*]

Monsieur Bernier, vous avez la parole pour cinq minutes.

**L'hon. Maxime Bernier (Beauce, PCC):** Merci, monsieur le président.

Ma question va s'adresser à M. Béland. Vous nous avez parlé de la mission de votre organisation, mais j'aurais une question un peu plus précise.

Seriez-vous en mesure de nous dire dans quelle mesure utilisez-vous le contenu à libre accès produit par Wikimedia en comparaison avec les publications plus traditionnelles comme les ouvrages écrits? Pourriez-vous nous parler de la différence entre les deux?

**M. Jean-Philippe Béland:** Vous voulez dire comment nous l'utilisons en tant que Wikimedia Canada?

**L'hon. Maxime Bernier:** Oui.

**M. Jean-Philippe Béland:** En fait, nous utilisons le contenu écrit comme référence pour Wikipédia, par exemple, mais nous n'utilisons pas le contenu comme tel. Nous ne copions jamais et nous ne recourons même pas l'utilisation équitable. Tout ce qui est produit sur Wikipédia est sous licence libre. J'espère que cela répond à votre question.

**L'hon. Maxime Bernier:** Oui, donc c'est un contenu à libre accès.

**M. Jean-Philippe Béland:** Non seulement à libre accès, mais nous donnons le droit à tout le monde de l'utiliser et de le modifier à leur guise.

🕒 (1705)

**L'hon. Maxime Bernier:** En ce qui concerne vos relations avec YouTube, pourriez-vous nous en parler un peu plus en détail?

**M. Jean-Philippe Béland:** Comme je l'ai déjà mentionné, nous n'avons pas de relations formelles avec YouTube, mais ils ont des gros problèmes avec les fausses nouvelles, comme tout le monde le sait. En fait, ils ont annoncé qu'ils utiliseraient beaucoup Wikipédia comme référence pour contrer les fausses nouvelles, ce qui démontre que Wikipédia est une source fiable.

**L'hon. Maxime Bernier:** Vous n'avez pas de lien direct avec YouTube en ce qui a trait à Google, mais c'est par l'entremise de Google.

**M. Jean-Philippe Béland:** Nous n'avons aucun lien avec Google non plus.

**L'hon. Maxime Bernier:** Donc, votre contenu libre accès est partagé sur YouTube en même temps que d'autres plateformes.

**M. Jean-Philippe Béland:** Exactement.

Par exemple, si Google et YouTube décidaient d'utiliser notre contenu, comme nous donnons le droit à tout le monde de l'utiliser, même à des fins commerciales, ils ont le droit de l'utiliser et ils le font.

**L'hon. Maxime Bernier:** Dans votre recommandation, vous souhaitez que le gouvernement du Canada fasse en sorte que les recherches effectuées par des organismes de l'État ou des chercheurs de l'État, des fonctionnaires, puissent être accessibles. Actuellement, il y a un droit d'auteur sur ces documents. Vous avez dit que c'était accessible aux États-Unis. Est-ce qu'il s'agit de tous les documents du gouvernement américain ou autres?

**M. Jean-Philippe Béland:** Il s'agit de tout ce qui est publié par le gouvernement fédéral américain. Les gouvernements des différents États ont leur propre règlement, comme ici au Canada, les provinces ont leur propre règlement. Donc, tout ce qui est produit au niveau fédéral est dans le domaine public, aussitôt que c'est publié, incluant les recherches scientifiques.

**L'hon. Maxime Bernier:** Votre suggestion à cet égard serait que nous rédigeons un article dans la loi pour obliger le gouvernement à le faire. Vous croyez que cela devrait passer par un changement législatif?

**M. Jean-Philippe Béland:** Selon ce que j'ai compris, c'est que le droit de la Couronne est défini par l'article 12, dans la Loi sur le droit d'auteur. Donc, en modifiant cet article, je pense que nous pourrions obliger le gouvernement à publier dans le domaine public.

**L'hon. Maxime Bernier:** Un de mes collègues vous avait posé une question concernant d'autres pays, les pays européens sur le partage des gouvernements sur le libre accès à leur information.

Avez-vous des données à cet égard?

**M. Jean-Philippe Béland:** Non, mais comme je l'ai dit plus tôt, je n'ai pas les données devant moi et je n'en ai pas en mémoire. Cependant, nous pourrions vous les faire parvenir.

**L'hon. Maxime Bernier:** En fait, ce que nous aimerions avoir ce sont les données libre d'accès disponibles par différents gouvernements. Aussi, s'il y a des conditions pour le fait que ces données soient disponibles ou pas. Vous avez dit également que surtout le gouvernement américain affirmait que les contribuables avaient déjà payé pour ces documents dans leurs taxes et leurs impôts. Donc, ces documents et ces recherches devraient être publics.

Selon vous, y a-t-il d'autres organismes au Canada qui soutiennent cette position?

**M. Jean-Philippe Béland:** Oui, tout à fait.

Par exemple, dans ce comité même, un mémoire a été soumis par Creative Commons, qui soutient la même position.

**L'hon. Maxime Bernier:** Merci.

[English]

**The Chair:** *Merci beaucoup.*

We're going to move to Mr. Longfield. You have five minutes.

**Mr. Lloyd Longfield (Guelph, Lib.):** Thanks, Mr. chair, and thanks again to all of you for your patience today as well as for being here.

I want to continue down the road to Mr. Swail talking about the educational use of copying. Since 2012 a lot of schools have stopped paying educational copying tariffs to the copyright collectives. Schools contend that while their practices have changed, they remain respectful of copyright, but authors and publishers are saying that their revenues are dropping, some of that money because of the change of use of materials. We see your graphs showing the declining purchase of textbooks, which are different than the curves we saw last week.

In terms of the act we're reviewing, what are your views on educational copying? You made a comment earlier about undermining of collective licenses. I keep thinking collective licenses might be part of the solution we might want to be looking at within the act.

**Mr. David Swail:** Collective licences are certainly one potential solution. We wouldn't say that they're the only solution but they have proven over time to be a very efficient one. Educational institutions certainly have options to license directly from publishers and other content providers. We expected that we would see an uptake in some of that direct to publisher licensing. But that really hasn't happened.

Our view would be that collective licensing as we have known it prior to 2012 was actually a pretty efficient way for institutions to license the reproduction rights for and sell their uses for occasional uses for somewhat ad hoc uses. The main concern that we see now is copying on a scale that we don't feel is really consistent with what one would think of as fair. At the crux of that, as I mentioned, is the whole issue of proper commercial compensation for copyrighted materials.

🕒 (1710)

**Mr. Lloyd Longfield:** It's around [*Inaudible*]

**Mr. David Swail:** That's why we would like to see language in the act that reintroduces the importance of the market place and the commercial viability of that reproduction as paramount.

**Mr. Lloyd Longfield:** Right, thank you.

Is there a difference between K-12 and post-secondary? Would the act benefit from separating those or would we be looking at something that would cover all education?

**Mr. David Swail:** Their practices are different but I think the principles are consistent enough and important enough that there wouldn't really be .... I can't think on the spot of a meaningful division between the two for the purposes of the legislation.

**Mr. Lloyd Longfield:** Thank you. Thank you for both those answers.

The other area that I'm interested in that I don't have a lot of knowledge in is indigenous concerns. I've participated in indigenous reads. I'm aware of indigenous authors. I'm working with our local bookstore in terms of knowing which

authors are indigenous.

How can we help indigenous peoples better protect their traditional knowledge and the published knowledge that they're putting out?

**Mr. David Swail:** One of the things I pointed to in my remarks was around digital. We know that in terms of the presence of Internet access, etc. on certain first nations, communities and territories, etc. is not always consistent. Certainly to the degree that first nations learners tend to be distance learners often. We think digital solutions can be extremely helpful. What we're pointing to is an opportunity to continue to drive money towards the creation of those resources so that they can be accessed in a more efficient and simple way and can be done over great distances and won't require the more traditional sort of physical presence in classrooms. That's a part of our transformation and transition. It's a sector that's important I think to maintain.

**Mr. Lloyd Longfield:** Thank you.

I've got a minute left.

Mr. Hinds, you had talked about the use of locks. Maybe this ties in with the digital discussion of how do we protect digital media and make sure that authors and creators are paid for what they put up digitally. The example you gave was to go and get a picture on the other side of a lock and bring it back across which sounded to me more like an enforcement than an actual .... The law might be there but people are finding ways of getting around the law.

Could you maybe speak to how digital copyright could be embedded in the act?

**Mr. John Hinds:** I think when we went through this discussion in the previous ... we always thought that there was so much of an emphasis on tampering with locks type of thing, I think we thought once it was locked up, it was going to be locked up. Usage has now come to the point where that is no longer the case if you have legitimate access to it. We have yet to see in courts the terms and conditions of the licence of even accessing it and there are some cases going through the courts on that but I don't think we're super hopeful on that.

So I think ... pardon?

**Mr. Lloyd Longfield:** Does the act cover it?

**Mr. John Hinds:** It would be interesting to see. We haven't had a definitive ruling on that but we wait with hope.

I think if it were locked down, it were locked down and the terms and conditions of the contract that you agree to as a subscriber were enforced, I think that would go a long way.

**Mr. Lloyd Longfield:** Thank you very much.

**The Chair:** Thank you.

Now we're going to move to Mr. Jeneroux. You have five minutes please.

**Mr. Matt Jeneroux:** Thank you, Mr. Chair.

Just on that point, Mr. Hinds, how do other countries get around the digital locks with regards to the WIPO Treaties? Do you have any knowledge?

**Mr. John Hinds:** I think it's a challenge for everybody right now. Most of them don't have as strong fair dealing .... Certainly the European countries don't have as strong a fair dealing regime as we do. It's a quote. It's more of a quote. You don't have the same flexibility if you want to do it. The U.S. has the same challenges as we do.

**Mr. Matt Jeneroux:** Okay.



Mr. Swail, any comments on the TPMs, digital locks...?

**Mr. David Swail:** For us, I guess what I would say—"us" being our member publishers—the integrity of that protection is critical to allowing us to move to more of an online way of serving our customers so that we can safeguard what intellectual property we're mounting and putting forward for the education section in particular. E-books would be a good example as well. Unlike ad-hoc and limited amounts of physical copying, the importance for TPMs for us is that it will allow us to have a sustainable model for password-protected Internet access to platforms that are really at the heart of what we can do, from a technology perspective, to help learners in the classroom. They're critical for us going forward absolutely.

🕒 (1715)

**Mr. Matt Jeneroux:** Right. Okay.

With regard to some of the other countries we've been presented with, a number of models that are out there, the U.K. version, the U.S. fair-usage model, I'm hoping with my few remaining minute maybe we'll go across the way on things you think are beneficial from there, things that we maybe should consider, things that aren't working well from there.

Maybe we'll start with you, Mr. Hinds.

**Mr. John Hinds:** One of the things we've looked, and where we're seeing what I would think are some hopeful developments, is in the EU. We've seen both Germany and Spain, and to a lesser extent Italy, all come forward with various protections now, and now it's moving to an EU level. There's the new EU directive, where they're discussing the publisher's right.

It's interesting, we've seen particularly journalism funds in almost all the big EU countries as the result of government actions on the copyright file. To us it really shows that once you strengthen the balance, if you want, or even threaten to strengthen the balance, it works wonders. So I would think that.

The U.S. is a bit more complicated. There's probably a stronger legal precedence in the U.S., whether it's through the hot use stuff and things like that. But, again, the enforcement is tough, right? We have 700 across the country, many of whom are small members. While *The Globe and Mail* and *Postmedia* may be about to do it, and they can enforce it, a lot of those small players just don't have the capacity to do it. That's where I think the legislative model needs to be amended to give them that power.

**Mr. Matt Jeneroux:** Okay.

We'll quickly jump to Mr. Swail, if that's okay.

**Mr. David Swail:** Sure. The two jurisdictions we've looked at really the UK and Australia. What's important there, in our view, is the importance of the effect on the market, which is of course one of the six factors in the determination of fair in our act. But those are given much more prominence and much more heft, if you will, in the determination of options to fair dealing. That's the language we've brought forward over the past several years in draft form to various folks in government here. It's really what we would see as the most helpful in terms of maintaining the integrity of the marketplace for the kinds of reproduction we're talking about within the sector of education.

**Mr. Matt Jeneroux:** Mr. Béland, any comment?

[*Français*]

**M. Jean-Philippe Béland:** Pour répondre à votre question sur l'utilisation équitable, je vous dirais que nous n'avons pas fait de recherche sur ce que font les autres pays. Dans notre cas, cela ne s'applique pas. Nous n'utilisons pas l'utilisation équitable.

Je ne sais pas si c'était seulement sur ce point que vous vouliez que je parle.

[English]

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

We're going to move to Mr. Baylis. You have five minutes.

**Mr. Frank Baylis:** Thank you, Mr. Chair.

Mr. Swail, I assume this is from you.

**Mr. David Swail:** It is, yes.

**Mr. Frank Baylis:** I have a couple of questions. Are these in constant dollars, do you know?

**Mr. David Swail:** I don't believe they are in constant dollar. You'd think I would know that, but I got some help on this from some other folks.

**Mr. Frank Baylis:** We received a different chart that, let's just say, was going top down.

**Mr. David Swail:** So it turned it the other way around, yes, and that's exactly the reason I introduced this.

**Mr. Frank Baylis:** Is that why you introduced this?

**Mr. David Swail:** Yes.

**Mr. Frank Baylis:** But I noticed you have a carve out that says you did not include export and foreign sales. If you had, would the other chart that we had seen be correct?

**Mr. David Swail:** It would be close to correct, that's right.

The background for this document was really my efforts to try to understand how trends, as introduced to this committee in the previous document, could be so dramatically different from the trends that I know exist for our members. Those are not public numbers, but the trend is—

🕒 (1720)

**Mr. Frank Baylis:** We're going to try and reconcile all these different numbers that we're getting.

**Mr. David Swail:** Yes, and I'm certainly happy to provide those to the committee.

**Mr. Frank Baylis:** If you could do two things, if you could provide this chart—we've already got this one—but one that includes your exports and other foreign income to see even if that aligns or not—

**Mr. David Swail:** Okay.

**Mr. Frank Baylis:** —and then also I'd like to see it in constant dollars.

**Mr. David Swail:** In constant dollars.

**Mr. Frank Baylis:** Just so we can see if there's an actual real trend. Are you keeping up, really going down, or going down much more than we think.?

**Mr. David Swail:** Yes. I have just a couple of observations on that.

Here we've tried to focus on educational institutions, and user customers, number one. Secondly, the trade publishing business which includes things like *Harry Potter* and *Fifty Shades of Grey* is a very different kind of business, equally

mature in this country but it tends to fluctuate depending on a year when you might have a dramatic best-seller that can actually spike the numbers.

So we looked at the education sector. It was much more mature and—

**Mr. Frank Baylis:** And there's also a—

**Mr. David Swail:** —we, personally, our members, see a trend that's radically different from what you saw previously, which is—

**Mr. Frank Baylis:** We'd like to see that trend.

Also, another thing you might be able to give us, there is a consumer price index specifically for education and recreation. There's an education one, so I'd like to know whether these expenses, compared to the overall expenses of our education system, are going up or down. How are they in relation to not just your income, but in terms of all the expenditures, if you follow me?

**Mr. David Swail:** Yes, okay. So you're looking for, say, per capita spend—

**Mr. Frank Baylis:** We have the numbers. Yes, if you go, there's a consumer price index, so let's say that our spend is going up by 10% and nothing changed for you, you should at least go up by 10%, if you follow me.

**Mr. David Swail:** Right, yes.

**Mr. Frank Baylis:** Now you had mentioned a couple of things. There's a lack of consistency on penalties. Could you elaborate on what you'd like to see in penalties, and also while you're talking about penalties for people taking from the publisher and using without their consent, if I understand, could you elaborate on that, and also, is there anything you want to add about between the creator and the publisher? Are you speaking as one voice, or are there differences between you as a publisher representing publishers, and the authors?

**Mr. David Swail:** I'll start with the last part of that question.

I think for all intents and purposes, we speak as one with our creators, and certainly, you've seen the numbers and you've seen the impact of a reduction in royalties on creators' incomes. It has been basically pretty much in lockstep for publishers as well.

So one of our challenges is trying to continue to see enough incentive in the marketplace for writers to actually agree to sign on with us and produce new product for the education sector. We have the same goal of trying to return some compensation for that particular effort.

With regards to statutory damages and the harmonization under the Copyright Board review that's underway currently, what we're looking for there is consistency across all creative sectors, because right now there are higher formulas for penalties in, say, the music industry and other areas, compared to publishing. The background on that I can't really comment on, but we do know and have proposed to government that a more meaningful and more consistent set of damages in the language in the act would actually be very helpful, to prevent...it's essentially a more consistent deterrent for violation.

**Mr. Frank Baylis:** Mr. Hinds, you had said on a few occasions that you were looking for something more along the lines of the protections the music industry has. I get that. The music industry will be up the next set around. They're not happy at all with how the Internet has been eating tremendously into their income.

Are you concerned or do you have ideas better than that? Let's say we were to implement the music industry model and you got Spotify, the equivalent thereof, and you're getting pennies. So after you write your article, you get three dollars and ten cents. Do you have ideas of how you'd like to see that?

**Mr. John Hinds:** As I said before, I think there are some models on that. I think the Publisher's right of the EU would be the most effective, in the sense that it would give you complete control to negotiate with the other groups if you want. A hot news exemption, the same thing, it would protect your content from initial, from fair dealing right off the bat for a period of time. So I think those would be the ways that we would be looking at it.

To a certain extent, it's the negotiating power, really, between the publisher and the aggregator that we really have to deal with, and right now the thing is stacked essentially against the publisher in favour of the aggregator. So I think we need to restore the balance there between the two.

🕒 (1725)

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

For the final two minutes of the day, Mr. Masse, you have it.

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

Mr. Hinds, I'll start with you. I haven't asked this question before. We've had a lot of artists and authors in front of us and so forth. It's about reaching that balance of what's exposure that benefits you. Mr. Swail, you might have a comment too and you as well Mr. Béland. How do we grapple with that? That's one of the things, whether people are putting their work on Youtube, for example, or whatever. Do you have any comments about that? I'm interested in some perspectives as to the balancing act of getting free exposure to some degree and not over exposure, but seeds work that could be purchased versus that of just outright abuse. Do you have any thoughts about that?

**Mr. John Hinds:** That's interesting. I think the reality of the marketplace is there is that balance. People are out there marketing your brand and whether you're a newspaper you put stuff out on social media to draw people in. That's how we get subscribers and everything else. There's always that balance.

I think the idea, though, it has to be at the end of the day that if you're putting it out there you do control it and you understand the terms and conditions that you're putting it out there on and you have control over that, because I think so much happens now is that there is no control. Essentially, in the existing framework it's put out there and you lose control and you have no ability to monetize it. I think it's really about bringing back that control to do it.

Obviously, any author, any publisher wants as wide distribution as possible, but again with some balance and an opportunity to monetize it.

**Mr. David Swail:** I would probably think of an example in K to 12 publishing, where for the most part authors are not, in fact almost entirely not name brand recognized authors. They're working as part of a team. They may be only working on a very specific part of a resource because they have deep subject matter expertise in a certain area, be it mathematics, science or any other field for that matter. Their model, if you will, is not such that they have an opportunity to further capitalize on their presence and with that marketplace through subsequent subchapters in the next grade nine math textbook. They have one shot at it and they would like reasonable compensation for the time that they put in. A lot of that compensation is based on royalties which are based on sales. When sales go down, royalties go down. They haven't really gained much.

Even if they have a very successful launch that they are part of, there won't be another way to monetize that down the road in the next textbook. It really depends on the work that goes in up front.

**Mr. Brian Masse:** At the end of the day I suppose it's like any other business, it's up to the creator to decide when they want to use their work for subsidization or for other goals, or a loss leader as they do in the retail section by putting your merchandise at end of the aisle, but the control or the decision is always vested in the person that makes that decision for whatever purpose they want versus others making that decision for them?

**Mr. John Hinds:** Well said.

**Mr. Brian Masse:** Thank you very much for your time.

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

On that note I want to thank our panellists for bearing with us, again through the break for votes. Thank you very much for being here today and answering our questions.

Before we adjourn for the day, I believe Mr. Jeneroux you have a notice of motion you'd like to put through.

**Mr. Matt Jeneroux:** Yes. Thank you, Mr. Chair, for the final two minutes to cede the time to me here.

**The Chair:** You have one minute.

**Mr. Matt Jeneroux:** The committee will recall, I put a notice of motion last week towards Trans Mountain Pipeline. We're putting another motion on the table. I'll read that motion to the committee. It says:

That the Standing Committee on Industry, Science and Technology undertake a study of four meetings to review, among other things, the overall cost of buying and expanding the Trans Mountain pipeline project, the costs related to oversight, the crown corporation of the project and how this decision will impact investor confidence in Canadian resource projects; and that the committee reports the findings back to the House and make recommendations on how to restore investor confidence.

**The Chair:** Thank you for your notice of motion. It has been received.

**Hon. Maxime Bernier:** I think we'll have the NDP onboard.

**The Chair:** On that note I thank you all. Have a wonderful day.

We are now adjourned.