



**Standing Committee on Industry, Science and Technology**

**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, how are you all today? If I can get everybody's attention.

Welcome to meeting number 120 of the Standing Committee on Industry, Science and Technology, as we continue our legislative review of the Copyright Act.

Today we have with us, from the Canadian Federation of Musicians, Alan Willaert, vice president from Canada (AFM), Canada. From the *Guildes des musiciens et musiciennes du Québec*, Éric Lefebvre, secretary-treasurer. From the Canadian Music Publishers Association, Margaret McGuffin, executive director.

Before we begin, for the members, on Thursday it appears that we're going to have about seven votes. I'd rather not cancel because we have some really good witnesses on Thursday. Do we have consent to maybe extend it for an extra half hour? No?

**An hon. member:** [Inaudible]

**The Chair:** No, Thursday. Flight to catch?

All right, well we'll see what we can do.

We're going to go to Alan Willaert, and you have up to seven minutes.

**Mr. Alan Willaert (Vice-President from Canada (American Federation of Musicians), Canadian Federation of Musicians):** Thank you very much.

Yes, I'm Alan Willaert, vice-president from Canada of the American Federation of Musicians of the United States and Canada. We operate in Canada as the Canadian Federation of Musicians. Within Canada we have 17,000 members, but we also represent all musicians under the federal Status of the Artist Act.

I'd like to start with a couple of statistics, which may shock you a little bit, which will set up my reasons for, and recommendations.

There are approximately 33,750 professional musicians and singers in Canada with a rate of self-employment many times higher—80%—than the labour force average. Artists have much higher levels of education than the average workforce with 44% having a B.A. or higher, double that of the average overall workforce. The average income of the average workforce is \$48,100. The average individual income for musicians and singers is \$17,699, but the median individual income for musicians and singers is \$11,431. Interestingly as well, the male-female split for singers is 50:50. The highest earnings are in the 45 to 54 year old demographic, and the number of artists has increased by 50% since 1989.

We should look at a bigger picture as well: 3.4% of Canada's total GDP, the gross domestic product, and \$53.2 billion in revenue, the arts and culture industry in Canada is larger than the accommodation and food services industry, and twice as large as the agriculture, forestry, fishing and hunting industry. More specifically, revenue from live performances in excess of \$2 billion and from sound recording \$500 million. With these kinds of staggering profits, then why on earth is the median income for musicians so low? Where is the money if not in the pockets of the musicians?

To alleviate some of the problems, of course we recommend some changes to the Copyright Act. First of all, we recommend that we amend the definition of sound recording. The current definition of sound recording needs to be amended so that performers can collect royalties when they're recorded performances of music on the sound tracks of audio-visual works such as TV programs and movies are broadcast or streamed. Of course, to facilitate that, we recommend the ratification and enactment of the Beijing Treaty.

We also recommend the removal of the \$1.25-million royalty exemption for commercial broadcasters. Interestingly, when this was first put into place, it was originally supposed to be only applied to mom and pop stations with a \$1.25-million revenue in advertising, or less. Somehow it got applied as an exemption for the first \$1.25 million for all stations. That needs to be revisited big time.

Also, we recommend expanding the private copying to include new copying technology, and this is a no-brainer, of course. Nobody uses tapes or CDRs any longer. It's all about digital. We recommend a reform to the copyright board. We recommend some reduction of piracy in the digital world. By that of course steeper regulations on Internet service providers, specifically notice and take down regime, as it is in the U.S.

We also urge the government to work with the music community to transition content quotas and MAPL designation from an analog to a digital world so that we can regulate the streaming industry. We need to regulate streaming because this will soon be a \$70-billion industry worldwide, and anything produced in Canada, such as Netflix, should be subject to the same collective bargaining processes such as Status of the Artist Act.

I have one other thing I want to read to you quickly, and this is a letter from one of our members. She is Damhnait Doyle, and she's a musician from Newfoundland. She's quite a popular singer-songwriter, and she has this to say, and I quote:

Throughout my 25 years as a long-standing and proud member of Local 820 of the musicians union, I have only seen the standard of living

decrease for those of us who have chosen to make this our profession. We are being hammered from every angle from piracy to streaming to being at the losing end of exemptions to broadcasters and losing our royalties for our work in film and TV because the definition of sound recording needs to be redefined, while our American counterparts do get paid for their efforts.

🕒 (1540)

Meanwhile, the cost of living is continually rising, and our middle class has been eviscerated. I ask you, please seriously consider the issues being presented by the CFM, which will put long-overdue and necessary revenue into the pockets of Canadian musical artists, thereby allowing those of us with an inherently creative nature to successfully pursue our aspirations and talents in this country. If there is no change, or increase in revenue streams available to musicians, then the option to be a proud and professional Canadian musical artist and creator will no longer be a viable one.

Thank you for your time.

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

We're now going to move to

[*Français*]

Monsieur Lefebvre, vous avez sept minutes, s'il vous plaît.

**M. Éric Lefebvre (secrétaire-trésorier, Guilde des musiciens et musiciennes du Québec):** Bonjour.

Mon nom est Éric Lefebvre, je suis secrétaire-trésorier de la Guilde des musiciens et musiciennes du Québec. Je suis heureux de comparaître ici, devant vous, cet après-midi. Au nom des membres de notre association, je vous remercie de nous permettre de vous faire part de nos commentaires sur la révision de la Loi sur le droit d'auteur. Je suis également heureux de participer à cette réunion en compagnie de M. Alan Willaert, vice-président canadien de l'American Federation of Musicians, fédération à laquelle nous sommes affiliés depuis plus d'un siècle.

Nous comprenons que le Comité permanent de l'industrie, des sciences et de la technologie doit se pencher sur la révision de la Loi sur le droit d'auteur. Il est à noter que la qualification des prestations des artistes interprètes, dans la catégorie des objets du droit d'auteur, est relativement nouvelle. En effet, la Loi sur le droit d'auteur prévoit, depuis le 1<sup>er</sup> septembre 1997, la possibilité pour les artistes interprètes d'exercer certains droits sur leurs prestations. Ces droits ont été bonifiés, en novembre 2012, en intégrant de nouveaux droits exclusifs touchant à l'enregistrement sonore.

À cet égard, nous comprenons que la Loi sur le droit d'auteur prévoit, au bénéfice des artistes interprètes, deux catégories de droits. D'abord, ce sont les droits qu'on dit exclusifs, principalement pour la fixation, la reproduction, la distribution et la mise à la disposition de la prestation d'un artiste. Ensuite, il y a deux droits qu'on appelle « à rémunération ». L'un concerne la situation où l'on communique publiquement un enregistrement sonore qui est commercialisé, que l'on appelle aussi le régime de la rémunération équitable ou le régime du droit voisin, qui est géré actuellement par la société de gestion Ré:Sonne. L'autre est pour le régime de la copie privée, géré par la Société canadienne de perception de la copie privée. De tous ces droits, le régime de la rémunération équitable demeure actuellement le plus important, ayant donné lieu à plusieurs tarifs de la société Ré:Sonne, certifiée par la Commission du droit d'auteur.

Mentionnons que, outre les redevances versées par les sociétés de gestion, la Guilde négocie aussi une rémunération pour l'utilisation des prestations enregistrées dans le cadre de ces ententes collectives. Les redevances que l'on retrouve pour les artistes interprètes dans les accords collectifs sont négociées depuis plusieurs dizaines d'années. Des modifications de la Loi sur le droit d'auteur, qui ont été incluses dans la loi en 1997 et en 2012, ont transformé une partie du cadre juridique, mais sans diminuer nos préoccupations qu'a très bien illustrées M. Alan Willaert il y a quelques minutes.

Quelles sont ces préoccupations? Elles sont simples. Les musiciens s'appauvrissent d'année en année. Nous constatons que les nouveaux droits conférés aux artistes interprètes ne permettent pas une amélioration de la rémunération. Soit que les transformations structurelles de l'industrie de la musique instillées par les Google, Amazon,

Facebook, Netflix et Apple fassent en sorte que la classe moyenne des musiciens devient maintenant une classe d'artistes pauvres, laissant à quelques artistes et producteurs ultra-riches 95 % des revenus générés par l'industrie, soit encore que les nouveaux droits bénéficiant aux artistes interprètes demeurent sans effet en raison de l'adoption de dispositions législatives ou de règlements qui ont un effet contraire.

Pour illustrer notre propos, on se demande à quoi sert le droit à rémunération pour la copie privée des enregistrements sonores pour les auteurs, les artistes interprètes et les producteurs, si le régime ne vise que le CD vierge, que personne n'utilise maintenant pour faire de la reproduction. La Cour suprême a déjà indiqué que la loi est technologiquement neutre. Pourquoi ce deux poids, deux mesures, quand il s'agit d'adopter une modification réglementaire à l'avantage des artistes et des créateurs? Il serait important de faire en sorte que tous les supports de reproduction soient visés, tels les cartes Sims, les clés USB ou encore les disques durs des ordinateurs.

De même, on peut se demander à quoi servent les nouveaux droits exclusifs de mise à la disposition et de distribution pour les artistes interprètes, qui ont été introduits dans la loi en 2012, afin de permettre l'application de droits sur l'Internet et des supports déjà existants comme le CD, si les sommes provenant de l'écoute en continu, qu'on appelle communément maintenant le *streaming* demeurent faméliques et que la responsabilité des fournisseurs de services Internet n'est toujours pas reconnue en raison de leur statut d'intermédiaire.

Enfin, à quoi sert le nouveau droit exclusif de distribution, si la principale source d'écoute pour la musique, comme je l'indiquais un peu plus tôt, demeure le *streaming*? Comme le confirme d'ailleurs le sondage que le gouvernement a commandé en 2017 visant la consommation en ligne de contenu protégé par le droit d'auteur, on a appris que, dans les trois mois qui ont précédé le sondage, 11,2 millions d'internautes ont écouté de la musique en ligne en continu. Il est clair que cette réalité a un impact sur la vente des enregistrements sonores, tant sous la forme de CD ou de téléchargements en ligne, qui demeurent encore les seules façons de pouvoir valablement obtenir une rémunération.

Il serait important d'obtenir une compensation des fournisseurs de services Internet, qui profitent indûment de cette situation. Il faut, donc, mettre en place des mécanismes qui visent à rééquilibrer les forces en présence, tout en cessant de poursuivre par voie législative l'affaiblissement des droits conférés aux titulaires déjà commencé par une jurisprudence qui met sur le même pied les droits des utilisateurs et ceux des créateurs, comme dans le cas des oeuvres littéraires, ou qui laisse une industrie poursuivre sa déchéance, comme dans le domaine de la musique.

⊕ (1545)

Pour atteindre cet objectif, nous recommandons au gouvernement de faire siennes les propositions suivantes: modifier la Loi sur le droit d'auteur, afin de permettre au régime de perception de la copie privée de s'appliquer sur l'ensemble des supports qui servent à reproduire un enregistrement sonore; modifier la Loi sur le droit d'auteur, afin de permettre au régime de perception de la copie privée de s'appliquer sur les appareils qui servent à la reproduction et à l'écoute d'enregistrements sonores; enfin, responsabiliser les fournisseurs de services Internet, entre autres, d'une façon plus technique, en éliminant une exception dont ils bénéficient dans la Loi sur le droit d'auteur, à l'article 31.1.

Nous soutenons, depuis, notre fédération sur les recommandations qu'elle a soumises à l'égard de la modification de la définition enregistrement sonore, qui doit permettre les versements de redevances, lorsqu'un enregistrement sonore est intégré dans une oeuvre audiovisuelle ou encore sur une exemption qui profite actuellement aux radiodiffuseurs dans le cas du régime du droit voisin.

Nous entendons fréquemment la mention suivante: « mon Dieu que le droit d'auteur est complexe ». En fait, il est devenu complexe en raison des modifications apportées à la loi depuis plusieurs années, ayant pour effet de diluer l'efficacité des droits, entre autres par le nombre très important d'exceptions maintenant en vigueur.

[English]

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

We're going to move to Ms. McGuffin. You have up to seven minutes please.

**Ms. Margaret McGuffin (Executive Director, Canadian Music Publishers Association):** Thank you.

I would like to thank you for giving me this opportunity to make this presentation. I would like to begin by telling you briefly about us, about Canadian music publishers and the role that international trade plays in ensuring Canadian songs are heard around the world.

While some musicians record their own songs, there are many who do not. Instead they either co-write their tracks with other songwriters or perform songs written by other songwriters. Additionally, there are also many composers who create the soundtracks of your favourite movies and television shows. You don't know their names, but they are a very important part of the creative economy in Canada and around the world.

Our association represents large companies such as olé, music publishers, and entrepreneurs who run small or medium-sized businesses, like Jennifer Mitchell at Red Brick and Vince Degiorgio at CYMBA Music. These companies all represent and invest in thousands of Canadian songs, songwriters and composers who are heard daily on the radio, on streaming services, in video games and in film and television productions around the world. Each are holders of copyright and this discussion goes straight to the heart of their creative and their business efforts.

The music industry revenue is increasingly built around streaming and digital platforms. The technology around the distribution of music has changed dramatically over the past 10 years, but my members are changing too. We recently released a new report called Export Ready, Export Critical that examined the importance of export to our members.

Music publishers are innovators and their strong export strategies have allowed these entrepreneurs to compete internationally with two thirds of their revenue now coming from foreign sources. This is a dramatic change from 2005 when only 28% was from these same foreign sources. The key to dealing with changes in technology has been my members' ability to expand globally.

In order to continue to be globally competitive, songwriters and music publishers require a functioning marketplace in Canada in order to innovate. In the music publishing world, our members continue to deal with quickly changing models where royalties from new digital models have not yet replaced traditional royalties from physical sales and downloads.

While detractors point out that streaming revenues are increasing by double digits, they fail to mention that royalties do not match previous sales levels. Unfortunately, music publishers and songwriters suffer further when the Canadian Copyright Act includes safe harbours, exceptions and barriers to enforcing their rights in this new digital world and when we have a Copyright Board that takes years to respond to these changes.

Music publishing is about championing a songwriter and a song through the lifetime of their career and that song's copyright. Our members take a long-term perspective and work a lot behind the scenes to create value. The most valuable songs can be covered over and over again by different artists and continue to be heard in audio-visual productions long after that first recording. This is known as a sync.

The strongest and most stable publishers are those who own a balanced portfolio of songs including older catalogues and newer creations. The revenues from those tried and true songs allow a music publisher to take a risk to invest in an emerging songwriter.

For example, Jennifer Mitchell of Red Brick Songs is a publisher member with both a large foreign catalogue that she administers and sub-publishes for foreign partners in addition to a Canadian one that includes the songs from emerging and established Canadian songwriters. In Canada she represents Dan Davidson from St. Albert, Alberta, Charlotte Cardin from Montreal, Jeen O'Brien from Stratford, Ontario and the members of Said the Whale from Vancouver.

One or two songs in a catalogue can make a huge difference to the viability of a music publisher and the Canadian songwriters they choose to invest in. A number of Red Brick's titles will come into public domain soon because Canada's copyright legislation is not in line with international standards. Day-to-day these individual songs may not generate much money. However, holding on to this copyright over an extra 20 years could translate into hundreds of thousands of dollars if a good sync deal is in place.

That is why it is so critical to align with Canada's global trading partners and extend the term of copyright to life plus 70 years.

It is truly insincere for our critics to claim that Canadians need more works in public domain.

⊕ (1550)

There are many songs already in the public domain, there are many that can be licensed on or moderate or free basis, and there is only a very rare instance where songs will be used in new digital productions and not released beyond Canada's borders where a licence will be needed.

Additionally, it is important that Parliament not introduce new exceptions that play havoc with the lives of these small businesses.

We ask that you amend the exceptions introduced in 2012 for backup copies and technological processes.

We also ask that you amend the section on network services to address the value gap by treating Internet intermediaries as more than “dumb pipes” and make them liable for infringing activities in certain circumstances.

As well, we ask that, through a combination of legislative and regulatory change, you improve the efficiency of the Copyright Board's processes, timelines and, and predictability of its decisions. We know this already is seen as a priority and may take advance action before the rest of the copyright changes, and we support that and appreciate the work that is being done on this.

Finally, we support our colleagues here to make the private copying regime technologically neutral.

Thank you.

⊕ (1555)

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

We're going to jump right into questions, starting off with Mr. Longfield. You have seven minutes.

**Mr. Lloyd Longfield (Guelph, Lib.):** Thank you, Mr. Chair, and thank you, all, for your presentations this afternoon.

I had a meeting with Miranda Mulholland, one of Guelph's local artists who is internationally published, earlier this year. She was talking to me about the Safe Harbour laws from 1997 and then changes that happened since 1998, where there was a 20-year decline in revenues.

One of the suggestions she made was to look at having a third party review of exemptions, and...whether that's something that's practical within the scope of this study for us to look at, looking at how we look at the exemptions the creators are faced with. This is similar to the previous part of the study where we looked at publishers making more money and artists making less money because of exemptions.

Could maybe one or all of you talk about how we might do a review on exemptions and whether that's something your organizations would support?

**Ms. Margaret McGuffin:** I think I'd probably see this as a responsibility of this committee to move ahead with this. We have all collectively—publishers, labels, artists, and songwriters—worked together to come up with common recommendations. We spent 18 months doing that, so we have a lot of information you're going to be hearing over the next few weeks about those exceptions.

My warning is that exceptions look very minor and, to a certain degree—as somebody told me—it's a “death by a

thousand cuts”, because there was a lot of uncertainty around the exceptions the last time in 2012. We had a non-functioning Copyright Board that led to decisions not being released for three and a half years and then those decisions being appealed. At that point for my members and for the songwriters they support, there was money being held back during a time when the digital economy was completely changing. My warning, then, on exceptions is to look at them carefully, review the ones from 2012, and please make sure you're not leaving a situation where there's uncertainty for songwriters and small businesses.

**Mr. Lloyd Longfield:** Is there have anything to add from either side?

Mr. Willaert.

**Mr. Alan Willaert:** In answer to your question, we would be very willing to work with you towards looking at these exceptions and help you go through what is relevant and what isn't and what should be there and what shouldn't. We certainly have the ability to poll our musicians and thousands of members and find out what affects them the most.

**Mr. Lloyd Longfield:** As a committee, we wouldn't be dealing with that directly. There's a governance body that would have to.... Is there one that exists that could look at that, or is there one that needs to be created? I'm going to guess that when it gets to level of technical, members of Parliament wouldn't be qualified—for the most part.

**Ms. Margaret McGuffin:** I think this is something we could help you with. I'm not sure a third party committee is needed. Also, as I said, we already pulled multiple groups together to carefully outline that. We can also come back with suggested language and recommendations on that.

**Mr. Lloyd Longfield:** Any recommendations you can give us for our study we'll be putting forward to the different ministries within government that will be looking at our report.

You mentioned also the “Export Ready, Export Critical” report. If that could be sent to us through the clerk, that would be very helpful. We're looking at small businesses. We've looked at small businesses in other studies and similar challenges in manufacturing in terms of keeping money in Canada, making sure our intellectual property is protected. I think there are likely some similar themes. Does that report look at intellectual property or copyright?

**Ms. Margaret McGuffin:** It does, in an indirect way, but it outlines exactly what independent music publishers are doing, the fact they are small businesses, they have to compete globally. In the case of music publishers, it is a very competitive international market, so we want to be able to make sure Canadians put their best foot forward as they're competing internationally.

**Mr. Lloyd Longfield:** I was personally very proud of the work this committee did on the intellectual property study, and what came from that, the recommendations to the government, and actually get budget line items in last year's budget around creating intellectual property regime, with a review, with the flow of money, with people who could help to translate for the creators of intellectual property how they can come to market, how they can protect their ideas.

Is there a liaison service for copyright for musicians? Is there a lack of knowledge, or are they quite knowledgeable? Is that something that we need to look at for this type of a study as well: to have liaison people to help artists protect themselves from losing their revenues to publishers and to other leakage points?

🕒 (1600)

**Mr. Alan Willaert:** I certainly think that is an excellent idea. Since 1997, with the bringing about of neighbouring rights in this country, we've seen all kinds of independent agencies pop up as well that purport to represent musicians and are middlemen and take a large portion of the money, and then very little again trickles down to the artist. There are all kinds of caveats and pitfalls that have to be exposed so these musicians get what they're entitled to.

**Mr. Lloyd Longfield:** Great. That could be a solid recommendation from you as well.

**Ms. Margaret McGuffin:** And I think funding. There are very strong organizations that don't have the funding to

provide that sort of training. So the Songwriters Association and the Composers Guild for Screen Composers would be good sources, who already are in touch with those people, and could often help in advising younger members, as they're entering the field for the first time. We've also completed a report with work in culture, where we're looking at the need for training to on-board new employees. Not many people graduate with an understanding music publishing, so we know that we want to be rolling that out. There are many people who have managers or labels, and don't understand they're not fully monetizing their music publishing, so we're looking at steps, as they do in the U.K., to offer training in those cases.

**Mr. Lloyd Longfield:** Mr. Lefebvre—

**The Chair:** Thanks.

**Mr. Lloyd Longfield:** Oh, darn.

Thanks for coming.

**The Chair:** We'll come back to you.

[*Français*]

Monsieur Bernier, vous avez la parole.

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

Avant de poser une question, je veux juste de présenter un avis oral d'une motion que j'aimerais déposer devant le Comité et qui se lit comme suit:

Que le Comité permanent de l'industrie, des sciences et de la technologie recommande formellement au Comité permanent des finances d'étudier en quatre (4) réunions le coût global de l'achat et de l'expansion du projet de pipeline Trans Mountain, les coûts liés à la surveillance (société d'État) du projet et qu'il en aie aussi l'impact sur la confiance des investisseurs dans les projets de ressources canadiens et; que le Comité fasse rapport des résultats à la Chambre des communes et fasse des recommandations sur la façon de restaurer la confiance des investisseurs.

Merci, monsieur le président.

**Le président:** Merci pour l'avis de motion.

**L'hon. Maxime Bernier:** Quant à mes questions pour les témoins, celles-ci s'adresseraient plutôt à M. Lefebvre en premier lieu.

En ce qui concerne les droits d'auteurs des oeuvres musicales, nous avons reçu des représentants de Musique Canada qui nous ont dit que la durée du droit d'auteur pour les oeuvres musicales devrait être prolongée de la vie, plus 50 ans, à la vie, plus 70 ans. Premièrement, êtes-vous d'accord avec cet affirmation?

**M. Éric Lefebvre:** Oui. Tout à fait.

**L'hon. Maxime Bernier:** Et quel est l'impact de ce changement pour les membres de votre organisme?

**M. Éric Lefebvre:** D'une part, la Guilde des musiciens et musiciennes du Québec représente des artistes-interprètes, mais pas directement visés par cette mesure. Nous ne représentons des auteurs-compositeurs comme tel, mais les auteurs-compositeurs font partie de sociétés et d'associations avec lesquelles nous collaborons grandement. Cependant, nous sommes tout à fait d'accord avec la possibilité d'étendre la durée du droit d'auteur à plus de 50 ans. Cela existe déjà dans plusieurs pays comme la France et les États-Unis. Cela ferait en sorte d'avoir un régime de protection qui favoriserait l'emploi ou une rémunération sur une plus longue période, pas tout à fait des artistes, mais des auteurs lorsqu'une oeuvre musicale est exploitée pendant une grande période de temps.

**L'hon. Maxime Bernier:** D'accord.



Tout à l'heure, ici, on a parlé des revenus que reçoivent les interprètes, les musiciens et les chanteurs. À un moment donné, ils nous disent que le revenu moyen a baissé de 19 794 \$, en 2010, à 19 042 \$, à peu près, en 2015.

Comment expliquez-vous cette baisse de revenus des musiciens et des chanteurs, malgré la hausse des revenus des éditeurs de musique? On s'aperçoit qu'ils sont les perdants. Comment pouvez-vous l'expliquer?

🕒 (1605)

**M. Éric Lefebvre:** Pouvez-vous me donner les chiffres? J'ai mal compris.

**L'hon. Maxime Bernier:** Sauf pour les musiciens et les chanteurs, le revenu moyen a baissé de 19 794 \$, en 2010, à 19 042 \$, en 2015. C'est un revenu très bas.

**M. Éric Lefebvre:** Oui, tout à fait.

**L'hon. Maxime Bernier:** C'est le revenu moyen. Comment expliquez-vous cet écart?

**M. Éric Lefebvre:** Cela dépend de plusieurs facteurs.

D'abord, les contrats signés entre les artistes interprètes, musiciens et, admettons, les producteurs d'enregistrements sonores peuvent peut-être, dans certains cas, prévoir soit une stabilisation de la rémunération. Voici ce qu'on observe et voit à tous les jours. Dans nos ententes collectives, c'est de plus en plus difficile d'obtenir soit une rémunération convenable pour les musiciens, soit des droits associés à l'utilisation d'une prestation enregistrée. Je vous donne un exemple.

Une émission de télévision est produite. Il y a quelques années — mon collègue M. Alan Willaert pourrait vous en parler aussi —, la rémunération qui était associée à la diffusion ultérieure d'une émission de télévision était beaucoup plus élevée. Maintenant, on a Netflix qui vient compétitionner, à titre d'exemple, avec des radiodiffuseurs ou des producteurs d'émissions de télévisions canadiennes. Cela fait en sorte que la pression est de plus en plus forte sur les radiodiffuseurs, qui demandent aux producteurs de pouvoir offrir le service avec, dans le fond, ce qu'on appelle un ensemble de droits plus importants. Par la suite, le producteur d'une émission de télévision va transférer ce fardeau auprès des artisans et, entre autres, des musiciens. À titre d'exemple, au lieu de rémunérer 500 \$ l'utilisation d'une émission pour un certain nombre d'années, maintenant, on va donner 100 \$. Donc, il y a une pression à la baisse qui est directement liée, dans le fond, à l'environnement numérique qui existe actuellement dans l'industrie de la musique.

[English]

**Hon. Maxime Bernier:** Mr. Alan, do you agree with that?

**Mr. Alan Willaert:** Yes, I do and I have a couple of things to add.

First, the entire model has changed over the years. Years ago when an artist created a recording or signed a record deal with a label, they would be getting a portion of the sales and they would go out and tour to support the interest in that particular album and they'd be making money from the tickets sales, of course, but the whole idea of touring was to sell more CDs or more vinyl. If that was a hit, it would be a lucrative way of earning money.

Now, of course, it's upside down. The artist is not making nearly as much money and CD sales are in the tank. It's all about streaming, of which they're getting a fraction of a penny per million streams and they're told, okay, you have to go out and tour, but the way to make money is to sell some t-shirts and some CDs while you're on the road. It's no longer about paying for the music. It's now about the paraphernalia that goes with it.

Also, to what my colleague was talking about broadcast, one of the things we see as well is when there is a production of a movie or a television show and a composer is hired in this country, so many times now we see the scoring done overseas. The musicians in Prague will be utilized rather than Canadian musicians. That's unconscionable, but it's another reason why the revenue streams for our musicians keep going down because so much of it is being

outsourced overseas.

**Hon. Maxime Bernier:** Do you have a recommendation or something we can do in our work that we're doing right now as a committee or it's more pre-market—

**Mr. Alan Willaert:** Well, this last one is a very simple change in that the Income Tax Act needs to be changed slightly to change the CASCO qualifications so that when they apply for a tax credit and they get one point for having a Canadian composer, it should also be a Canadian composer and musicians, otherwise, it doesn't qualify as a point, and you'll see much more of the recording done here in this country.

**Hon. Maxime Bernier:** Thank you very much.

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

[*Français*]

Madame Sansoucy, vous avez sept minutes.

**Mme Brigitte Sansoucy (Saint-Hyacinthe—Bagot, NPD):** Merci beaucoup, monsieur le président.

**Le président:** Merci d'être venu à notre comité.

**Mme Brigitte Sansoucy:** C'est une belle opportunité pour moi d'être ici cet après-midi.

Le mois dernier, j'ai été interpellée par un auteur de Saint-Hyacinthe—Bagot, la circonscription que je représente. Je m'aperçois que la réalité des créateurs et des auteurs est semblable à celle que peuvent vivre les musiciens. D'ailleurs, je vais vous lire un extrait de sa lettre, qui est parlante, comme celle que vous avez lue, monsieur Lefebvre. Pour lui, les changements de 2012 sur la Loi sur le droit d'auteur ont servi de cadre légal au dépouillement autorisé des artistes et des écrivains.

Saint-Hyacinthe a une longue tradition culturelle. Le cégep de la ville est un terroir à futures auteurs et acteurs, puisqu'il accueille en son sein des meilleures écoles de théâtre de la province. Cette mesure fait particulièrement mal aux écrivains régionaux. Cela pourrait être la même chose pour les musiciens, puisque les occasions de rentabiliser leur art sont souvent moindres que dans les grands centres. Ces revenus qu'on leur soutire sont des deniers manquants qui affecte leur famille, leur capacité de se développer dans notre district et leur participation à notre économie locale.

Dans le fond, il me demandait — et c'est intéressant que j'ai l'occasion de le faire cet après-midi — si, en son nom, en solidarité avec tous les créateurs du pays, je pouvais me faire entendre lors du processus de l'examen de la loi en appuyant des modifications qui rendront la Loi sur le droit d'auteur juste et équitable pour les artistes et créateurs canadiens qui sont au coeur de notre culture. Je vous parlais d'un auteur, mais nous avons aussi de nombreux artistes sur la scène musicale et des lieux de diffusion incroyables dans une petite communauté comme la mienne.

Je pense, entre autres, au Zaricot, pour ne nommer que celui-là. Le Zaricot de Saint-Hyacinthe, c'est une petite salle de spectacle — que vous connaissez peut-être —, qui anime la vie culturelle avec une programmation variée, autant des artistes locaux émergents que ceux de grands publics — qui sont d'ailleurs probablement membres chez vous. C'est une petite salle qui se démarque parce qu'elle est encore en vie. Dernièrement, plusieurs salles de spectacle de son genre ont fermé leurs portes. Je pense au Divan Orange de Montréal. Pour nous, animer la vie culturelle de nos petites communautés, c'est important. Il faut que ces salles restent ouvertes. Il faut que les artistes puissent en vivre. Depuis 15 ans maintenant, le Zaricot est vraiment actif pour faire vivre la musique à Saint-Hyacinthe.

On pense souvent aux spectacles de grande envergure qui ont lieu dans les grands centres, comme le Centre Bell, mais la réalité de nos artistes québécois — et vous en avez bien parlé —, c'est de longues tournées avec beaucoup de kilométrage à parcourir le Québec et à faire des prestations dans des petites salles en région, comme le Zaricot. S'ils sont chanceux, ils vont au Centre des arts Juliette-Lassonde de chez nous, qui est une salle de moyenne taille. Pour ces artistes qui peinent à vendre leur musique en raison des plateformes de diffusion, telles que Spotify, les spectacles et la

marchandise vendus sur place — comme vous l'avez dit — demeurent maintenant pratiquement leur seule source de revenu. Donc, je suis d'accord avec l'auteur qui m'a écrit.

Il faut une Loi sur le droit d'auteur qui est juste et équitable pour les artistes. Pour cela, il faut une taxation des géants comme Spotify. Il faut que ce soit perçu. Tous les acteurs de notre écosystème culturel, à partir des câblodistributeurs jusqu'aux syndicats des techniciens et en passant par les artistes et scénaristes, exigent aussi cette mesure. Vous l'avez bien dit. Les diffuseurs en ligne, contrairement à nos diffuseurs comme MusiquePlus ou autre, n'ont aucune obligation de mettre en valeur le contenu d'ici. Je trouve cela fort inquiétant. Notre culture veut une concurrence déloyale face à ces géants du Web sur tous les aspects, que ce soit le Web, la musique, les auteurs, etc.

Monsieur Lefebvre, vous nous avez parlé des différentes recommandations que vous mettez de l'avant. Vous l'avez dit vous-même: cette loi est devenue complexe. J'aimerais vous entendre parler de chacune de ces différentes recommandations pour nous éclairer sur la manière qu'elles peuvent venir soutenir ce dont je viens de dire, soit du développement de la culture dans une circonscription en région comme la mienne.

🕒 (1610)

**M. Éric Lefebvre:** De fait, la Loi sur le droit d'auteur, c'est une loi...

Je comprends que, quand un musicien produit un spectacle, il est souvent auteur-compositeur, mais lorsqu'il agit comme interprète, sa rémunération vient directement d'un cachet payé par le producteur. Si ce musicien enregistre des disques — appelons-nous cela encore des disques? Je ne sais pas.

**Mme Brigitte Sansoucy:** Moi, oui.

**M. Éric Lefebvre:** S'il enregistre une oeuvre musicale sur un enregistrement sonore, par la suite l'enregistrement sonore pourrait théoriquement engendrer des redevances qui vont permettre à l'artiste-interprète ou au musicien de pouvoir continuer sa carrière. Ce revenu est indispensable afin que justement le musicien puisse continuer à tourner. Autrement dit, à se produire dans des petites salles de spectacle.

Actuellement, l'enregistrement sonore produit certaines redevances en vertu du régime de la rémunération équitable, mais il n'en produit pratiquement plus en vertu du régime de la copie privée. La copie privée, puisqu'elle s'applique sur le CD et antérieurement sur la bonne vieille cassette audio, ne produit plus de redevances, parce qu'il y a un règlement qui a été ajouté à la Loi sur le droit d'auteur, qui fait en sorte que de la définition de support audio, qui est prévu dans la loi, on exclut les cartes micros SD, entre autres. Ce qui veut dire que les nouveaux supports sur lesquels on pourrait compter le versement d'une redevance pour les artistes-interprètes ne sont plus applicables.

La copie privée favorise en soi trois catégories d'ayants droit: les auteurs, les artistes-interprètes et les producteurs. C'est toute la chaîne de l'industrie de la musique qui est visée par ce régime. Le régime de la copie privée s'applique seulement encore au CD vierge, qui est maintenant inutilisable, c'est-à-dire qu'il n'est plus utilisé proprement dit pour faire de la reproduction.

Le fait maintenant qu'on limite les supports audios sur lesquels on pourrait appliquer une redevance... Évidemment, on coupe une grande partie des revenus. Je pense que j'ai un chiffre ici. La Société canadienne de perception de la copie privée — je ne sais pas si elle a fait des représentations — a vu ses revenus chuter de 89 %. C'est quand même énorme. C'est une somme d'argent qui était versée par le biais des sociétés de gestion aux artistes-interprètes justement pour faire en sorte qu'à la fin de l'année, après avoir fait des concerts, vendu des tee-shirts, produit des albums et enregistré, peut-être, des émissions de télévision pour faire mousser la vente des albums, que lorsque l'ensemble de l'écosystème est présent, cela permet à l'artiste-interprète de pouvoir générer des revenus suffisants pour vivre.

C'est comme si je pouvais comparer la Loi sur le droit d'auteur à un fromage gruyère. La Loi sur le droit d'auteur est une seule des lois de la propriété intellectuelle qui sont actuellement en vigueur au Canada. Il existe la Loi sur les marques de commerce, la Loi sur les brevets, Loi sur les dessins industriels, mais toutes ces lois font en sorte que le Canada, en principe, devrait être un terreau fertile pour l'innovation.

La Loi sur le droit d'auteur est comme le parent pauvre ou encore le méchant petit canard. C'est comme si c'est une loi, alors qu'on a la Loi sur les marques de commerce, qui est relativement robuste, qui fait en sorte que si demain matin une université décidait d'ouvrir un restaurant de hamburgers et qu'elle portait le nom « McDonald's », il y a bien des chances que la compagnie McDonald's intervienne, parce que cela viole sa marque de commerce.

Dans le cadre de la Loi sur le droit d'auteur, pourquoi est-il possible pour une université, en vertu de l'exception d'usage équitable aux fins d'éducation, de pouvoir reproduire des oeuvres littéraires, des oeuvres musicales, parce qu'il y a une exception dans la loi? C'est pour cela que je parle de la Loi sur le droit d'auteur comme étant un tout cohérent. Elle a à peu près 160 pages, alors que la Loi sur les marques de commerce en a 80. On a une loi complexe qui est lourde, avec beaucoup d'exceptions. Cela fait en sorte que le Canada, s'il veut véritablement être un terreau d'accueil pour l'innovation, doit faire en sorte que l'ensemble des lois de la propriété intellectuelle soient efficaces pour l'ensemble des créateurs et non seulement pour les compagnie comme McDonald's qui peuvent [*inaudible*] la Loi sur les marques de commerce.

🕒 (1615)

**Le président:** Je m'excuse.

Merci beaucoup.

On n'a plus de temps.

Monsieur Baylis, vous avez sept minutes.

[*English*]

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

Mr. Willaert, you talk about the broadcast stations that have a \$1.25 million exemption. I'd like to explore that a bit. This was put in to help, as you said, the mom and pops. Now you'd like to see it removed, or would you like to see it stay for the mom and pops and just not be applied? How would you like us to deal with that exemption?

**Mr. Alan Willaert:** The \$1.25 million on stations that don't have that kind of revenue is fine. That's not the issue. It's the larger stations, of course, that have much more revenue than that, and they're getting away with this \$1.25 million. So taking that away would not hurt these large stations at all. That would not be an issue.

**Mr. Frank Baylis:** A lot of these small stations were bought up and they've been amalgamated and all that. Would you like us to say, if you're a small stand-alone and you make less than  $x$  amount of dollars, you don't get it? What exactly would you like to see happen?

**Mr. Alan Willaert:** Personally—and this is my own particular view—I would like to see it put into place the way it was originally intended, where anybody with less than \$1.25 million in advertising revenue is exempted from the tariff.

Given that—

**Mr. Frank Baylis:** If you have less than \$1.25 million you're exempted, but if you're part of a big corporation.... Because what they've done is that they've bought them all up and they apply for each little one, right?

🕒 (1620)

**Mr. Alan Willaert:** That's correct, but you still have college radio, for instance.

**Mr. Frank Baylis:** And you want to make sure that it doesn't apply to them.

**Mr. Alan Willaert:** That's correct.

**Mr. Frank Baylis:** Okay.

Just so I understand, I'll summarize. You'd like to see the exemption stay for the smaller, the college radios, and things like that, but where these have been amalgamated and it's a big corporation with a number of small stations or medium-size stations across, they don't need that exemption.

**Mr. Alan Willaert:** That's correct, yes.

**Mr. Frank Baylis:** And the exemption is for the first bit of money. They still pay, so it's just that first carve out, so they should pay from dollar one.

**Mr. Alan Willaert:** Yes.

**Mr. Frank Baylis:** Okay.

You mentioned something about notice and take-down, and that it is something in the United States. Can you elaborate on that?

**Mr. Alan Willaert:** Yes. Canada's Copyright Act, of course, has the notice and notice. With streaming now being able to be hacked and recorded and downloaded with software, it's more important than ever to be able to identify those perpetrators who are infringing on copyright. The way to really stop that is the notice and take-down system where we could just stop that.

**Mr. Frank Baylis:** The notice and take-down, which is from the United States?

**Mr. Alan Willaert:** It's within their Copyright Act, yes.

**Mr. Frank Baylis:** Can you explain to us how that works?

**Mr. Alan Willaert:** Essentially, if infringement is identified, then a notice is given to stop this and if it continues, then their access is shut down.

**Mr. Frank Baylis:** They're shut down by whom?

**Mr. Alan Willaert:** By the Internet provider....

**Mr. Frank Baylis:** If a notice has been given to an infringing party and they don't act, then the Internet provider is given a notice that it has to shut them down. Is that it?

**Mr. Alan Willaert:** Correct. Yes.

**Mr. Frank Baylis:** What happens in Canada?

**Mr. Alan Willaert:** Right now it's just continually notice after notice after notice. There is no final solution, if you will.

**Mr. Frank Baylis:** So you'd like to see that...?

You have something to add, Ms. McGuffin?

**Ms. Margaret McGuffin:** My colleagues in the U.S. are also concerned, though, about notice and the notice. It's notice and take-down in the U.S., but it hasn't been effective and has given safe harbour to.... It's a game of whack-a-mole, so even if there is a take-down it's not the strong enough remedy that you need to actually get bad plays to come to the table to negotiate and pay royalties.

**Mr. Frank Baylis:** So the notice and take-down in the United States is not working.

**Ms. Margaret McGuffin:** No, it is not working, and there is a review ongoing on that and looking at alternatives.

**Mr. Frank Baylis:** And what would those alternatives be?

**Ms. Margaret McGuffin:** I don't have them with me, but I could provide you with more information in my submission.

**Mr. Frank Baylis:** Yes. It is like what they call whack-a-mole. These guys go here and they get taken down, and they go there and they get taken down. But at least it's more than what we have right now in Canada, which is nothing. We just keep...endless notices.

**Ms. Margaret McGuffin:** Yes, so the good players like Spotify and Apple come to the table and they negotiate. We have the fall back of the Copyright Board and hopefully when we have a smoothly operating Copyright Board you could go there if there were a problem.

We're looking at the players on Torrent sites and stream-ripping and services that are out of Canada that have refused to come to the table on licence.

**Mr. Frank Baylis:** Okay.

[*Français*]

Monsieur Lefebvre, vous avez touché un point intéressant. Vous avez dit, en parlant de l'argent, vous avez mentionné Google, Amazon, Facebook, les géants du web. Quel est votre point de vue précis à ce sujet? Est-ce à cause du fait qu'ils ne paient pas leur juste part? Pourriez-vous nous expliquer exactement?

**M. Éric Lefebvre:** Oui.

Actuellement, les géants du web profitent d'un système au sein duquel ils ne sont pas responsabilisés. Ou encore, ils peuvent, dans certains cas, assurer. C'est vrai que Spotify peut verser une somme d'argent à une société de gestion pour l'utilisation d'un répertoire.

Toutefois, ce que je veux dire par là, c'est ceci. Actuellement, les sommes d'argent versées à l'ensemble des ayant droits sont minimales. Quand on parle du fait que les sommes d'argent provenant de l'écoute en continu sont faméliques, c'est véritablement ce qui se passe. Ce sont vraiment des sommes minimales qui sont versées.

**M. Frank Baylis:** [*inaudible*] un peu comme Utube qui donne des montants si minimales, comme vous le disiez. Vous attendez-vous à ce que la *copyright board* fixe un certain taux qu'ils doivent redonner aux auteurs? Que cherchez-vous comme solution?

**M. Éric Lefebvre:** C'est difficile pour moi de me substituer à la Commission du droit d'auteur, mais celle-ci possède quand même toute la latitude voulue pour fixer des tarifs dans certaines situations qui sont prévues dans la loi.

[*English*]

**Mr. Frank Baylis:** Ms. McGuffin, you had something about the Copyright Board being too slow. Would you like to see them also ... is this a solution to have certain minimums for streaming or for YouTube videos, things like that?

**Ms. Margaret McGuffin:** Those things have already been discussed for music publishings and songwriters in the online hearing that happened and you'll be having people from CIMA and SOCAN appear that can answer more questions about that. The problem with the Copyright Board right now is that it's taking them three and a half to four years to render decisions. They're releasing decisions that have no relevance to the current market because new entities have entered and ones who were at the hearing don't even exist anymore.

We're pleased to see the investment in case management that was announced just part of the IP strategy. That's

important. We took part in the consultation that happened last September. There were 60 submissions and I understand from both sides of the table at the Copyright Board there were some very common themes. We're looking forward to action on those themes.

🕒 (1625)

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

We're just going to move on. I'm sure we can get back to you.

Mr. Jeneroux, you have five minutes.

**Mr. Matt Jeneroux (Edmonton Riverbend, CPC):** Perfect. Thank you, Mr. Chair, and thank you for being here.

I'm tempted to ask Mr. Lefebvre why you chose Gruyere cheese of all the cheeses to decide the Copyright Act. I will leave that, maybe you can work that into some of your answers as we go.

I just wanted to clarify if we can, a simple yes or no, Mr. Willaert, you're for notice and take down?

**Mr. Alan Willaert:** Yes as a stop-gap until something better is achieved.

**Mr. Matt Jeneroux:** Ms. McGuffin, you were ... same answer?

**Ms. Margaret McGuffin:** We don't support it in the way that it's applied in the U.S. and we'll provide more details in our submission.

**Mr. Matt Jeneroux:** Mr. Lefebvre.

[*Français*]

**M. Éric Lefebvre:** Je suis de l'avis de Mme McGuffin.

[*English*]

**Mr. Matt Jeneroux:** Okay.

We've heard quite the opposite with some of the other presenters up to this point, notice and notice.

I'm hoping that your submission, Ms. McGuffin, clarifies and addresses perhaps some of the things that were raised previously as well.

Help understand this a little bit, when a song is played on the radio, what share of the resulted compensation goes to the songwriter, the record maker, the music publisher and all other parties involved in the value chain?

**Mr. Alan Willaert:** There's two different collectives involved. You have SOCAN which looks after the composer and the lyricist and the publisher. Then you have neighbouring rights which is a royalty which is paid out to the musicians and the label, so different collectives, different tariffs.

**Mr. Matt Jeneroux:** That would be for when a song is on the radio.

**Mr. Alan Willaert:** Yes.

**Mr. Matt Jeneroux:** When a song is on Apple and Spotify, how does that differ?

**Mr. Alan Willaert:** That's one of the problems. If you have a streaming hit, let's say in the United States and it gets 100 million streams worldwide, that could generate between \$130,000 and \$220,000 for the label and the artist. But

when Canada's Copyright Board addressed tariff 8, they established a rate which is 10% of that which is in the United States. So if a Canadian artist for instance were miraculously to have 100 million streams, they would manage to make \$10,200.

**Mr. Matt Jeneroux:** Ms. McGuffin, you ...

**Ms. Margaret McGuffin:** If you're looking at online streaming services, on average, the services are paying between 12% and 15% for the performance which is collected by SOCAN and MECANICA which is collected by SOJAK and CMRA. That is paid then to the songwriter and to the publisher.

**Mr. Matt Jeneroux:** I forget the example that you used but one million uses. That initial amount there then is it split in half between the two?

**Ms. Margaret McGuffin:** It is routine in English Canada that 75% goes to the songwriter and 25% goes to the publisher.

**Mr. Matt Jeneroux:** Okay.

The record maker, is that ...

**Ms. Margaret McGuffin:** That is a separate side of that and I'm not expert enough. You're best to talk to CIMA or to Music Canada about that.

**Mr. Matt Jeneroux:** Okay.

You're not an expert on that either, Mr. Willaert, I assume.

**Mr. Alan Willaert:** No, but there are some anomalies out there that create havoc for our musicians, one of them being, for instance, Spotify: 20% of it is owned by the labels. One issue for musicians is when Spotify approaches one of the major labels and acquires access to the catalogue, there's a several million dollar fee for that access, and then, of course, there's a per stream fee as well. In that huge amount of money that is paid for catalogue access, the musicians see none of that at all—zero.

🕒 (1630)

**Mr. Matt Jeneroux:** Sorry to cut you off. I think you can probably get to some more of that. I just want to quickly get another question in here. The YouTube exception that was put in place, part of that was to address the streaming and the popularity of it. They've now opened up a YouTube music or YouTube remix, whatever it's being called, here. It isn't yet available in Canada. Does that help address some of your concerns with the YouTube exception?

**Mr. Alan Willaert:** I'm not as familiar with that as I should be, so I'll pass on that.

**Mr. Matt Jeneroux:** Anybody...?

**Ms. Margaret McGuffin:** On the publisher/songwriter side, that new service is being licensed in a way similar to Apple or Spotify. YouTube is not being licensed that way.

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

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

We're going to move to Ms. Ng. You have five minutes, please.

**Ms. Mary Ng (Markham—Thornhill, Lib.):** Thank you, Mr. Chair. Thank you, everybody, for coming today.

You're at the beginning of this new segment for us on the music and the music publishing side. We've spent some



time in the education sector, so this is a great opportunity to begin that. Forgive me if my questions are a bit preliminary. I want to begin by understanding the issues. What we've heard a lot about, certainly on the education side and on the book publishing side, is what perhaps on this side is called a value gap. There's an issue with respect to those who are the creators and the generators of the content, and then there are those who have a responsibility or who put it out to consumers and so forth. There's a disparity there, and as I understand it there's a disparity here as well.

I'm trying to understand a bit about how that disparity exists. In all of your testimonies you have said that musicians' incomes have decreased, and it would be good to begin to just understand a bit about the cause, and how and what the Copyright Act might be able to do to not only address that but to look in the future at content creators. Therefore, what in the act is it that we would need to do to support that?

The question really is, with respect to the value gap, talk to us about where, and help us understand that disparity. Maybe I'll go from left to right, please.

**Mr. Alan Willaert:** A lot of the value gap exists, as I stated earlier, because of the loss of CD sales, and now with the movement over to streaming and things that are not fully regulated and not fully monetized within our laws. The other issue, of course, is that years ago an artist was signed to a label, and there would be an A and R person who would groom these musicians and put out a product that was certainly sellable. They would make hits. It was a hit-making process. Now with the Internet—and I'm not saying this is a bad thing—artists no longer need the labels. They can go out and cheaply make these recordings, in their basement or in their garage, with very inexpensive equipment, and get their product out there on the Internet, but it's lost within this myriad and plethora of music out there. The advent of independence has also caused a lot of product to be out there, and therefore less money to be divided among those who are making the product.

**Ms. Mary Ng:** Ms. McGuffin.

**Ms. Margaret McGuffin:** In terms of the recommendations we are talking about today, this is a change in times. It's a change in technology, and so part of the falling revenues are around having changes in where the revenue is coming from.

One of the things the private copying levy, when it was fully in force, with \$38 million a year.... That allowed for a stream of revenue that was there in addition to the traditional sales revenues, and now the streaming revenues. We fully support the implementation of that in a technology-neutral way so that we can continue to collect on that, on new devices. That would be of assistance to all sectors.

Additionally, when you don't have a functioning copyright board to fall back on, and people won't come to the table and negotiate in a way that is sincere, where you need someone to facilitate that negotiation.... If we had had a copyright board, that may have helped along the way. We urge copyright board reform so that when negotiations cannot productively continue, there's a way to look at what the rate should be—a copyright board board that is responsible and looks at both sides and the evidence their providing.

Also, we know there is still stream-ripping. We know there are foreign players who won't come to the table, not the names you know of the named services. But there is a problem, and we need remedies and statutory damages that will allow us to enforce our rights when players won't come in and negotiate.

🕒 (1635)

**Ms. Mary Ng:** Monsieur Lefebvre.

[*Français*]

**M. Éric Lefebvre:** Je pourrais vous l'expliquer d'une façon peut-être un peu simpliste.

Il y a 25 ou 30 ans, lorsqu'un producteur d'enregistrements sonores décidait de mettre en marché un album, il enregistrerait dans un studio. Par la suite, il trouvait une maison de disques pour en faire la commercialisation. Après, il y

avait un distributeur, qui, lui, distribuait dans des milliers de magasins de musique qui vendaient des disques et des albums. Les milliers de magasins de musique qui vendaient des albums ont tous disparu. Que s'est-il passé? L'album est devenu numérique. L'album numérique s'est retrouvé avec un distributeur numérique et avec quelques plateformes seulement où l'on pouvait diffuser l'enregistrement sonore. Donc, on s'est retrouvé avec un millier de détaillants qui vendaient un album physique. Maintenant, on se retrouve avec quelques distributeurs numériques qui font affaires avec trois ou quatre plateformes qui contrôlent le marché. On fait face à une espèce d'oligopole — ce n'est pas un monopole, mais c'est presque cela — qui contrôle le modèle d'affaires et les prix.

L'album numérique, lui, se vend 10 \$ chez iTunes, alors que, à l'époque, il se vendait 25 \$ dans un magasin de musique. Vous comprenez la différence? On se retrouve avec un modèle où l'on rétrécit, dans le fond, la tarte des intervenants, pour faire en sorte qu'on a seulement quelques joueurs — c'est pourquoi, tout à l'heure, je parlais de Google, Amazon, Facebook et Netflix — qui contrôlent l'ensemble du modèle d'affaires du marché, contrôlent les prix et fixent le modèle d'affaires.

**Le président:** Merci beaucoup.

[*English*]

Mr. Lloyd, you have five minutes.

**Mr. Dane Lloyd (Sturgeon River—Parkland, CPC):** Thank you.

My first question is to Ms. McGuffin.

You had mentioned that Canada is behind in regard to certain standards and in regard to our international counterparts. Could you tell us what standards you think we should be following and which regimes in other countries we should be looking to for inspiration?

**Ms. Margaret McGuffin:** When I was making that comment, I was specifically talking about term extension, extending the term, for the life of the author, to life plus 70. It's currently at life plus 50. All our major trading partners have that, with the exception of Japan, and they're moving in that direction.

**Mr. Dane Lloyd:** Do both Europe and the United States have that?

**Ms. Margaret McGuffin:** Yes.

We're one of the few in the world. It's not just our major trading partners.

**Mr. Dane Lloyd:** My next question is for Mr. Willaert.

You were talking about radios and the royalty exemption for radio stations. How do you think it could be better done? Obviously, we have these large conglomerate-owned radios and they're using all of these exemptions for each individual radio station. How do you think it could be better done, where we could ensure that creators get the royalties they deserve and at the same time not discriminate against local radio stations?

**Mr. Alan Willaert:** As I stated earlier, just by looking at the size of the station and the revenue it generates on advertising.

The smaller ones that make less than \$1.25 million could be exempt. College radio could be exempt from that. The others that have been making a sufficient amount of money should be paying full freight on it.

🕒 (1640)

**Mr. Dane Lloyd:** It's not really a full exemption, if I'm correct. There's a small number, and so you pay a small number and then after \$1.25 million, you pay a bigger number. Is that correct?

**Mr. Alan Willaert:** Yes, that's right.

**Mr. Dane Lloyd:** So could just raising that initial number be another solution that you'd recommend?

**Mr. Alan Willaert:** I haven't done the math. I couldn't tell you that.

**Mr. Dane Lloyd:** Would you care to comment on that, Ms. McGuffin?

**Ms. Margaret McGuffin:** It's not in my area. It used to be, but I could tell you that I was there when we were discussing this, and it was always meant to allow the small private mom and pop ones to have the exception, and what happened is the large groups applied it to each station, so the amount was much greater than what was anticipated when we were first proposing this.

**Mr. Dane Lloyd:** Now is that a result of a loophole in the law, or has there been an actual decision that has come down that says these big companies are allowed to use this as well?

**Ms. Margaret McGuffin:** No, it's the way that the act is drafted, and it applies to each individual station.

**Mr. Dane Lloyd:** Yes, so there's no wording about big guys, and so it's basically just a loophole, or an opening left in the law.

**Ms. Margaret McGuffin:** Yes. It is not what we anticipated when we were looking at the legislation at the time.

**Mr. Dane Lloyd:** In terms of creation, we have Amazon Prime, we have Netflix, we have CraveTV. I'm sure we have others, and there doesn't really seem to be a Canadian-related streaming company. How does that impact Canadian music producers in your area?

**Ms. Margaret McGuffin:** Discoverability is a huge problem across the music streaming platforms and the audiovisual platforms. It's also a language issue in terms of being able to discover francophone content. I speak to my colleagues in Quebec about this all the time. We are very happy to hear the announcement today about the review of the Telecommunications Act and the Broadcasting Act. It is going to be very interesting accompanying review to the one you're doing here because that looks at all types of issues around funding for the creative industries and small businesses as well as discoverability of both French language content and Canadian content. So we're really excited about that.

**Mr. Dane Lloyd:** I was looking at some of the charts that were provided by our library researchers, and the revenue from physical has just dropped precipitously, but we have streaming coming up and picking up some of that slack. Do you see streaming growing in importance and taking up a lot of the slack from the physical, or do you see it kind of plateauing at this point?

**Ms. Margaret McGuffin:** It's continuing to grow very quickly, and there are new players. Amazon launched their core service more recently, so there are new players coming into the market. That's good for all of us when there are companies that want to come in to the Canadian market, and when subscribers want to pay for that content.

**Mr. Dane Lloyd:** Do you think that there's enough competition in that market, or is it just too dominated by a few players?

**Ms. Margaret McGuffin:** I don't really have a comment on that.

**Mr. Dane Lloyd:** Okay. How much time do I have? Good.

**The Chair:** Twenty seconds. Good as in—

**Mr. Dane Lloyd:** Well, I could talk about myself, I guess, but I'll spare the committee.

**The Chair:** Where were you born? What's your favourite colour?

Thank you very much.

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

**Mr. Terry Sheehan (Sault Ste. Marie, Lib.):** Thank you very much and thanks to our presenters. This is a really important topic, how we support our cultural economy and those who are working hard in it.

Years ago when I was on city council, I spearheaded an initiative for Sault Ste. Marie to be the Canadian Music Hall of Fame and a lot of people considered that a long shot, but we put forward a really good bid, and we made it to the finals, and I remember being interviewed by one of the major news organizations, and I didn't know I was being pitted against someone else who was on the line at the time. They said, "Well, why should the Canadian Music Hall of Fame be in Sault Ste. Marie instead of Winnipeg," and they named the various artists from there, and Toronto, Montreal, with those music industries, and I said, "Well, it's easy to argue that music was being made in Sault Ste. Marie before Winnipeg was made, Toronto, and Montreal."

This is part of our question that we're asking, about the indigenous copyright and how we protect the indigenous culture and the performers who are in it, because in Sault Ste. Marie for thousands of years, people were coming to do powwows because of the whitefish in the St. Marys River, and they came from all over Canada, and naturally, when they were there, they traded, but then they started doing powwows, having dancing and music.

So my question to the panel is this. In your opinion, what is it we need to do to protect and promote indigenous musicians?

🕒 (1645)

**Ms. Margaret McGuffin:** I think you should be asking those communities because they're very clear on what they need.

**Mr. Terry Sheehan:** That's a fair statement. We've heard that.

Does anybody else want to chip in?

To Alan, I wanted to ask about your membership. In 2012, what was your membership and what is your membership now for numbers?

**Mr. Alan Willaert:** It's slightly lower, but in Canada we've stayed approximately around 17,000 over the last several years.

**Mr. Terry Sheehan:** That's what I'm interested in, your membership.

And the rest of you, your membership between 2012 and now.

[Français]

**M. Éric Lefebvre:** De notre côté, notre abonnement est inclus dans celui de la fédération américaine des musiciens. Nous sommes 3 000, mais nous sommes inclus dans les 17 000.

[English]

**Mr. Terry Sheehan:** And you're about the same too?

**Ms. Margaret McGuffin:** We have about 50 members, but the really interesting thing is there's been some new Canadian, independent companies that have emerged over the last 12 years, and we're very excited about that despite all this disruption.

**Mr. Terry Sheehan:** So you've grown. Do you know what your numbers were in 2012?

**Ms. Margaret McGuffin:** The revenues for our members have grown, which are members with Canadian offices, by 120 million from 80 million in that period, mostly looking at the export market.

**Mr. Terry Sheehan:** I know YouTube has been mentioned. I think of Justin Bieber. Justin Bieber used it as a tool to get noticed and was very successful. However, we know that's happening for new artists. They're looking at these platforms that are out there to get noticed. Sometimes when they get famous they have a concern that those same platforms are infringing on their copyright. I know Justin Bieber, when we gave permission to get out there, but you take a look at some of these devices that are there now, they can record an entire performance easily disguised and held. Back in the day when we were younger, you had to take a camera in about yea big to try to do that. Not that I would suggest anyone does it.

The question I have is, how are the various revenue streams that the new artists in particular...what are they looking at for revenue steams and how to make money?

**The Chair:** You have about a minute left.

**Mr. Alan Willaert:** It's changed now from selling CDs with a label and having a portion of that and the true revenue, now to hoping that they do get noticed and hoping that they do get a few million hits on YouTube and hoping that they are streamed a lot and they can go on tour and sell the t-shirts. For live bands like that, it has really gotten tough.

**Mr. Terry Sheehan:** Is that for the small, new person and also the large, big name Canadian name as well? Is there a difference? Does Spotify serve one better than the other?

**Mr. Alan Willaert:** There is a huge difference in terms of the venues. If you're a major act and you're touring Air Canada Centre or the Bell Centre, that's a whole different level—

**Mr. Terry Sheehan:** I'm talking about Spotify in particular. Does it serve the large, made-it performer more than someone in the middle?

**Mr. Alan Willaert:** I really don't have numbers on that. It's probably hit and miss as much as anything.

**Mr. Terry Sheehan:** If you do get those numbers, if you could send them in I think that would be helpful as well.

**The Chair:** You can send them to the clerk if you do come across those numbers.

Thank you very much.

[*Français*]

Madame Sansoucy, vous avez deux minutes.

**Mme Brigitte Sansoucy:** Avec plaisir.

J'aimerais poser une question que je n'ai pas pu poser tout à l'heure.

Monsieur Lefebvre, quand vous nous avez présenté vos recommandations, je dois vous avouer que vous m'avez perdue dans l'une d'elles. Vous parliez d'une référence à un article précis de la loi. Je vous écoutais attentivement, mais je dois vous avouer que j'aurais besoin de plus d'explications pour bien comprendre cette recommandation que vous nous faites.

**M. Éric Lefebvre:** En fait, c'est la façon dont sont rédigées les exceptions dans la Loi sur le droit d'auteur. Quand vous voulez créer une exception, vous dites: « ne viole pas le droit d'auteur le fait d'accomplir tel geste ». À l'article 31.1, à l'égard des fournisseurs de services Internet, on dit que ne viole pas le droit d'auteur le fait de... Si vous voulez, je peux lire la disposition.

**Mme Brigitte Sansoucy:** Non, mais vous pouvez nous l'expliquer tout simplement.

**M. Éric Lefebvre:** Voici ce que je peux vous dire, dans le fond. Pour un service réseau, le fait de faire en sorte que des contenus protégés par la Loi sur le droit d'auteur, à titre d'exemple, transitent ne constitue pas la violation d'un droit d'auteur.

Pourquoi? C'est parce que l'auteur, par exemple, a certains droits exclusifs dans la loi. Le fait, pour le service réseau, soit de reproduire ou de communiquer au public une oeuvre protégée pourrait faire en sorte qu'il y a le droit d'auteur. Alors, on a créé une exception qui fait en sorte que le service réseau ou le fournisseur de services Internet ne viole jamais le droit d'auteur, même si... C'est une donnée que j'ai trouvée intéressante et vous me permettez ainsi de la divulguer, parce que je pense que vous êtes au courant. Il y a eu une étude sur la consommation en ligne de contenu protégé par le droit d'auteur qui découle d'un sondage qui a été réalisé en novembre 2017. On y apprend que 32 % des internautes ont soit téléchargé, lu ou consulté au moins un fichier musical qui intégrait un contenu illégal. Cela veut dire que, par Internet, au moins 32 % des internautes ont, une fois dans les trois mois qui ont précédé le sondage, lu, consulté ou téléchargé un fichier illégal.

Jamais je ne croirai que le service d'accès Internet n'est pas au courant de cette information. Alors, vous comprenez que l'exception a un sens, quand on lit cette information. C'est un peu comme si on avait créé une exception dans la loi pour empêcher, dans le fond, le fournisseur d'accès Internet d'être responsabilisé vis-à-vis de la Loi sur le droit d'auteur, alors que, si cette exception n'existait pas, il est — en disant « fort possible », il faut faire attention — possible qu'un fournisseur d'accès Internet puisse être condamné pour violation du droit d'auteur.

**Le président:** Merci beaucoup.

[English]

Thus ends the first round. We're going to move to the second round.

Before we do the chair has a question for Ms. McGuffin.

You mentioned in your speech, in Canada in 1998 music sales peaked at \$998 million; in 2014 that figure reached a record low of \$397 million and then rose to \$494 million in 2016.

Would you be able to submit to us the source of that? Also, what about 1999?

**Ms. Margaret McGuffin:** The source of that was from Music Canada's value gap report.

**The Chair:** Value gap report.

**Mr. Lloyd Longfield:** I got a copy.

**The Chair:** Thank you very much. Somebody sent it to the clerk.

Thank you very much.

We're going to move to Mr. Baylis.

You have seven minutes.

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

Ms. McGuffin, you brought up safe harbour exemptions.

I'd like you to elaborate on how you see their impact.

**Ms. Margaret McGuffin:** The impact is on the ability of copyright holders to be able to enforce their rights when the ISP only has to notify that there be a notice and notice so they're told, no, that's bad but it doesn't actually act as a deterrent. This means there can be no ability to bring the services that are using the ISP's pipes to the table to negotiate. Or, if they're infringing content no way to actually stop them from infringing content. We want the paid streaming services to come to Canada. We want consumers to have access to those services and we want them to pay. That's good for our members when that happens. If there is a player who isn't playing by the same rules as those services we want the ability to take legal action against them when it's necessary.

**Mr. Frank Baylis:** That's the notice and take-down?

**Ms. Margaret McGuffin:** Yes.

**Mr. Frank Baylis:** But you said you didn't like that. That's what I'm trying to understand.

**Ms. Margaret McGuffin:** We would like remedies that are stronger than that.

**Mr. Frank Baylis:** Right. Now you have just notice and notice. Notice and take-down is stronger but you say it's not good enough.

What would you say is the next step then?

**Ms. Margaret McGuffin:** It's not only the notice and takedown. It's also the remedies that allow you to enforce your rights that go hand-in-hand the provision and we'll have more details of that in our submission.

🕒 (1655)

**Mr. Frank Baylis:** Go ahead, Mr. Willaert.

**Mr. Alan Willaert:** Just to add to this, in a perfect world we have the technology now. The algorithms that we can apply and track where music is being used anywhere in the world. The idea would be to utilize that technology and monetize people who are using that content.

**Mr. Frank Baylis:** Can you explain to me that technology as you see it? You have technology. What exactly are you talking about?

**Mr. Alan Willaert:** For instance, have you ever heard of the application Shazam?

**Mr. Frank Baylis:** Yes.

**Mr. Alan Willaert:** You can turn it on and it recognizes a song. It utilizes algorithms. It remembers patterns so that it can tell you exactly what that song is. There is the ability to track that music, that content being used anywhere.

**Mr. Frank Baylis:** You are saying there is technology that could track every download that an ISP—everything that's flowing through an ISP to filter it before it flows down. Is that what you're saying?

**Mr. Alan Willaert:** That's what I was told when I was at a WIPO meeting in Geneva.

**Mr. Frank Baylis:** Who told you this?

**Mr. Alan Willaert:** This was an open forum at a WIPO conference about a year and a half ago and they were talking about this technology along with Blockchain and digital—

**Mr. Frank Baylis:** If you have something specific along those lines, I don't know what it is, but if you have something specific you can obviously send it to the clerk, but let's get back to the aspects of Canadian copyright law.

You're not happy with safe harbour and you're not happy with notice and notice. Mr. Willaert, you say you'd like notice and take down Ms. McGuffin, you say you would like something more than notice and take down.

**Ms. Margaret McGuffin:** We want the ISPs to take responsibility for what's flowing through their pipe.

**Mr. Frank Baylis:** Let's say they're taking responsibility so they're going to take it down, but then you said it's a Whac-a-Mole game so—

**Ms. Margaret McGuffin:** —we want remedies so that we could take legal action against any infringing use.

**Mr. Frank Baylis:** What are those remedies?

**Ms. Margaret McGuffin:** They are statutory damages and there is the—

**Mr. Frank Baylis:** Do you want statutory damages against the site, or against the ISP provider?

**Ms. Margaret McGuffin:** That's against the site but with the ISP as part of the liability.

**Mr. Frank Baylis:** Yes, but let's say I'm an ISP provider and I really want to play along because I have to deal with people and I want to play along, and I have the same issue you have, Whack-a-Mole, so you give me a notice. I take him down and he shows up somewhere else, then you give me a notice, so I take him down. Do you want to sue me, the ISP? Do you want me to give you monetary damages?

**Ms. Margaret McGuffin:** We want you to take responsibility when you know that activity is happening on your services.

**Mr. Frank Baylis:** That is the take down.

**Ms. Margaret McGuffin:** There is also an ability—some of these services are actually active in putting the music up there and are encouraging users to put the music up there, and we want them to take responsibility.

**Mr. Frank Baylis:** We'll put it aside then.

I'd like to understand something totally different, and, Mr. Willaert, you talked about sound recordings specifically as a tie-in to TV programs and movies. Could you contrast what the Canadian law is versus the U.S. law there?

**Mr. Alan Willaert:** Yes. The U.S. has ratified the Beijing Treaty, so that music that is synced to television or movies has a royalty or tariff attached to it—

**Mr. Frank Baylis:** If that music is being used on a TV show or on a movie—

**Mr. Alan Willaert:** Right, and since Canada has not ratified the Beijing Treaty there is no protection for audiovisual content.

**Mr. Frank Baylis:** You would like us to ratify the Beijing Treaty, which would in turn provide the protection for that audiovisual content as it ties in to music.

**Mr. Alan Willaert:** That's correct, yes.

[*Français*]

**M. Frank Baylis:** Monsieur Lefebvre, avez-vous quelque chose à ajouter là-dessus?

**M. Éric Lefebvre:** Oui. Le Traité de Pékin est très important, parce qu'ils crée des droits, un peu comme le Traité de l'OMPI de 1996 pour les enregistrements sonores, mais il le fait aussi pour les productions audiovisuelles. Effectivement, le fait que le Canada n'ait pas ratifié comme tel ce traité fait en sorte que nous sommes un peu à la traite,



relativement.

**M. Frank Baylis:** L'avons-nous signé quand même? On signe toujours les traités, mais on ne les ratifie pas.

**M. Éric Lefebvre:** En tous les cas, je ne suis pas au courant des derniers détails, mais j'ai cru comprendre que le Canada n'avait pas participé activement. Peut-être que Alan pourrait me le confirmer, parce que je crois qu'il était présent lors des discussions qui ont eu lieu à Pékin. Toutefois, le Canada n'a pas participé activement à la négociation de ce traité, contrairement au Traité de l'OMPI.

**M. Frank Baylis:** Quand même, on ne l'a pas ratifié. Alors, vous aimeriez que cela soit fait.

**M. Éric Lefebvre:** Ultimement, il faut faire en sorte que les artistes interprètes puissent détenir des droits équivalents à ceux actuellement en place pour les enregistrements sonores, mais que ces droits puissent être aussi accessibles aux productions audiovisuelles.

[*English*]

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

🕒 (1700)

[*Français*]

**Le président:** Madame Sansoucy, vous avez sept minutes.

**Mme Brigitte Sansoucy:** Merci beaucoup.

Tout à l'heure, le président a souligné que c'était ma première participation à ce comité. Donc, je plonge dans ce sujet. Plus tôt, ma collègue parlait de questions de base, pour bien comprendre un secteur dont vous êtes les experts. Je voulais savoir ceci.

Les intérêts des titulaires des droits d'auteur sont-ils différents, d'un style de musique à l'autre? Par exemple, y a-t-il des différences entre les intérêts d'un artiste interprète ou d'un producteur de musique classique, par rapport à de la musique populaire? Si cela existe, est-ce quelque chose dont on devrait tenir compte? Comment cela fonctionne-t-il? Peu importe ce qu'on produit ou interprète, est-ce la même chose d'un style à l'autre?

C'est peut-être une question évidente pour vous, mais elle ne l'est pas pour nous.

**M. Éric Lefebvre:** Écoutez, il y a évidemment des structures légèrement différentes. Prenons, par exemple, la musique classique, un orchestre symphonique. Il y a 100 musiciens dirigés par un chef d'orchestre et il y a peut-être des solistes qui peuvent être engagés, par exemple, un violoniste qui va jouer un concerto de violon avec un orchestre symphonique qui va l'accompagner. Il va y avoir un phonogramme qui va être produit, un enregistrement sonore.

Dans la deuxième situation, il y a Céline Dion et ses cinq musiciens — admettons, car elle pourrait en voir plus, mais je donne un exemple — qui enregistrent aussi un phonogramme et là, on parle de musique populaire.

Est-ce qu'il y a une différence entre les deux? Techniquement, le soliste va possiblement signer un contrat avec un producteur un peu comme l'artiste vedette en musique populaire va le faire. Les musiciens vont être liés par des ententes semblables. La différence, peut-être, c'est que la musique classique a un nombre plus important de musiciens, généralement dans certains ensembles. Puisqu'il y a un nombre plus important de musiciens, peut-être des redevances moins élevées qui sont versées à un ensemble de 100 musiciens qu'à un ensemble de 5 musiciens.

Outre ces différences, généralement les artistes-interprètes peuvent se retrouver dans des situations différentes. Je connais un musicien qui peut jouer à l'orchestre symphonique, le lendemain aller faire du jazz et le surlendemain aller jouer avec un artiste populaire. Le même musicien va ainsi jouer avec plusieurs artistes de styles différents.

Il peut y avoir des pratiques contractuelles qui diffèrent d'un secteur à l'autre. En musique classique généralement il y a des ententes collectives qui gèrent les conditions de travail entre un orchestre et un producteur. En musique populaire, il y a souvent des contrats individuels qui gèrent les relations contractuelles avec un producteur et un artiste. Des situations...

Sur le plan de la Loi sur le droit d'auteur, je ne pourrais pas vous dire si le fait que les styles de musique soient variés fait une grande différence.

**Mme Brigitte Sansoucy:** Je poursuis avec quelque chose que vous avez dit tantôt. On a beaucoup parlé des services de *streaming*. Vous avez dit qu'il y a 30 % qui sont illégaux. Vous en avez peut-être parlé, mais...

**M. Éric Lefebvre:** Attendez, ce que j'ai dit c'est que, d'après le sondage qui a été réalisé, 30 % des internautes, au moins une fois, dans les trois mois qui ont précédé le sondage...

**Mme Brigitte Sansoucy:** D'accord, 30 % des internautes et non 30 %...

D'accord, merci.

**M. Éric Lefebvre:** Cela fait quand même des millions de pistes qui sont écoutées ou téléchargées, qui contiennent du contenu illégal.

**Mme Brigitte Sansoucy:** Oui. Je dois vous avouer qu'en tant que maman de jeunes adultes je leur pose la question à savoir s'ils ont pris la bonne voie pour... Vous savez, cela fait tellement partie de leur univers qu'on dirait que la préoccupation n'est pas en premier lieu.

En même temps, je lisais que les redevances versées par les services de *streaming* — vous l'avez peut-être dit plus tôt — étaient de 10,2 cents par mille écoutes pour les artistes-interprètes et producteurs. Cela n'est pas beaucoup.

**M. Éric Lefebvre:** Je ne connais pas le chiffre, mais c'est très plausible ce que vous dites.

**Mme Brigitte Sansoucy:** Oui, en tout cas c'était écrit dans *La Presse*.

C'est vraiment très peu. J'essaye de voir comment l'examen que nous faisons de la Loi sur les droits d'auteur dans ce contexte où l'industrie du disque est vraiment moins florissant que par le passé, de voir comment on peut intervenir au niveau fédéral pour faire face à cette... Vous savez, si je comprends bien, en vous écoutant depuis le début, c'est vraiment une nouvelle réalité. On est dans un nouveau monde dans l'univers de la musique.

**M. Éric Lefebvre:** Mme McGuffin en a parlé un peu plus tôt. La Commission du droit d'auteur entend actuellement des tarifs de musique en ligne justement pour déterminer un peu la valeur des droits qui sont associés soit à une prestation d'artiste-interprète...

Ce qui est surtout examiné, c'est combien un auteur et un producteur vont pouvoir retirer du *streaming*. D'après ce que je crois comprendre, les sommes sont excessivement basses.

🕒 (1705)

**Mme Brigitte Sansoucy:** Madame McGuffin, vous pouvez compléter.

[English]

**Ms. Margaret McGuffin:** For us, we have felt over the last few years if we had a Copyright Board with the correct processes that was delivering decisions in a timely manner for the music publishers and the songwriters' side of this that would make a big difference, because things like minima and how to properly structure a tariff shouldn't be put into the act, but they should be put in front of a panel in terms of the Copyright Board that's functioning properly.

[Français]

**Mme Brigitte Sansoucy:** D'accord.

Juste pour ma compréhension, nous avons un rôle à jouer sur ce que cette Commission a comme mandat, sur ce qu'elle doit... Comme je vous le disais, c'est un univers que je connais moins bien. Pour le bénéfice de notre Comité, j'aimerais que vous me parliez plus de comment cela fonctionne. J'ai de la misère à saisir le rôle du fédéral, si vous dites que cela ne sera pas à l'intérieur de la loi qu'on pourra avoir une incidence.

[English]

**Ms. Margaret McGuffin:** The mandate of the board is presented in the Copyright Act.

[Français]

**Mme Brigitte Sansoucy:** D'accord, merci.

[English]

**Ms. Margaret McGuffin:** There has been a process last September, where 60 different people who go in front of the Copyright Board have come up with different ways of making the Copyright Board more efficient. We put in a submission there, and a number of people you are going to hear from in the next few weeks did as well. We talked about things like giving timelines for the board to render their decisions, providing them with case management tools, etc. Some of these things are things that will be done by the board itself, and out of that process you're going to get recommendations from each of us on things should be changed in the Copyright Act to the mandate of the board.

**The Chair:** Thank you.

We're going to go to Mr. Jowhari, for seven minutes, please.

**Mr. Majid Jowhari (Richmond Hill, Lib.):** Thank you, Mr. Chair.

I'd like to start with Ms. McGuffin.

You mentioned in your testimony that you support the extension of copyright for music work from “life-plus-fifty” to “life-plus-seventy”. Can you explain to me how that extension would help the musicians and the singers today?

**Ms. Margaret McGuffin:** I'd be pleased to talk about that. Just to be very clear, we're talking about songwriters, and not musicians, when we talk about that term extension.

My members invest in emerging songwriters. They find them. They provide them with studio space. They provide them with the ability to travel and co-write with songwriters around the world. If that songwriter chooses to go into a publishing deal, they then are entering into a relationship with an individual or a company that's helping them to further their career. Our companies can't make those decisions about those investments unless they have a strong revenue stream. As I explained, for one of our mid-sized companies, the strongest one is going to be the one that owns and administers foreign catalogues and Canadian catalogues, has older works that are tried and true and you can basically get to the bank on them because you can predict the revenue flow for the next 10 years. If you know what your revenue flow is going to be for the next 10 years, that can attract investors, that then allows you to go and sign that individual songwriter from Stratford, Ontario, and invest in their career.

**Mr. Majid Jowhari:** What you're saying is the longer term stream of revenue will give you the security and will allow you to take risk to be able to go and support, not the musicians, but the songwriters. Otherwise, if you don't have that stream, it doesn't give you that security, and therefore your risk tolerance is lower to be able to go and help the smaller songwriters.

**Ms. Margaret McGuffin:** For Canadian companies they have 20 years less. They may have a heavy investment in their portfolio of Canadian songwriters, so they have a shorter term to be able to recoup their investments. Older songs,

like those of Cole Porter, that have gone into the public domain, are still valuable.

**Mr. Majid Jowhari:** Oh, I know. I listen to 87.3 all the times. That's the music from my era.

How would this extension by 20 years help our industry abroad?

🕒 (1710)

**Ms. Margaret McGuffin:** It allows us to continue what we've doing for the last 12 years in terms of investing in songwriters, and taking those songwriters around the world.

My chairman, who is a songwriter, never appears on stage, he can't play an instrument, but he is a phenomenally internationally well-known songwriter, lyricist, Vince Degiorgio. He is the guy who, in his old ? days, signed NSYNC. He learned the music business, and then he became a full-time lyricists. Two weeks ago he was in the Netherlands writing with their top act, Caro Emerald. When he wrote her album three years ago, her first album, it was on the Netherlands' number one chart and beat out Michael Jackson's "Thriller". He now is signing songwriters as a publisher in Canada. He has been able to do that because he knows what the revenue flow is going to be from his portfolio of songs. He then is taking those songwriters to have the same international career he has had.

As an organization, we're also focusing on helping our small businesses do that, and we'll be going to Germany the third week in September, and to Denmark in the fourth week of September, to meet labels and film and television producers and have a group of songwriters write with songwriters from the Nordic countries. As soon as you have songs being marketed in three or four different territories, you're going to have a greater chance of success. The foreign market is key to allowing small businesses to actually survive. The Canadian market is too small. We have to look globally.

**Mr. Majid Jowhari:** Let's go on the fact that you're saying the Canadian market is too small. What's the size of the music industry within Canada and who are the ones who are, let's say, the top earners or the top money-makers within that ecosystem which consists of, let's say, the song writers, the producers, the directors, the choreographers, and conductors? Because I have some data around international, but I really want to get a sense of how big is Canada.

Any of you could answer that question

**Ms. Margaret McGuffin:** I can speak about the performers and song writers because we've estimated looking at all the song writer and composer data for Canadian companies and for money flowing through SOCAN and the other collectives, that it's about \$700 million on the song writers' side for Canadian participants.

**Mr. Majid Jowhari:** So far the music industry is how much? Which song writers are about \$700 million of that?

**Ms. Margaret McGuffin:** It would be over \$1 billion.

**Mr. Majid Jowhari:** Okay, and of that \$1 billion where is most of the revenue generated? What are the top two revenue generators, streams of revenue coming in?

**Ms. Margaret McGuffin:** Well, our members...over 50% is coming from performance. Then about 35% is coming from mechanical. That's the copies that are being made by these services and the gross area for our members is called synchronization where they're looking to put a song into a commercial or a movie or a television.

**Mr. Majid Jowhari:** I have less than 30 seconds and I want to go Mr. Willaert.

You were talking about that Canadian musicians and I think the singers are the only ones whose revenue has gone down as opposed to everyone else in the ecosystem. Can you give us a sense of what is the key driver of that?

**Ms. Margaret McGuffin:** Everybody's revenue has gone down.

**Mr. Alan Willaert:** I would say the key driver is the sales again, the fact that a whole ecosystem was built around recording and sales of the product and that disappeared within a 10-year frame and a new model has taken over that's to

the Internet.

**Mr. Majid Jowhari:** We still do the sales on the recording. Something else has driven down the revenues.

**Mr. Alan Willaert:** Well, the revenues for the musicians has gone down because they're not getting a piece of the pie any longer from their music.

**Mr. Majid Jowhari:** I'm over my time, but if I get a chance, I'd like to come back.

**Mr. Alan Willaert:** As I said, the industry itself itself is flourishing with \$52 billion in the arts and culture industry in Canada, it's just that none of it is getting into the pocket of the musicians.

**The Chair:** Thank you.

We're going to move to Mr. Sheehan.

You have five minutes.

🕒 (1715)

**Mr. Terry Sheehan:** Thank you, Mr. chair.

Going back to where I live right on the border, Sault Ste. Marie, we have sometimes composites of musicians that get together. There could be Americans coming on our side joining a band making music, or Canadians going over to the United States and mixtures therein. Then we also have the proverbial musician that goes to America, Nashville, or wherever else to make it big.

One of the things that is always living on that border situation is we have had different things enacted in CRTC, for instance, to promote Canadian content and Canadian musicians. I've always seen the real need for it because I have always been barraged with American content back in the day when there was an analog signal that would come across the border, or their radio, their music coming forward. I know there's some stuff that's under heed to be reviewed with the CRTC.

I'm getting to the question, but I also want to talk about *CBC*. The *CBC*, the Canadian Broadcasting Corporation, has played a significant role in promoting Canadian artists. They have contests every now and then. We have people from the Sault and all across Canada go into those contests. A lot of times the winner gets a crack at a Canadian label. They promote things that way.

I do see that whole barrage of American music coming our way, and we have Canadians that do quite well. Your membership still saying the same I think is a testament to the Canadian musician that continues to go at it.

One of the things I want to know is how is it we can promote particularly Canadian music? I know we're looking at the copyright. We've talked about some of the revenue streams, the concerts. Just in the Sault we're seeing larger and larger performers that I would never imagine would play there like Elton John. I know he's American, but people say he went to the Sault? Yes. I think that goes to your remarks that more performers are going out there.

What other devices are there as well? We know we've talked about Spotify. We've talked about the other musical devices that are out there, but how is it that a Canadian musician can be promoted and make money right now with the current copyright system? Then, of course, you have made the comments on some of the changes.

One of the things we were talking about extensively over the last long time was fair dealings and how music is being used in our educational sector so that's in my mind too. We know music is being played in a school for related events and what not so some comments on fair dealing use too as well.

I know it's a very broad, sweeping question, but those are some of my concerns. This is our first meeting, and this is some of the stuff I'm trying to arrive at.

**Ms. Margaret McGuffin:** I think there is some interesting information on this in the report that was released earlier this week and the announcement about the review of the broadcasting and the telecommunication acts. There was put forward the need for a discussion about Canadian content and French language content in there, and the requirements that really created a star system in this country that are now only put in place on traditional broadcasters, and the new digital services don't have those responsibilities. They also don't have the responsibility to invest and put money into funds that allow musicians to be able to access funds.

We have factory music action in this country that their revenues from private radio is declining. That's going to impact those musicians because they are not going to be able to get as much funding if we don't look for new ways to provide funding to those organizations.

**Mr. Terry Sheehan:** That's very interesting. Are there any other comments on that one?

What about the fair dealings, though, in the school. There was quite a large amount of testimony regarding that from the authors. Musicians, is there any concern about that, not only in just the school, but in educational training outfits? You will have someone come in. It could be a private business. They have their presentation, and a lot of times they use music just to back it up. Music is very powerful in making presentations.

Are there any comments on that with fair dealing?

**Ms. Margaret McGuffin:** I have to disclose that I worked for Access Copyright for 10 years as a consultant and as an employee.

🕒 (1720)

**Mr. Terry Sheehan:** Go ahead, though, please.

**Ms. Margaret McGuffin:** I am now not working for them, but as a parent every week I pay to send my kids to go to OSSO for field hockey, to go to the Science Centre, to go and have additional things that they need in school. I would expect that when a school is looking at paying their teachers and paying their hydro and paying for repairs to the school they would also think about compensating creators and the businesses that support those creators for good materials, because there are great teachers, but the consistency of learning is so much better when you have great Canadian made books going into our schools and learning resources, so that my kids are not just reading American resources.

**Mr. Terry Sheehan:** And music too by extension.

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

Now for the final, final question we going to go to Mr. Longfield.

**Mr. Lloyd Longfield:** I'm going to share part of my question with Mr. Jowhari, if that's possible.

When I'm looking at the value gap report that you've been referencing and according to IFDI which is another organization that we need to explore and see how Canada relates with IFDI.

**Ms. Margaret McGuffin:** Music Canada is.

**Mr. Lloyd Longfield:** It wasn't listed on their website, but the Global Music report says that the value gap is the biggest threat to the future sustainability of the music industry. Then they qualify and say:

Inconsistent applications of online liability laws have emboldened certain services to claim they're not liable for the music they make available to the public.

I'm interpreting that as...we've had previous testimony about enforcement is one of the big issues and whether the act is strong enough in terms of enforcement. Is that a fair interpretation?

**Ms. Margaret McGuffin:** That is one consideration. Then, to Mr. Baylis's point, I've been reading additionally while I've been here and we also need to look that if we're not able to have the services come to the table and negotiate, we need to look at the ISPs who are profiting over these services to actually licence them.

**Mr. Lloyd Longfield:** How much time do I have?

**The Chair:** You have three minutes.

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

The commercial radio station profits from 1995 were \$3.6 million according to this report, in 2016 were \$437.5 million. So there is value in the value chain. It just isn't getting down, which has been repeated a few times today.

The example and again Miranda Mulholland is quoted in this report, saying:

She played on almost every episode of the CBC's Republic of Doyle and it's syndicated worldwide. She received a one time union rate of about \$280, while the composer collects residuals every time the show airs in 44 countries around the world.

So there is a global standard that we need to look at, or is there a global standard that we're not in sync with?

**Ms. Margaret McGuffin:** There are some countries that are providing for that payment to the musicians and within Canada we have a double standard where composers get paid through SOCAN on an ongoing basis, yet the musicians who play on those the works of those composers don't get paid on an ongoing basis in Canada.

**Mr. Lloyd Longfield:** The quote says 44 countries around the world. You gave France and Australia among them and we're an outlier.

**Ms. Margaret McGuffin:** There's a difference between being a composer versus a musician in Canada plus in those other territories.

**Mr. Lloyd Longfield:** So she has to play live in order to get compensated. Once it's recorded and it's being used she has no compensation.

**Ms. Margaret McGuffin:** And not everyone can tour. At certain points in your career you can't be touring if you have a family and you need to be turning to the next part of your life. You need to recreate yourself and touring may not be the thing that you can do.

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

This has been helpful.

Over to Mr. Jowhari.

**Mr. Majid Jowhari:** Thank you.

In my prep work for the committee we ran into a concept or a notion called mash-up. Have you heard about that? Can you quickly expand on it and say what the impact of that on the industry, specifically the musicians, are? I would love to hear from all of you. Anyone.

**The Chair:** You have about a minute.

[*Français*]

**M. Éric Lefebvre:** Vous voulez parler du fait d'intégrer plusieurs oeuvres musicales ou des extraits amalgamés à la radio?

**M. Majid Jowhari:** Oui.

**M. Éric Lefebvre:** Si je me souviens bien, l'enjeu concernant cette question est la rémunération qui est possiblement moindre pour l'ensemble des titulaires de droits. Toutefois, on n'a pas fait d'étude très poussée pour pouvoir traiter de cette question aujourd'hui.

🕒 (1725)

[English]

**Mr. Majid Jowhari:** Okay.

Mr. Willaert.

**Mr. Alan Willaert:** Certainly when you have mash-up situations, there are multiple licences that should be paid for those particular uses. Oftentimes when you have mash-ups happen, especially from the public, they're not considering that there's intellectual property involved or that there's a rights holder who has to be asked for permission to use that and a licence fee to be paid.

**Mr. Majid Jowhari:** A lot of radio stations with revenues of less than 1.5 are actually doing a lot of mash-ups within the less than 30 second bits and pieces from each. How are they being exempt from paying these producers, songwriters, or musicians?

**Ms. Margaret McGuffin:** My understanding is that when they're paying their neighbouring rights, the secret in getting paid is making sure they're providing the metadata and the titles for each one of those titles. Then there will be payments

**Mr. Majid Jowhari:** Okay.

**Ms. Margaret McGuffin:** It's all coming down to good metadata.

**Mr. Majid Jowhari:** Okay. Thank you.

**The Chair:** On that note, I would like to thank our witnesses for coming in today and sharing your multitude of information.

Before we break, I just want to talk to our committee. Next week, the 11th and the 12th, we have the Canada-Ukraine Parliamentary Friendship Group. They're hosting the first Vice-Speaker of Parliament. We can't meet them on our date, so if we organized a breakfast or something, would there be people interested in attending from the committee?

**Mr. Terry Sheehan:** I don't know. I don't have my schedule. If there are perogies, probably....

**The Chair:** Perogies. Okay, I'll see if we can do something on a Monday morning.

Thank you.

On that note, once again thank you very much. Have a great day. We are adjourned.