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⌚ (1530)

[English]

**The Chair (Mr. Dan Ruimy (Pitt Meadows—Maple Ridge, Lib.)):** Good afternoon, everybody, and welcome to the meeting 121 of the Standing Committee on Industry, Science, and Technology as we continue our study on the legislative review of the Copyright Act.

Today we have with us from the International Alliance of Theatrical Stage Employees John Lewis, international vice-president and director of Canadian Affairs. We have from Artisti Annie Morin, general manager, and Sophie Prigent, vice-president. From the Directors Guild of Canada Tim Southam, president, national office, and Dave Forget, director of policy, national office. We thought we were limited on time because of votes but we're not so you'll each have up to seven minutes for your presentation then we'll go into questions. We're going to start with Mr. Lewis you have up to seven minutes.

**Mr. John Lewis (International Vice-President and Director of Canadian Affairs, International Alliance of Theatrical Stage Employees):** Thank you, and I appreciate this opportunity to speak with you this afternoon. The IA is one of the oldest and largest trade unions representing workers in Canada's entertainment industry. We were formed in 1893 and presently represent 22,000 workers in Canada, and 140,000 in North America. We are the technicians and artists who work on big-budget foreign productions such as *Star Trek: Discovery* in Toronto and *Deadpool* in Vancouver, but we also work on Canadian productions like *Cardinal*, in Sudbury, and *Maudie*, which is shot in Newfoundland.

I am certain many witnesses who will be appearing before you will speak to the importance of the cultural industries establishing and nurturing our national identity and how a modern copyright legislative regime promotes creativity and innovation.

I am here, however, to talk about jobs. Effective copyright legislation is a vitally important tool to protect the economic interests of Canadian consumers, creators, producers, broadcasters and workers. Canadian film and television production is now an \$8 billion dollar industry that creates 171,000 full-time equivalent jobs. Digital theft has a direct impact on our industry.

For our members, there is no job security. We are the workers behind the camera—the grips and hair stylists, the set decorators and camera operators—who depend on a healthy industry for their employment. IATSE members receive no residual payments once a production has wrapped. Their incomes depend solely on what is shooting each day, because once your show wraps, so does your paycheque.

So why is strong copyright protection important to the IA? Because when producers—who are our employers—are hit with financial losses due to piracy, there is less money in the pot for future projects, and therefore fewer job opportunities for our members. Piracy is not a victimless crime.

Streaming services have overtaken peer-to-peer platforms like BitTorrent, and now account for up to 85% of all piracy. In 2016, there were 1.88 billion visits to piracy sites by Canadians. An estimated 375 million pirated movies and TV shows were downloaded using BitTorrent in Canada in 2016 alone.

The latest method for viewing illegal content is the "fully-loaded" media player. The most popular of these is the Kodi set-top box. These players come pre-loaded with applications that provide users with access to licensed content, but there are add-ons available which allow users to access unlicensed content. Almost one in 10 Canadian homes now have a Kodi box. Of these, 70.9% are using a piracy add-on.

Here is a specific example of the impact of piracy, *Letterkenny* is the second-most pirated TV show in Canada. The show is one of thousands available to watch legally through a subscription to Crave TV, at a nominal cost of \$7.99/month. It has been downloaded illegally more than one million times. Estimates are that these downloads have resulted in up to 350,000 fewer subscriptions to Crave TV, which has a monthly value of up to \$2.8 million.

In 2012 the Copyright Modernization Act was passed with its mandated review of the legislation every five years. There have been some positive outcomes from its implementation. For example, the Federal Court of Appeal affirmed a trial court interlocutory injunction in March of 2017 against retailers of set-top boxes, such as the Kodi box.

Another example is the 2015 injunction obtained by the Motion Picture Association of America against the Canadian programmers of Popcorn Time, a website that allowed for the dissemination of free online content.

There are still many areas in which the current legislation falls short. The rapidly evolving digital landscape has highlighted serious weaknesses with the current act. On January 2, 2015 the "notice and notice" system came into force, which was intended as an educational tool for end-users. Education is good, but there is no evidence that the "notice and notice" has contributed to any significant change in consumer behaviour. There are no consequences for the consumer, and no substantive incentives for internet service providers to purge their services of illegal material. There are also insufficient incentives for ISPs to respect the "notice and notice" system because any failure on their part to forward notices from rights holders has no impact on their exposure to copyright infringement liability.

🕒 (1535)

Governments worldwide are coming to the realization that regulation must exist for online platforms. There has been considerable attention placed recently on privacy concerns with respect to online platforms both in the United States and Canada, but there has also been discussion and legislative action aimed at regulating responsible behaviour on the Internet and placing obligations on online platforms. The Internet is no longer the "Wild West". Governments are coming to realize that regulation and greater oversight are necessary.

There is no single solution that will solve this many-faceted issue, but the IA does offer one for your consideration. We are one of the 25 organizations behind FairPlay Canada, which includes unions, broadcasters, production companies, and other stakeholders.

FairPlay Canada has filed an application with the CRTC to help protect content creators. We propose a system similar to one used in countries like the U.K., Australia, and France that would empower the CRTC to identify and remove the ability of illegal piracy websites to reach Canadians. Under our proposal, the CRTC would create an independent, not-for-profit organization called the “Internet Piracy Review Agency”—or “IPRA—which would make recommendations to the CRTC on which sites should be blocked.

Any interested parties could make an application regarding a site, and the application would be served on the website and the ISPs. IPRA would then make a recommendation to the CRTC on whether to add the site to the list of blatant piracy sites. It would only recommend adding a website to the list if the evidence presented establishes that it is blatantly, overwhelmingly, or structurally engaged in piracy. The CRTC would be responsible for making the final determination. Also, the CRTC decision would be subject to oversight by the Federal Court of Appeal. Once a site is on the list, the ISPs would be required to block any Canadian user from accessing that site, which could be located anywhere around the world.

I want to make clear that this proposal in no way infringes on net neutrality. Both the IA and FairPlay support open access to all legal content on the Internet. However, net neutrality protects only the flow of legal content and is not impacted by this proposal. Again, we're talking exclusively about blatant piracy sites, not sites where piracy might exist—meaning a site like The Pirate Bay, which exists primarily to share copyrighted materials and not, for example, YouTube, where the majority of content is original and posted by the creator.

It is time for Canada to look at more innovative solutions to piracy. The creative industries need support to ensure that the livelihoods of tens of thousands of talented Canadians are protected.

Thank you.

Ⓢ (1540)

**The Chair:** Thank you very much. May I say that you had me at *Star Trek*.

We're going to move Artisti and Annie Morin.

[*Français*]

Vous avez sept minutes.

**Mme Sophie Prigent (vice-présidente, Artisti):** Merci.

Mesdames et messieurs, un mot sur Artisti. Artisti est une société de gestion collective créée par l'Union des artistes en 1997 pour gérer les droits d'auteur des artistes-interprètes. Depuis sa création, Artisti a distribué plus de 43 millions de dollars à 4 500 adhérents. Nous avons formulé six recommandations pour rendre la loi plus équitable et plus adaptée à la réalité.

**Mme Annie Morin (directrice générale, Artisti):** Premièrement: étendre le régime de la copie privée aux appareils numériques permettant de copier la musique et pas seulement aux CD vierges, comme c'est le cas actuellement. Les créateurs devraient recevoir des redevances pour l'utilisation de leur travail quelque soit le support utilisé.

Deuxièmement: limiter les exceptions gratuites et réinstaurer le paragraphe 30.9 (6) de la Loi sur le droit d'auteur qui a été abrogé en 2012. Le retrait de ce paragraphe a contribué à réduire les redevances versées par les radios aux artistes-interprètes de façon importante.

Les exceptions en place ne respectent pas les exigences du triple test imposé par les traités internationaux. Artisti

demande que le législateur corrige cette situation.

**Mme Sophie Prigent:** Notre troisième recommandation est la suivante: traiter les prestations incorporées à des vidéoclips comme des prestations musicales et non comme des prestations cinématographiques.

Actuellement, dès qu'un artiste-interprète autorise l'incorporation de sa prestation dans une oeuvre cinématographique, y compris un vidéoclip, par exemple, il renonce à exercer son droit d'auteur.

Par exemple, un artiste-interprète dont la prestation est captée sur vidéo et fait également l'objet d'un enregistrement sonore peut uniquement exercer son droit d'auteur ou recevoir de la rémunération équitable lorsque sa prestation sonore est dissociée de la vidéo.

Or, un vidéoclip c'est une chanson avec des images. Je ne connais personne qui regarde sur YouTube le vidéoclip d'une chanson, alors qu'elle est à muet. C'est la chanson qu'on regarde.

Dans un tel cas, priver l'artiste de ses droits, c'est inconcevable. La communauté internationale l'a d'ailleurs reconnu, en 2012, quand elle a adopté le Traité de Beijing sur les interprétations et exécutions audiovisuelles.

Il est donc impératif que le Canada ratifie ce traité et étende les droits exclusifs et moraux prévus pour les artistes-interprètes du secteur sonore à l'ensemble des artistes-interprètes, mais — et c'est notre quatrième demande — il faut aussi changer la définition d'enregistrement sonore pour que soient également visées par la rémunération équitable les chansons qui sont utilisées dans les films ou dans les séries télévisées.

La définition d' « enregistrement sonore » est problématique puisqu'elle exclut les bandes sonores d'oeuvres cinématographiques diffusées en même temps que le film. Cette situation prive les interprètes de revenus importants en plus d'être discriminatoire puisque les auteurs perçoivent, eux, des redevances en pareilles circonstances.

Cinquièmement, il faut trouver des moyens de rémunérer les artistes-interprètes pour l'utilisation de leurs prestations sur Internet.

Les artistes québécois savent très bien que les revenus découlant du streaming sont extrêmement bas, même pour les chansons les plus populaires.

D'abord, les revenus pour la webdiffusion non interactive et semi-interactive découlent d'un tarif établi par la Commission du droit d'auteur du Canada. Ce tarif est presque 11 fois moins élevé que celui en vigueur aux États-Unis.

Ensuite, les revenus pour les webdiffusions à la demande, comme Spotify, par exemple, ou Apple Music sont assujettis à des contrats entre les artistes et les producteurs, qui prévoient la récupération de frais de production avant le versement de redevances aux artistes.

Compte tenu des faibles sommes générées par les ventes d'albums — on le sait — ainsi que par la webdiffusion à la demande, les interprètes se voient trop souvent privés de redevances provenant de cette exploitation commerciale.

⊕ (1545)

**Mme Annie Morin:** Notre recommandation comprend deux volets. Le premier est au sujet des directives. Elles devraient être intégrées dans la loi afin que les tarifs de la Commission du droit d'auteur du Canada s'arriment à ceux qui s'appliquent chez nos voisins du Sud. Un *stream* au Canada et un *stream* aux États-Unis devrait avoir une valeur similaire. Également, on devrait prévoir des directives pour prévoir que la Commission du droit d'auteur du Canada respecte les ententes conclues entre les utilisateurs et les sociétés de gestion.

Le deuxième volet est le suivant: il faudrait instaurer un droit à la rémunération pour les exploitations numériques des prestations comme celui qui est prôné par le regroupement européen Fair Internet for Performers. De plus, cette redevance devrait faire l'objet d'une gestion collective obligatoire. Mieux encore, les règles de rémunération équitable, qui sont versées en moitié aux artistes-interprètes et en moitié pour les producteurs d'enregistrement sonore, devraient

également s'appliquer à la webdiffusion à la demande, comme c'est le cas pour la radio.

Enfin, notre dernière recommandation, très simple, est la suivante: abolir l'exemption qui permet aux radiodiffuseurs de se soustraire à l'obligation de verser des redevances de rémunération équitable sur le premier 1,25 million de dollars de leurs recettes publicitaires annuelles. Cette exemption, adoptée en 1997, ne s'applique pas aux auteurs, mais seulement aux artistes-interprètes et aux producteurs et elle devait être transitoire. 20 ans plus tard, l'abolition de cette mesure discriminatoire est rendue urgente.

**Mme Sophie Prigent:** Je conclus avec une question. Pourquoi avons-nous autant de difficulté à reconnaître la valeur de l'interprète quand on parle de musique?

Les pratiques qui ont cours présentement ne reconnaissent pas à sa juste valeur la contribution et la prise de risques de l'interprète. L'artiste consacre des centaines sinon des milliers d'heures à développer son talent. Cela doit être reconnu.

Nos lois doivent soutenir les artistes devant les géants de l'industrie culturelle — je le dis souvent et je le répète —, parce qu'il n'y a pas de culture sans artiste.

Merci.

**Le président:** Merci beaucoup.

[*English*]

We're going to move to Mr. Southam.

You have up to seven minutes.

**Mr. Tim Southam (President, National Office, Directors Guild of Canada):** Thank you, Chair, vice-chairs, members of the committee.

My name is Tim Southam. I'm the president of the Directors Guild of Canada and a director of feature films, documentaries and series on platforms ranging from theatrical release to linear television and the Internet.

I recognize your love of Star Trek but I have to put in a pitch for *Lost in Space*, which I directed this year.

**The Chair:** That works too.

**Mr. Tim Southam:** Okay, good.

With me is Dave Forget, director of policy.

We appreciate the committee's invitation to present the DGC's work with the Directors Rights Collective of Canada particularly as this work reflects a core principle of the DGC which is that Canadian directors and screenwriters should be recognized in law as co-authors of the audiovisual work.

[*Français*]

La Guilde est une organisation nationale du travail qui représente le personnel créatif clé et logistique du cinéma, de la télévision et des industries des médias numériques. Aujourd'hui, elle compte 5 000 membres couvrant tous les domaines de réalisation, production, montage et conception visuelle.

En 1998, la Guilde canadienne des réalisateurs a fondé la Société canadienne de gestion des droits des réalisateurs, la DRCC, une société de perception de droits qui administre les paiements de redevances en provenance de juridictions étrangères sujettes au droit d'auteur et distribue ces bénéfices à tous les réalisateurs canadiens, et ce, pour tous les genres. En 2017, la DRCC a payé 796 000 \$ en redevances étrangères à ses membres, représentant 1 349 réalisateurs canadiens.

[English]

Directors are entitled to these royalties under national copyright legislation and monetization systems outside of Canada, primarily in Europe but increasingly elsewhere where copyright laws identify audiovisual directors as the authors of their work and require payments in much the same way as SOCAN requires payments for composers and song writers in Canada.

Here in Canada, while the current Copyright Act leaves the authorial status of so-called cinematographic work ambiguous, both the text and subsequent legal rulings give overwhelming support to the proposition that the screenwriter and the director are co-authors of the work.

Section 11.1 of the act distinguishes between audiovisual content with “dramatic character” and content without dramatic character, giving a normal term of copyright, which is the life of the author plus 50 years, only to those works where “the arrangement or acting form or the combination of incidents represented give the work a dramatic character”.

A writer, of course, creates a “combination of incidents known as a plot or a script”. A director then directs the acting and conceives and arranges all of the various creative elements which will ultimately appear on screen, creating the staging, camera frames, camera movements, conceiving the settings and selecting locations, determining the tone and interaction of performers, arranging the final sequence of images in the edit and determining the sound design and musical score.

Section 11.1, for all intents and purposes, gives a job description for screenwriters and directors. If authorship in audiovisual media means creating an original work and giving it dramatic character, as the act defines it, then it only stands to reason that the author is the originator and creator who provides that dramatic character.

⊕ (1550)

**Mr. Dave Forget:** The term of the copyright itself, set at the life of the author plus 50 years, constitutes further evidence that the author must be an individual and a physical person, someone who can be credited with authorship and natural ownership of moral rights, not a corporation or other legal entity. This interpretation of the act is supported by all existing Canadian case law and Quebec jurisprudence under the Civil Code.

The act also explicitly distinguishes between the author and the maker of a work. While the maker designation is mostly used in relation to sound recordings, it is also defined for audiovisual works and nowhere in the act is first ownership of copyright or moral rights ever assigned to the maker of an audiovisual work. This further establishes that ownership of copyright and moral rights must belong solely to the originating author and that the author must be a physical person giving the work its original dramatic character.

This is not only the existing interpretation of the courts, but it is effectively already the policy embedded in the agreements and contracts in our industry. Businesses require certainty and no producer, studio, broadcaster or distributor would ever invest in a project without knowing they had secured the rights necessary to exploit it. This is why screenwriters and directors already routinely sign over their exploitation and moral rights and are already compensated with fees for their talent and for future use of their creation.

The change we're advocating for today would cause no disruption to the status quo in our industry, no change to the way business is typically done, but it would acknowledge our moral rights as individuals and creators and make clear for the discussion of any future platform that those rights must continue to be respected.

Members of the committee, I thank you for your time.

We'd be pleased to answer your questions.

**The Chair:** Thank you very much. We're going to jump right into questions.

Mr. Longfield, you have seven minutes.

**Mr. Lloyd Longfield (Guelph, Lib.):** Thanks, Chair, and thanks to everybody for not only giving us concise presentations, but giving us some clear recommendations at the end. That's really helpful as we go forward.

Maybe if I could start with Mr. Lewis. Talking about the revenue streams, when you were speaking I was thinking of Napster and thinking how some of the illegal or pirating sites that were originally set up on the Internet were able to be shut down. I wasn't involved with copyright at that part of the process. Do you see something similar in terms of identification of pirating sites? Are they as identifiable as Napster was?

**Mr. John Lewis:** Yes, the industry knows them. In many countries, they've already identified those sites and they have been shut down.

Canada is falling behind, I'm sure you're going to hear from a number of witnesses, in terms of copyright. We're not leading the charge, that's for sure.

What we're looking to do with the Fair Play application is really just to match what a lot of our western European countries are doing, where the cultural industries are vibrant and they saw a need to protect. We looked at notice and notice, and quite frankly it was ineffectual, so we need some teeth.

The industry knows who the players are and this is a quick, efficient, not costly...because some of the other initiatives that have been looked at, for a copyright holder to try and enforce their rights, it's time-consuming and lengthy. This is a process that we think would allow for due process but get a quick result.

Ⓜ (1555)

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

Is there an international review or do international businesses in this area know of sites? Is there a report that we could see? Is there something that's being generated by the international arts community that would help?

I see the report "The Value Gap" that was mentioned in our last testimonies. I've gone through that report. It's a Made-in-Canada approach. It references international studies. Do you have any international studies that you could provide us?

**Mr. John Lewis:** We will provide them. We'll figure out how to do that properly through the committee but we will provide, yes.

**Mr. Lloyd Longfield:** Terrific, thank you very much.

Ms. Morin and Ms. Prigent, the focus on creators and the focus that you were telling us about. It seems to me that's the starting point of all this, to make sure that the creators are covered, and obviously it isn't working right now.

Is the union or the collective approach...has there been a focus on creators that we need to know about, that you could inform us about?

I'm fishing right now.

**Mrs. Annie Morin:** In fact, as a collective management organization

[*Français*]

Je vais parler en français.

Autant que faire se peut, on essaie de faire en sorte que les redevances perçues pour les utilisations faites du travail des artistes interprètes ne diminuent pas avec le temps. Toutefois, c'est certain que, à partir du moment où la loi prévoit

des exceptions — plusieurs ont été introduites, malheureusement, dans l'exercice de modernisation de la Loi sur le droit d'auteur qui est arrivée en 2012 —, cela devient difficile. On voit des chutes importantes.

Je parlais de la copie privée, par exemple. Au plus fort de la copie privée, les redevances associées correspondaient à plus de 50 % des redevances canadiennes qu'Artisti pouvait distribuer aux artistes, alors que, l'année dernière, on parlait de 7 % des redevances canadiennes seulement qui étaient des redevances de la copie privée. Alors, on voit que, effectivement, la Loi n'a pas suivi nécessairement le mouvement et qu'il y aurait intérêt, donc, à la moderniser encore peut-être davantage, en prévoyant effectivement que cela soit étendu aux appareils. Je pourrais vous parler d'un tas d'autres exceptions qui ont été introduites dans la Loi.

Malheureusement, cela attire défavorablement le regard des pays étrangers sur le Canada. Pas plus tard qu'en mai 2017, l'Association littéraire et artistique internationale, l'ALAI, a formulé une recommandation ou un vœu qu'elle adresse au gouvernement, c'est-à-dire de diminuer les exceptions gratuites. En fait, c'est de faire en sorte que, si des exceptions sont introduites dans la Loi, elles soient au moins assorties d'une compensation.

[*English*]

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

I'm watching time and I wanted to ask you about the Beijing Treaty. It's been mentioned a few times, now, to us. I haven't looked it up, but is the Beijing Treaty something that we should be using as a basis? Has it worked in other countries?

[*Français*]

**Mme Annie Morin:** En fait, pour l'instant, le Traité a été ratifié, si je ne m'abuse, par 18 pays uniquement. Nous avons besoin d'avoir 30 pays pour que ce traité soit pleinement en vigueur. C'est un traité qui accord l'ensemble des droits exclusifs aux artistes-interpètes du secteur de l'audiovisuel et aussi, chose importante, des droits moraux.

[*English*]

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

Thank you very much. You guys are doing great.

Mr. Forget and Mr. Southam, when we look at the review that was just announced this week on the CRTC, how much of what you're discussing would apply to the CRTC review and how much is something that needs to be looked at in terms of the Copyright Act itself? Would some of what you're talking about be able to be covered through the CRTC review? If so, could you separate that out for us a bit?

I know it's a brand new announcement.

**Mr. Tim Southam:** My instinct today would be to say that they're separate. As you know, the CRTC review is a comprehensive recommendation. Obviously, the rights market is fundamental. How it operates is fundamental. This goes directly to copyright, what we're saying here.

**Mr. Lloyd Longfield:** Okay.

When you mentioned the personal creator, when you're doing digital files and you're doing images, creating in the style of someone else can undermine the creator's value. Maybe it's a nuance that I'm spending too much time thinking about, but in a digital creation it's hard to trace the actual creator sometimes. Is that fair?

🕒 (1600)

**Mr. Tim Southam:** I would say this is something that actually does apply to our position with respect to the CRTC's recommendations, which is that, in terms of creating content, in terms of the creation of content, virtually nothing about



the digital universe makes our challenge any different. That is to say that origination is origination and that the Internet is essentially a platform or a pipe, organized in a very different and very compelling way. Nonetheless, with respect to origination we're talking about copyright. We're talking about identifying the creator in the chain in terms of rights ownership.

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

Thanks for letting me stretch my time.

**The Chair:** [*Inaudible*]

[*Français*]

Monsieur Bernier vous avez sept minutes.

**L'hon. Maxime Bernier (Beauce, PCC):** Merci, [*inaudible*]

[*English*]

**The Chair:** [*Inaudible*]

*Merci.* Thank you.

[*Français*]

C'est sept minutes et demi.

**L'hon. Maxime Bernier:** Ma question s'adresse à Artisti. Vous avez fait des bonnes démonstrations ce matin devant le Comité permanent du patrimoine canadien. Les députés, ici, n'ont pas eu l'occasion de participer aux échanges que nous avons eus. Vous commencez à parler plus tôt des nombreuses exceptions dans le droit canadien, et que ces exceptions ne sont peut-être pas en ligne avec la Convention de Berne. Pouvez-vous nous donner un peu plus de détails là-dessus?

**Mme Annie Morin:** Oui. En fait, il y a la Convention de Berne qui prévoit le triple test dont j'ai parlé précédemment, mais il y a également l'Accord sur les aspects des droits de propriété intellectuelle qui touchent au commerce ou ADPIC et les traités de l'Organisation mondiale de la propriété intellectuelle qui ont été faits en 1996. Je me réfère au WCT et au WPPT. Ces traités prévoient un triple test qui s'applique quand une des parties contractantes voudrait éventuellement implanter une exception aux droits d'auteur à l'intérieur des lois d'un pays.

On dit que les exceptions doivent répondre à trois critères. Elles doivent être limitées à certains cas spéciaux, elles ne doivent pas porter atteinte à l'exploitation normale de l'oeuvre ou de l'autre objet du droit d'auteur et elles ne doivent pas causer un préjudice injustifié aux intérêts légitimes du créateur. À partir du moment où effectivement on prévoit une exception, mais qu'on ne prévoit aucune compensation pour venir compenser l'exception qu'on a introduite dans la loi, on se trouve, jusqu'à un certain point, à causer un préjudice aux créateurs, c'est indéniable.

**L'hon. Maxime Bernier:** L'exception de « l'utilisation raisonnable », vous pensez qu'elle a été trop utilisée ou trop...

**Mme Annie Morin:** En fait, j'ai parlé de cela ce matin parce que je citais l'étude du Dr Mihaili Fixor. Il a publié dernièrement une étude où il faisait l'analyse des exceptions au niveau des oeuvres littéraires et il a parlé des exceptions canadiennes en spécifiant que selon lui, cela ne respectait pas le triple test dont je viens de parler. Cependant, il peut y avoir d'autres exceptions que celles-là.

**L'hon. Maxime Bernier:** Vous représentez vraiment les interprètes. Avez-vous des statistiques sur leurs revenus ou sur le déclin de leurs revenus, durant les dernières années?

**Mme Annie Morin:** Je n'ai pas de statistiques à proprement parler, mais évidemment il y a eu le processus de

consultation qui s'est déplacé de ville en ville, d'un bout à l'autre du Canada. À cette occasion, vous aurez peut-être entendu parler du témoignage qu'a rendu Pierre Lapointe, qui est un artiste très connu au Québec, qui disait que pour un million de *stream*, il a obtenu une somme tout à fait dérisoire. Il en va de même pour David Bussièrès, qui fait partie d'un duo très connu au Québec, qui s'appelle « Alfa Rococo », a également témoigné à cet effet. Les sommes sont ténus.

Regardons, par exemple, ce qui a trait aux redevances pour le *streaming* non-interactif et semi-interactif, en vertu du tarif qui a été rendu par la Commission du droit d'auteur, dont on parlait tout à l'heure, le tarif est 11 fois moins élevé que celui qui prévalait aux États-Unis pour la même période. J'avais fait un savant calcul qui me disait que pour être capable d'acheter un litre de lait...

**L'hon. Maxime Bernier:** Ne me parlez pas de lait.

**Mme Annie Morin:** En fait, ça prenait des milliers de *stream*. Alors, quand on pense que plusieurs artistes participent souvent à un seul enregistrement sonore, par exemple, un orchestre symphonique, il faut beaucoup de *stream* avant d'être capable de générer même des micros sommes.

Quant aux statistiques exactes de déclin de revenus, il faudrait que je puisse vous dire exactement ce qui en est, hormis pour la copie privée pour laquelle c'est passé à au-delà de 50 % en quelques années, à 7 % des redevances canadiennes que nous percevons.

**L'hon. Maxime Bernier:** Plus tôt, vous avez parlé de la Commission du droit d'auteur.

Pourriez-vous nous suggérer des réformes en ce qui a trait à la Commission du droit d'auteur? Quelles sont vos interactions avec la Commission? Y aurait-il lieu d'apporter des améliorations sur leur rôle ou dans la loi?

**Mme Annie Morin:** Oui, il y aurait des recommandations à faire. D'ailleurs, nous en avons formulé plusieurs parce qu'il y a eu un comité, qui s'est penché sur la question. Artisti a eu l'occasion de produire un mémoire à cette occasion et si cela vous intéresse, je pourrais vous le faire parvenir.

**L'hon. Maxime Bernier:** En fait, vous pourriez le faire parvenir au Comité.

**Mme Annie Morin:** Certainement. Cela me fera grand plaisir.

Donc, cela était en réponse à des questions qui nous étaient posées. Une de nos grandes préoccupations, en tant que société de gestion collective, c'est qu'il s'agit quand même d'une petite société de gestion collective. On a beau avoir à distribuer 40 millions de dollars et à représenter 4 500 adhérents, ce n'est pas une société de gestion collective nécessairement qui dispose des mêmes moyens que la SOCAN, par exemple.

En ce qui concerne les petites sociétés de gestion collective, le processus de se présenter devant la Commission du droit d'auteur c'est un processus extrêmement coûteux. On parle de dizaine et de dizaine de milliers de dollars. C'est très dommage parce que cela fait en sorte que les sociétés de l'envergure de celle d'Artisti se disent qu'il y aurait peut-être moyen d'aller chercher des redevances, de déposer des tarifs pour les artistes que nous représentons, mais quand on regarde le coût pour aller chercher on ne sait trop combien de redevances parce qu'on voit que les tarifs sont quand même assez bas. Alors, je dois dire qu'à ce moment-là, souvent, cela rend l'exercice complètement vain.

🕒 (1605)

**L'hon. Maxime Bernier:** Vous avez parlé aussi, dans les recommandations, de l'exception que nous avons fait il y a plusieurs années sur la diminution des redevances pour le premier 1,25 millions de dollars de recettes publicitaires.

Est-ce qu'il s'agit d'un règlement ou est-ce que c'est dans la loi?

**Mme Annie Morin:** C'est carrément dans la loi. Il s'agit de l'article 68.1, je pense. Alors, oui, effectivement, c'est écrit dans la loi.

Quand on regarde le texte de loi où on dit de quoi on parle dans l'article, c'est écrit « mesures transitoires ». Le terme « transitoires » s'y trouvent. Alors, je pense que si c'est écrit, c'est parce que cela a été fait pour être transitoire, en 1997. Alors, pour combien de temps est-ce transitoire?

**L'hon. Maxime Bernier:** Donc, si le gouvernement est de bonne foi, il pourrait passer un petit décret qui ferait en sorte d'abolir la mesure transitoire. Je pense que mes amis libéraux seraient tous d'accord avec cela.

**Mme Annie Morin:** Aussi, cela apporterait quand même 8 millions de dollars de plus par année à diviser entre artistes-interprètes et producteurs d'enregistrement sonore. Ce n'est pas rien.

Plus tôt, Mme Prigent, ici présente, parlait de la modification à la définition d'enregistrement sonore. Alors, si cette définition était modifiée, cela nous permettrait de percevoir des redevances et de la rémunération équitable pour la musique qui est intégrée dans les films et les émissions de télé, à ce moment-là, ce matin, Ian MacKay de Re Sound, une société qui perçoit la rémunération équitable, parlait de 55 millions de dollars, qui serait possible de distribuer aux artistes-interprètes et aux producteurs d'enregistrement sonore, moitié/moitié. Ce sont des sommes importantes pour nous.

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

**Le président:** Merci beaucoup.

[English]

You had 50 seconds extra there.

Mr. Stetski, you have seven minutes.

**Mr. Wayne Stetski (Kootenay—Columbia, NDP):** Thank you, and thank you for being here today.

I'm sitting in for Brian Masse, who's the usual member, so I apologize to the committee members if other witnesses have already answered these questions.

I'm quite interested in several aspects. Let's start with music.

How does the average Canadian, when they go on YouTube, for example, and they click on a music video that they want to watch, whether or not the artist is actually receiving some kind of compensation or not?

**Mrs. Annie Morin:** In Canada, first, if you are clicking on a video, a specific video, you are doing it “on demand”.

[Français]

Vous demandez à voir un *stream video* à la demande. Quand c'est à la demande, en principe, cela devrait être couvert par le contrat qui est passé entre l'artiste et le producteur. Cela dit, souvent, si vous faites une demande pour une vidéo et que vous arrêtez de faire des demandes, YouTube vous suggère des vidéos et on vous propose telle autre chanson, peut-être du même artiste ou d'un artiste différent. À ce moment-là, on n'est plus dans ce qu'on appelle: à la demande. C'est de la webdiffusion semi-interactive ou non interactive, tout dépendant de la terminologie qu'on emploie. Vous n'avez rien demandé, mais on vous a suggéré un contenu. Je ne suis pas en mesure moi-même de vous dire si c'est rétribué à chaque fois dans ces cas.

🕒 (1610)

[English]

**Mr. Wayne Stetski:** Could there be some kind of designation or stamp on these videos so that if you want to do the right thing you can do the right thing? Right now I just go on, and, you're right, maybe four or five other video would show up. I have no idea whether I'm actually doing something illegal or not.

[Français]

**Mme Annie Morin:** Peut-être qu'une des solutions législatives serait effectivement de faire en sorte que lorsque ces vidéos jouent, il y a une rétribution, un peu comme quand on est à la radio. Mme Prigent le disait clairement. Par exemple, on ne met pas le son à « *mute* » lorsqu'on écoute une vidéo sur YouTube. Généralement, on écoute de la musique et des images apparaissent. En fait, YouTube devient une radio avec des images et quand les radios utilisent la musique, elles doivent payer des redevances qu'on appelle: les redevances de la rémunération équitables. Elles sont divisées 50-50 entre l'artiste et le producteur. À partir du moment où il y aurait cela, on réglerait, jusqu'à un certain point, une grande partie de l'iniquité qui existe et les gens pourraient regarder des vidéos sur YouTube et s'en faire proposer sans avoir à se demander ce qui se passe et si les artistes sont rétribués ou non.

L'autre aspect un peu pernicieux est qu'il y a parfois aussi des vidéos, par exemple, de « je filme mon petit chat en train de faire des cabrioles » et il y a de la musique dans ce vidéo. Dans ce cas, il n'y a pas de certitude. On sait que plus la vidéo est regardée, éventuellement, celui qui a mis la vidéo recevra de l'argent. Cette personne en reçoit, mais la personne qui chante dans cette vidéo ne recevra pas nécessairement de l'argent. Alors, on utilise encore une fois une oeuvre et on n'a pas la certitude que l'argent se rend au créateur.

[English]

**Mr. Wayne Stetski:** So legislation could help potentially?

**Mrs. Annie Morin:** Absolutely.

**Mr. Wayne Stetski:** And related to that, some of these Internet platforms, whether it's YouTube, Facebook, or any other Internet platform—and this is a question for all of your if it impacts you—are they co-operative at all in dealing when there are piracy issues, or do they just say, “It's not our fault, somebody else is posting this on YouTube”? Is there any accountability for any of the Internet providers to actually make sure there isn't illegal material showing up on their sites? If not, should there be?

**Mr. John Lewis:** No, they haven't been to date. And that's with notice and notice. Effectively, that's why it wasn't of much use, because they say, “We just provide the pipe, we don't regulate what's coming down it” sort of thing. But I'd like to say there are broadcasters, Bell Media and Rogers, that are part of Fair Play Canada. They have switched their position in terms of trying to regulate this because they're content providers and they also create content so it's going to affect their bottom line as well. But even in the United States, rule 230, which everyone sheltered under in terms of content and responsibility for content, that has been modified so that there is now growing requirements for the responsibility of what's being aired on your platform.

**Mr. Wayne Stetski:** Would legislation help that, or is that asking too much regulators?

**Mr. John Lewis:** Absolutely, legislation would help with that respect.

**Mr. Wayne Stetski:** How am I doing for time?

**The Chair:** One minute and a half.

**Mr. Wayne Stetski:** I'm interested again because my knowledge is very basic. If you currently come across piracy or illegal use, what sort of process do you follow to try and rectify it and then how could that process be improved if there is time to kind of go down the line? What do you do if you see something and you say the royalties are not being paid, that's illegal. What process do you currently have in place and now could we make that better.

🕒 (1615)

**Mr. Dave Forget:** Part of the Fair Play Canada proposal to the CRTC is there's two ways you can think about it. One of the challenges, and when I speak to directors who find their work showing up on these platforms, obviously in many

cases, they show up without licence. And directors are not in a position. They don't have the wherewithal to be spending the time and investing the resources that would be necessary in the [Inaudible] track and then try to follow legal avenues to have the content removed. It pops up other places. It's a challenge, and our organization is part of the Fair Play coalition too.

One of the virtues of the approach is to go to the source. Often the source of the content of where it's being streamed from is located outside Canada. It's hard to reach through traditional, the legal structure that we have now. So as a result, blocking it into the jurisdiction is a simple solution to say whatever is happening out side of Canada happens. These streaming sources will probably continue to exist and other jurisdictions will have to deal with it. Some have protocols that are very similar to what Fair Play already has in place in places like the U.K. and Portugal and Italy. They've been working. And what's being suggested is essentially blocking those sources from coming in, because asking the creators to be in the business of tracking down on a piecemeal basis is a herculean task and it's just not effective. So the suggestion is a very practical one which is to say when a site is overwhelmingly and blatantly engaged in traffic and content that they do not have the right to exploit and make available, they should be baulked.

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

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

**Mr. Frank Baylis (Pierrefonds—Dollard, Lib.):** I'm going to continue with Mr. Lewis on that idea. If I understand, this notice and notice system doesn't work for you.

**Mr. John Lewis:** That's correct.

**Mr. Frank Baylis:** Fair Play has come up with this solution where you say that they'll identify and you've listed a number of criteria that you think are fair that ensure that the government's not heavy handed as well. Is that...?

**Mr. John Lewis:** That's right. It would be an independent body that would make a determination. There would be a hearing process. It's a quasi-judicial administrative tribunal that would look at it, make a recommendation to the CRTC. Ultimately it's the CRTC that would have that authority to do so.

**Mr. Frank Baylis:** And they would instruct the ISPs to block that site?

**Mr. John Lewis:** That's correct.

**Mr. Frank Baylis:** Someone else had talked about this idea of what they call [Inaudible] so they would go block that site, the site would show up somewhere else. Do you see this as a problem or concern?

**Mr. John Lewis:** The industry has to be nimble in taking this on. Here's the problem with notice and notice. You were asking about how do you identify when you might not know. Some of these websites, it's not like there's bad spelling or they look...they're sophisticated, slick. You can pay through Visa. You have all the traditional norms that you would think of a legal website. Most people won't be able to identify what is legal and not legal. So the industry can because obviously we know who has distribution rights and who has the ability to exploit, so we can identify it. So there's a process in place for that. But it's going to have to be nimble.

**Mr. Frank Baylis:** Yes, to a certain degree it has to be nimble, but by the same token too, let's say the people that are using Cody Box and these five sites are blocked, they have to come back up. And then somehow, they have to tell those people that want to piracy where they are, right?

**Mr. John Lewis:** Right.

**Mr. Frank Baylis:** And in the process of telling them, they could be telling the CRTC as well, right?

**Mr. John Lewis:** That's right.

**Mr. Frank Baylis:** So if we had a stronger method, that would be very helpful.

**Mr. John Lewis:** What's good about this is the industry would sort of self-regulate. So we would bring those cases forward, and there's an opportunity for the website to respond and say, "no, that's incorrect information. We did have the ability to exploit this product", that sort of thing. So there is a process in place like it has been in I think it's 30 other countries that have something similar.

**Mr. Frank Baylis:** Thirty other countries have it.

**Mr. John Lewis:** Don't quote me on that, but I know it's a number of companies. I'll look to the directors.

You notice I was giving them water earlier.

**Mr. Frank Baylis:** That's right, the directors.

**Mr. John Lewis:** They're always directors. You've always got to serve the directors.

**Mr. Frank Baylis:** I got that. Okay.

**Mr. Tim Southam :** Because of our way bigger union

[*Français*]

**M. Frank Baylis:** Je pense que c'est Mme Morin qui avait parlé de cette question ou Mme Prigent, la question du Traité de Beijing sur les interprétations et exécutions audiovisuelles en ce qui concerne les vidéoclips. Ai-je bien compris que, dans le Traité de Beijing, un vidéoclip est traité plus comme la musique comparé à une vidéo où...?

🕒 (1620)

**Mme Annie Morin:** Non, non, non. En fait, dans le Traité de Beijing, c'est qu'on vient reconnaître aux artistes les mêmes droits, l'ensemble des droits d'auteur, les droits exclusifs au même titre que les auteurs, par exemple, d'une oeuvre ont. À ce moment-là, les artistes interprètes les ont aussi ces droits-là.

**M. Frank Baylis:** D'accord.

**Mme Annie Morin:** Pour l'instant, dans la loi canadienne telle que libellée, ce sont les artistes du secteurs sonore qui bénéficient de droits d'auteur alors qu'il y a un article spécifique de la Loi sur le droit d'auteur qui dit: « Pour peu qu'on accepte, en tant qu'artiste interprète, que notre prestation soit incorporée dans une oeuvre audiovisuelle, à ce moment-là on renonce à exercer son droit prévu à l'article 15 ».

**M. Frank Baylis:** Vous voulez dire dans les lois canadiennes?

**Mme Annie Morin:** Oui.

**M. Frank Baylis:** L'interprète, s'il va interpréter une chanson dans un vidéoclip, il n'a pas droit à des redevances?

**Mme Annie Morin:** C'est-à-dire qu'il n'a pas le droit d'auteur. Maintenant, est-ce qu'il est capable, par exemple, par ses contrats avec le producteur, de négocier?

**M. Frank Baylis:** Peut-être qu'il pourrait aller les chercher, mais ce n'est pas dans la loi légalement qu'il touche à ces droits comme auteur.

**Mme Annie Morin:** Tout à fait. Non, comme interprète, mais comme auteur de sa prestation. L'auteur compositeur, c'est autre chose, parce que lorsqu'on regarde une chanson, il y a, d'une part, l'oeuvre, qui est la mélodie et les paroles.

**M. Frank Baylis:** Parce que cela a été écrit par cet auteur-là, celui qui a écrit la musique.

**Mme Sophie Prigent:** Oui, exactement, les mots et la musique.

**Mme Annie Morin:** De ce côté-là, il n'y a pas de difficulté. Il y a peut-être des...

**M. Frank Baylis:** Mais l'interprète n'est pas traité comme un auteur.

**Mme Annie Morin:** Non, alors que, pour l'enregistrement sonore, oui, mais pas pour le vidéoclip. Donc, cela s'applique...

**M. Frank Baylis:** Alors, dans son standard sur la radio, il est traité comme un auteur?

**Mme Annie Morin:** Oui. Bien, c'est-à-dire qu'il reçoit sa rémunération équitable au même titre que l'auteur va recevoir son droit de communication.

**M. Frank Baylis:** Et c'est juste que cela tombe dans les lois canadiennes qu'un vidéoclip ne couvre pas, mais c'est couvert. Comme si je l'écoutais à la radio, il toucherait ses redevances.

**Mme Annie Morin:** Si, effectivement, on avait une modification qui était faite à la loi pour prévoir, d'une part, qu'il y a des droits d'auteur pour les artistes participant à une oeuvre audiovisuelle et, d'autre part, que les termes « enregistrements sonores » étaient modifiés pour permettre que lorsque l'image du vidéoclip est écoutée conjointement avec la chanson, à ce moment-là ce n'est pas exclu de cette définition-là.

**M. Frank Baylis:** Alors c'est ainsi que c'est exclu en ce moment?

**Mme Annie Morin:** Oui, en ce moment, effectivement, il y a une exclusion spécifique qui dit...

**M. Frank Baylis:** Et pourquoi ils ont cette exclusion? Y a-t-il une raison?

**Mme Annie Morin:** Je ne sais pas. Je n'étais peut-être pas née. Non, ce n'est pas vrai, j'étais née en 1997, comme vous pouvez vous en douter.

**M. Frank Baylis:** D'accord, on va faire les investigations.

Une autre question que j'avais, c'est celle de la tarification. Est-ce que vous avez des tarifications sur les contenus qui proviennent de YouTube ou Spotify? Comparé aux États-Unis, on a une tarification beaucoup moindre?

**Mme Annie Morin:** Oui, tout à fait. Alors il y en a, comme je vous dis, pour ce qui est du *streaming* non interactif et semi-interactif. Je vais vous expliquer la différence.

**M. Frank Baylis:** Je l'ai comprise.

**Mme Annie Morin:** Vous l'avez comprise.

**M. Frank Baylis:** Alors vous avez le *streaming* non interactif, commençons avec celui-là. Aux États-Unis, disons qu'ils touchent 11 ¢, on va toucher juste 1 ¢ ici au Canada?

**Mme Annie Morin:** Oui, tout à fait, 11 fois moins. En fait, 10,78 %.

**M. Frank Baylis:** Alors, pour un tel type de tarification, c'est 11 ¢ aux États-Unis et ici c'est 1 ¢?

**Mme Annie Morin:** Oui.

**M. Frank Baylis:** Et cela, c'est juste le...?

**Mme Annie Morin:** Pour le non interactif et le semi-interactif.

**M. Frank Baylis:** Non interactif et semi-interactif?

**Mme Annie Morin:** Oui.

**M. Frank Baylis:** Et pourquoi cet écart existe-t-il?

**Mme Annie Morin:** Là, je ne saurais pas vous l'expliquer. C'est une décision qu'a rendue la Commission du droit d'auteur et je ne sais pas exactement quels ont été les critères pour lesquels le tarif rendu au Canada est vraiment plus bas que celui qui a été rendu aux États-Unis. Et maintenant, l'écart se creuse encore davantage parce que, depuis ce temps, les tarifs aux États-Unis ont augmenté, tandis que, pour l'instant...

**M. Frank Baylis:** Cela, c'est le Copyright Board qui décide?

**Mme Annie Morin:** Oui, tout à fait, cela dépend...

**M. Frank Baylis:** Ce n'est pas vraiment quelque chose qui nous représente, mais est-ce que...?

**Mme Annie Morin:** Il pourrait y avoir quand même des directives incorporées dans la loi qui disent, par exemple...qui donnent des critères.

**M. Frank Baylis:** D'accord, rapidement, parce qu'ils vont me couper mon temps.

Mais sur YouTube ou sur Spotify, êtes-vous satisfaits du montant comme tel ou non?

**Mme Annie Morin:** Pour ce qui est des non interactifs et semi-interactifs, non. YouTube, on ne peut pas être satisfait des montants parce que, pour l'instant, comme je le dis, à part peut-être en vertu des contrats entre artistes et producteurs, il y a zéro.

**Le président:** Merci beaucoup.

[*English*]

Mr. Jeneroux, you have five minutes.

**Mr. Matt Jeneroux (Edmonton Riverbend, CPC):** Thank you, Mr. Chair, and thank you, everybody, for taking the time to be here today.

I do want to go back to Mr. Lewis. You made some interesting comments earlier about the FairPlay proposal, which has received a great deal of concern from those concerned about preserving the net neutrality. You did mention that you support net neutrality, so it's good to hear that. However, I do want to get to the bottom of some of your comments.

Currently, the FairPlay proposal is asking to create a board made of industry players—like you indicated—who would ask the CRTC to demand that ISPs block websites they deem to be perpetuating piracy. The chief concern with this proposal is that there would be no court involvement before the site would be taken down.

In response to this concern, you said—and other FairPlay representatives have said—that complainants could appeal to the Federal Court of Appeal after the site has been pulled.

Why not address these genuine concerns head-on and change the proposal to bring in court oversight before the offending sites are taken down?

🕒 (1625)

**Mr. John Lewis:** I used to work at the Ontario Labour Relations Board—again, a quasi-judicial tribunal—the decisions of which would be in effect.... There was the ability for any party to bring a judicial review or application to the courts to review that. It's sort of our tradition that those decisions are in effect pending a judicial review. An



offending party could seek an injunction to stay the decision of the CRTC, pending a review of the Federal Court of Appeal. There is already kind of built into the system, then, that ability for someone—if so aggrieved—to bring that kind of motion to stay the effect of the CRTC determination, pending an appeal at the Federal Court of Appeal. Once again, it's timing in all of this.

We're aware in the states. We're a North American organization. We have taken on the current administration in terms of the concerns for net neutrality, and we're spending considerable resources fighting that fight. We take it very seriously. I know that any time you talk about any type of blocking, my own members—particularly younger members—get very nervous and concerned about it.

Again, I look at other jurisdictions—and I was wrong; it's 40 countries, and not 30 countries—that have enacted similar legislation elsewhere. Sometimes they bring in a judicial component earlier in the process, but there is the same type of methodology. There is an ability, anyways, in terms of seeking to stay a decision pending a review by the Court of Appeal.

**Mr. Matt Jeneroux:** What have you done in the states recently, then? The concerns about net neutrality seem to have subsided somewhat. You said you have been spending a number of resources.

**Mr. John Lewis:** The whole industry was lobbying, and I don't know if it was the Senate or Congress. However, they didn't get the votes to enact the provisions the current administration wanted to enact.

**Mr. Matt Jeneroux:** It's good to hear that you're supportive of net neutrality, because I do know there has been a lot of concern within the community about that.

In my last minute...quickly go over the Kodi boxes. You brought those up at the beginning. Where are these coming from? If they are shut down, are they starting back up? Are these parties outside of Canada that are setting up these boxes? Are they being sold underground? I hope you'd appreciate that I don't know much about them—which I guess is probably a good thing the minds of you, the committee, and the witnesses. Could you just give a little bit more background for us?

**Mr. John Lewis:** We'll provide more background. We're going to provide a fuller statement to this committee with our submissions.

However, here's the problem in all of this. Because it's become so blatant, the need to be underground has been alleviated. No one is taking any enforcement issues seriously because it's so blatant. That is the real concern. There's a blasé kind of attitude towards it. To some, it's not a physical good. It's not stealing a pack of cigarettes or a car. It's this notion of intellectual property.

We were criticized as an industry...saying that there is no other place to get this and that the industry was slow off the uptake in terms of having a vehicle like Netflix, CraveTV, and all of these others that weren't there and that weren't too expensive. Well, that's been taken care of. That's been addressed. What's the excuse now, other than you just want free product?

**The Chair:** 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.

My first question will be to Tim.

When will the next series of Lost in Space be out? I went through that series very quickly.

**Mr. Tim Southam:** Season 2 was ordered two weeks ago. I was sitting in Netflix's office when it happened. It's a crazy lobby. It's so busy. Three of the four walls are The Crown, and we had a little cardboard thing for Lost in Space in the corner. I'm hoping that'll change.

**Mr. Terry Sheehan:** Okay. Soon, then.

**Mr. Tim Southam:** It shoots in Vancouver.

**Mr. Terry Sheehan:** That was my extra 20 seconds that you owed me.

**Mr. Tim Southam:** It shoots in Vancouver with a great Vancouver crew.

**Mr. Terry Sheehan:** Great, great.

**The Chair:** We'll have to go visit the set, just for copyright.

**Mr. Terry Sheehan:** Just for copyright. Good.

Thank you very much.

It leads me to my next question. I'm trying to figure out, how does Netflix versus, say, a traditional movie process, compensate the artist? Is it similar? Is it different? I noted that Netflix is projected to be spending up to about \$8 billion in future years, and it was around \$6 billion last year or the year before. Obviously it's expanding. Could you explain if there is a difference in how the compensation would work?

**Mr. Tim Southam:** Netflix engages in three kind of business, or really two. One is as a re-broadcaster of existing works, so it'll do deals with whoever the rights-holders are for existing movies and series. In terms of original work, which is, as you say, the \$8 billion a year that it's planning to spend worldwide, that's almost the same...I would say that's exactly the same contracting process as any form of contracting that happens now in the linear universe, which is to say they either hire a producer who then engages people like me and everyone [*Inaudible*] writers, et cetera, to provide their services, or they act as a studio and remain a full owner of the show and produce it themselves.

Of course, there's a raging debate internally to all of those organizations as to whether they want to be studios or merely broadcasters, which is an interesting term to use for a nospot service. But they are acting exactly as broadcasters in terms of contracting and getting the work produced.

**Mr. Terry Sheehan:** So the compensation that they receive through the copyright laws in Canada is the same.

**Mr. Tim Southam:** On other words, the compensation I receive?

**Mr. Terry Sheehan:** Yes.

**Mr. Tim Southam:** We're in collective bargaining. It's in constant definition, but the format is almost identical to the linear universe.

**Mr. Terry Sheehan:** Okay.

Thank you for answering that, because things have changed. The pirates were in the theatres with the long coats, trying to keep their cameras steady and putting it on the Internet, and then—

**Mr. Tim Southam:** I might add one thing, by the way. That contract includes a clause which purchases assumed moral rights that the artist may have in the work. So there's a recognition embedded in that contract in both the linear space and the digital space that we are, in fact, the original owners of the audiovisual material.

**Mr. Terry Sheehan:** Interesting.

That just brings me to the difference. The Internet was a curse and a blessing at the same time for the creative economy. In the essence where things have changed...the pirates are on the Internet, but the creative industry is also on the Internet. I was just trying to draw a comparison, because we have Netflix and we have Spotify. We heard some testimony that some weren't satisfied with the compensation on Spotify. That was what we heard recently. I'm just trying to pull that out.

When we talk about the Internet, and the pirates who are on there—perhaps John, you were talking about this—is there a particular country or area that is known to do this?

**Mr. John Lewis:** Canada.

**Mr. Terry Sheehan:** Canada's number one?

**Mr. John Lewis:** When the whole camcording issue....

**Mr. Terry Sheehan:** The camcording...the guy in the theatre.

**Mr. John Lewis:** The camcorder in the theatres. Where was one of the largest centres for that? Montreal.

**Mr. Terry Sheehan:** I'd heard that before, but are we still number one?

**Mr. John Lewis:** No. That has dropped off. There were major quality issues and a whole bunch of other issues.

**Mr. Terry Sheehan:** And it was a certain province. I'm not going to get into that, but that was that.

But nowadays, the new pirates, the ones who are not going into the theatre but are somehow hacking into the system and pulling out the content...do you know what countries would be...?

**Mr. John Lewis:** In terms of where it originates from, no, but as David mentioned, that's why the FairPlay application is there, because there are no borders. This is digital. They can go anywhere, originate anywhere, and broadcast anywhere. But in terms of where they're acquiring the pirated materials, I'm not aware of stats.

**Mr. Terry Sheehan:** Okay.

The cease and desist notice isn't working, because people are just ignoring it. There are no teeth to it.

**Mr. John Lewis:** There's no consequence.

**Mr. Terry Sheehan:** Okay. No consequence.

My last little bit, because I only have a couple seconds, was for Artisti.

You noted that you were formed in 1997, and I saw there was a recommendation in 1997 to change the \$1.25 billion on the first bit of advertising. Was that \$1.25 billion the number in 1997, and is it still that number today? Is that the reason you guys formed?

🕒 (1635)

**Mrs. Annie Morin:** Yes.

**Mr. Terry Sheehan:** Is that the reason why you guys formed?

[Français]

**Mme Annie Morin:** En fait, Artisti a été formé en 1997, parce que des modifications étaient notamment apportées à la loi, afin d'introduire les droits à rémunération équitable et le droit à la rémunération de la copie privée. À ce moment-

là, l'Union des artistes, qui est le syndicat, avait formé sa propre société de gestion collective pour être en mesure, effectivement, d'offrir aux artistes interprètes du secteur de la musique la possibilité de percevoir les redevances qui ont été introduites en 1997, soient celles de la rémunération équitable et de la copie privée.

Toutefois, quand on parle de l'exemption sur les premiers 1,25 million de dollars, à l'époque, les radiodiffuseurs étaient plutôt mécontents de savoir qu'ils allaient désormais devoir verser des redevances de la rémunération équitable. C'est probablement une exception qui a été introduite, à ce moment-là, à la demande des radiodiffuseurs. Toutefois, plusieurs années après, maintenant, on voit que, quoi qu'on en dise, la radio est quand même une industrie qui continue de fonctionner et qui génère des revenus très importants. C'est pourquoi on dit que cette exemption n'a plus raison d'être dans la loi.

**Le président:** Merci beaucoup.

[English]

Mr. Lloyd, you have five minutes.

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

Forgive me, I'm a little bit sick, but I'll try to get my questions out.

Mr. Lewis, I'm curious about your comment. Your solution, which FairPlay Canada has asked for, is to block these websites for Canadians. I'm aware that there's technology that allows you to block your IP address, a VPN blocker, and suggest your signal is coming from the United States. I know a number of people use that to get American Netflix in Canada.

What is your comment on that? Is there a way to solve that workaround, which would undermine your comment?

**Mr. John Lewis:** I'm not sure of the technology. I am aware of it, but I am not sure how easy it is to circumvent by using that. I'm just not aware of that.

**Mr. Dane Lloyd:** I'm just worried that if we were to implement that, it would be such an easy workaround to pretend to be in a foreign country, although I'm sure it would catch some people. Maybe we can get some further information on that. We'll look into that.

Mr. Sheehan took my question related to the culprits. You noted that about 1.88 billion sites have been visited by Canadians.

**Mr. John Lewis:** Yes.

**Mr. Dane Lloyd:** You sort of answered this, but is the content mostly coming from foreign countries or is this Canadian pirating content?

**Mr. John Lewis:** Canadian production Letterkenny.... We have productions made in Canada that are—

**Mr. Dane Lloyd:** I mean the pirates. Are the pirating websites Canadian-based websites?

**Mr. John Lewis:** I think Pirate Bay at one time was based in Canada, and they have been a very flexible and very transient group. I think they were based in Vancouver, actually. Other than that, I'm not sure, but they were one of the largest players as well.

There's all this discussion on Netflix, and there's always this comment that they're not pulling their fair share. I know the CRTC, and a new committee that's going to be struck on that.... We shouldn't also forget that next to Warner Bros., they're probably the largest producer of product in Canada as well. I know this sometimes gets lots in questions over whether they're contributing to the industry and adding value and everything else. Netflix is going to have the largest production in Montreal this year. I just wish that sometimes [Inaudible] that they are a big contributor to our industry.

**Mr. Dane Lloyd:** Thank you. I appreciate that.

My next question is for Ms. Morin or Ms. Prigent.

You had talked about exceptions being problematic. Can you describe which exceptions, in your mind, are the most problematic?

[*Français*]

**Mme Annie Morin:** On pense, par exemple, à deux exceptions qui ont été introduites en 2012 et qui compliquent beaucoup les choix pour les consommateurs. En 1997, un régime de la copie privée a été introduit pour permettre aux consommateurs de faire des reproductions de musique dans l'intimité de leur foyer. C'était déjà fait de façon courante. Tout le monde l'a probablement déjà fait ou a déjà possédé un « mix tape » pour l'écouter dans sa voiture en se rendant au chalet. En 1997, le gouvernement a dit qu'il serait désormais permis aux gens de faire ces reproductions pour leur usage personnel, mais qu'il prévoyait une compensation en échange et que les compensations s'appliqueraient aux supports audio vierges.

Malheureusement, en raison d'une décision qui a été rendue par la cour, on a dit que le support audio vierge ne couvrirait pas les appareils audio numériques de telle sorte que cette redevance s'appliquait uniquement aux CD vierges, un support qui est de moins en moins utilisé. Il faut bien le dire. En 2012, on a incorporé une exception dans la Loi sur le droit d'auteur disant qu'il était possible de faire des copies de musique sur des appareils qui ne sont pas déjà couverts par le régime de copie privée. Cela voulait donc dire que désormais on permettait effectivement de faire les copies, que c'était légal de faire des copies sur son iPod, s'il y en a encore, et son iPhone. Par contre, cette fois-ci, plutôt que de prévoir comme il l'avait fait de façon assez judicieuse en 1997 une compensation pour les créateurs pour les copies qui avaient été faites de leur travail, en 2012, on n'a prévu aucune compensation. C'est malheureux.

On a également prévu une exception pour quand les gens font une reproduction afin de regarder, par exemple, une émission en différé. Encore une fois, malheureusement, aucune compensation était prévu dans la loi pour l'utilisation du travail des créateurs. Il y avait également des reproductions éphémères faites par les radiodiffuseurs afin de faciliter leurs activités de radiodiffusion. Comme je l'ai expliqué...

🕒 (1640)

[*English*]

**Mr. Dane Lloyd:** If I may interrupt, I'm familiar with some things in television where you can record programmings to watch at a later time. Is that an issue or are the broadcasters compensating for that?

[*Français*]

**Mme Annie Morin:** Oui.

[*English*]

**Mr. Dane Lloyd:** Okay.

[*Français*]

**Mme Annie Morin:** Pour ce qui est de ces reproductions, par exemple, comme quand les gens faisaient des reproductions sur leur magnétophone, il n'y avait pas de copie privée. De toute façon, il n'y a pas de copie privée dans l'audiovisuel. C'est quelque chose qui n'existe pas dans notre loi. Cela existe dans d'autres pays. En France, par exemple, des redevances de la copie privée sont versées lorsqu'on reproduit des oeuvres cinématographiques. Nous n'avons pas cela au Canada.

[English]

**Mr. Dane Lloyd:** But there are also, like Bell and Rogers, they have their own recorders on their programming where you can record their programs, but that's not a problem you're saying? It's people using like a personal recorder at home?

[Français]

**Mme Annie Morin:** En ce qui concerne cet aspect précis, des moyens d'enregistrer prévus par Bell ou autrement en ayant accès aux services, peut-être qu'il y aurait, à ce moment-là, des frais qui compenseraient cela à même l'abonnement des gens. Je n'ai pas de connaissance à ce sujet. Comme j'ai dit, malheureusement, nous ne gérons pas les droits de l'audiovisuel. Il en n'a pas pour l'instant.

[English]

**Mr. Dane Lloyd:** Thank you.

I'll get to my final question. If Canada ratifies the Beijing Treaty, how will that impact you? Can you comment on the impact of that?

[Français]

**Mme Annie Morin:** Parlez-vous spécifiquement pour Artisti, la société de gestion collective, ou également pour ce qui est des artistes en général, les artistes interprètes?

[English]

**Mr. Dane Lloyd:** Please be as general as you can be in this.

[Français]

**Mme Annie Morin:** Déjà, à la base, cela leur donnera le droit moral sur leurs prestations. C'est déjà quelque chose de très important. Il n'y aura pas moyen de prendre cette prestation audiovisuelle et de l'associée à une cause ou à un produit sans demander la permission de l'artiste avant de faire une chose pareille. On ne pourra pas déformer la prestation de l'artiste interprète de sorte à la dénaturer.

Le droit moral viendra effectivement avec la mise en vigueur du Traité de Beijing sur les interprétations et exécutions audiovisuelles dans la mesure où le Canada l'aura ratifié également. Cela accordera tous les droits d'auteur aux artistes interprètes. À partir du moment où on a tous les droits d'auteur, on peut continuer à négocier dans le cadre des ententes contractuelles.

**Mme Sophie Prigent:** On parle beaucoup du milieu de la musique. Je suis présidente de l'Union des artistes. Au Québec, évidemment, on a réussi à compenser quelques formes de droits avec nos ententes collectives. À l'Union des artistes, il y a 55 ententes collectives dans tous les secteurs, c'est-à-dire la musique, évidemment, les animateurs, les chanteurs et les danseurs. À travers nos ententes collectives, on a su se protéger. Le milieu de la musique est exceptionnel. Je dirais que ce milieu est l'exemple à ne pas suivre, en fait.

À travers le temps, on a su se protéger un peu, ici, au Québec, parce qu'on a la Loi sur le statut d'artiste. Nous appelons cela des droits de suite. En fait, nous sommes payés pour la journée de travail, un peu comme les plombiers le sont. À la suite de cela, c'est dans un pourcentage du cachet négocié à la base. Par exemple, on se dit que les droits de suite équivaldront à 30 %, 40 %, 50 % ou, peut-être, 80 % du cachet négocié. Donc, nous sommes dans un autre système qui protège, à peu près, les artistes, tant et aussi longtemps qu'on reste dans ce cadre.

Évidemment, le milieu ou le marché tend à changer complètement la méthode de rémunération des artistes, si bien que, de plus en plus, par exemple à travers les médias numériques, on demande ce qu'on appelle des *buyout*. Vous comprenez ce que je veux dire? Alors, c'est complètement différent.

🕒 (1645)

[English]

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

Mr. Jowhari, you have five minutes.

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

Thank you to the witnesses.

If I may be allowed, I'm going to take the conversation in a little of a different way.

We've spent a lot of time on piracy, but I would like to spend a little bit of time on the disruptive elements that have been introduced to the industry, TV and film industry, as well as the emerging technology. If you could all share with me: over the last five years, what have you seen from the different technologies and emerging technologies that disrupt or may have hindered or helped your industry?

Anyone can start.

**Mr. Tim Southam:** Just as a brief preamble, I, too, want to acknowledge the fact the major SVOD services have provided a platform for compensating artists that is equal to none. It's unassailable right now. It's fantastic. The contracts are solid, the compensation is completely fair. In some ways the rise of the SVODs has given us temporary relief from the very huge problem of all the other services out there that are trading in stolen goods. It's very important to recognize that as a stopgap for this generation, the SVOD services like Netflix and Crave really do need to be praised for devising a mechanism by which artists are compensated for their work. Those contracts are very strong models for perhaps where the law should go in terms of protecting artists' ownership of their work before it's exploited. That's my initial comment.

Then in terms of the disruptions, I'll let Dave start that rainbow discussion That's a huge one.

**Mr. Dave Forget:** Really, the question is where to begin. I think we're in an era where there's an abundance of choice and a diversity of content. It's never been a better time to be a viewer. There's so much there to pick from. It's triggered a lot of investment in the creation of content. In many ways, it's been a terrific tonic for the industry, because we're seeing a lot of activity. Canada has benefited from that. Our members work on shows—and we've mentioned a couple—*Lost in Space*, *Star Trek*, but also *The Shape of Water*, the list goes on, but they also work on Canadian programming.

There's been a real boom in production activity, and that's been good. But the counterpart to that is there's a lot more content coming over, correctly, and is a positive thing, but that's made for a much more competitive environment. That's why, as an example, we see one of the strengths of the work the government has been doing, and that was demonstrated in the report of the CRTC, and the recommendations, is that to be competitive internationally, and to build on those strengths of having a deep pool of talent, a great infrastructure, the financial capacity, the experience to be competitive internationally, we need to continue to have a robust system that strengthens the Canadian content side of it.

**Mr. Majid Jowhari:** Talking about the robust system, in your opinion—either of you can interject—does the copyright act, as it is today, support or protect the rights of the producers in the film industry or does it need to be amended or strengthened? Is it good as it is?

**Mr. Dave Forget:** I'll let everyone get in, because that's a great question.

I'll begin with exactly one of the reasons that we're here today. The act is ambiguous with regard to how author is defined. It states author but doesn't identify who the author is.

The case that we've made, I believe, today is that screenwriters and directors are authors, and the reason I bring this up is one of the ways that the act can be strengthened is to give clarity to that question. As you've probably heard

already, many of the things that we do—the weighting of moral rights, the assignment of exploitation rights to producers and distributors and so on—to ensure we are very motivated to see the full exploitation of the content that our members create, obviously, is financial reasons and we want to see that. We think that is positive.

Strengthening that by having it be clear in the copyright act is a modest change that would bring clarity. What would that do? Tim and others have mentioned the extent to which new players on the [*Inaudible*] side have been making advancements. When you ask Crave, Netflix, and others what they are making, they say—in the jargon—they're making a TV show and when our members are in Vancouver at a sound stage whether it's one show or another.

As we go forward, as there's more disruption in the market place, as there are newer business models that come up, having collective agreements.... Madame Prigent made an excellent argument, and this is very much the experience of DGC, that those collective agreements are the vehicles for codifying those sets of rights and that transaction but a strengthened copyright act would give us the tools to ensure that as new platforms come on—I'm finally coming to the punchline, forgive me...would give us the tools when these new models emerge. When these new technologies emerge to compel that conversation with authors, writers and directors and those who are commissioning and financing the content who are orchestrating the construction of the project over the rights and the fair compensation.

🕒 (1650)

**Mr. Majid Jowhari:** So, on modifying—I'm out of time in about a minute—but can you all, as part of your submission cover the area of the copyright especially around authorship definition? How could it be amended or strengthened to protect or to facilitate the emerging technologies?

Thank you.

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

We're going to move to Mr. Stetski. You have two minutes.

**Mr. Wayne Stetski:** We're down to short snappers.

I'd like you to think a little bit about the government body or department that has the most influence or control over your lives currently, and my question for you is what's the number one thing that they could do tomorrow to help your artists be more successful?

We can just quickly go down the line.

**Mr. Tim Southam:** Money. The entire conversation around audio visual is producing the funds required in a small economy to produce competitive, compelling programming for Canada and the world.

**Mr. Wayne Stetski:** Funding.

**Mr. Tim Southam:** The second thing is to understand that we have, as a country, an opportunity and a mandate to create works in our own voice and those are often drowned out in the international marketplace by larger players. Our ministry and our government has an opportunity to ensure that Canadian voices continue to be heard.

**Mr. Dave Forget:** I think with what we've seen recently, we're beginning to see a path for creating a coherent system where all of the participants are contributing, in the broadest sense of the word—whether it's investment or promotion, as you see fit—into the health of the industry. That includes the players located outside Canada who bring their content in and those within Canada, both from the traditional broadcasting system and the online broadcasting world.

We saw last week with the CRTC's thoughtful report that there's a pathway to getting there and in the review of the acts to come, broadcast and telecom, there's a path.

**Mr. John Lewis:** If I could, I would just say what the CRTC has done lately, I think, gives everyone a sense of



cautious optimism that the right questions are being asked.

My concern is with the influx. Our industry is booming right now. A lot of it is frothy because of a lot of the foreign service work that's coming in with budgets that make no sense to me. I work in the industry. The budgets that are being spent on TV production is like nothing I've ever seen. I'm sure there's a business model and people who are smarter than me can figure it out.

I'm nervous that in that wash and all that—essentially feature films every week being made—I just don't know how our domestic industry matches up with that. You need both. You need a foreign service industry and you need a domestic industry working in harmony together, and I'm nervous about where we're going because of that. There's so much money flooding into the industry right now.

🕒 (1655)

**Mr. Wayne Stetski:** With your permission, Chair, can we...?

**The Chair:** Go ahead.

[*Français*]

**Mme Annie Morin:** En fait, sur les plateformes où l'on distribue des produits culturels, souvent, le produit d'appel, qui est ce qui fait en sorte que les gens vont effectivement voir un produit culturel sur ces plateformes, sont les artistes interprètes. Ils veulent écouter une chanson d'Adèle. Ils veulent aller voir une vidéo de Pierre Lapointe. Effectivement, ils vont beaucoup voir les artistes interprètes.

Grâce à ce trafic de gens qui circulent sur leur plateforme, ils se trouvent en quelque sorte à bénéficier du rayonnement des artistes interprètes. À ce moment-là, ce qui pourrait être fait et qui serait très bien pour les créateurs serait de faire en sorte qu'il y ait des retombées économiques qui découlent de cette utilisation du rayonnement dont bénéficient les plateformes grâce aux artistes et interprètes. On pourrait alors se tourner vers le modèle proposé par Fair Internet for Performers, afin d'assurer un droit à rémunération pour les utilisations de prestations faites sur Internet.

**Le président:** Merci beaucoup.

[*English*]

We have just some time for a few more quick questions.

I believe, Mr. Sheehan, you're going to start.

**Mr. Terry Sheehan:** Thank you very much.

Dave, you mentioned *The Shape of Water*, and a guy from the Sault, Paul Austerberry won an academy award—and I know him quite well—and also David Fremlin, from the design team, shared that. These are very good friends of mine and I know how important the creative economy is, especially in film and television production.

In this conversation that we had about copyright, in your presentation it was assigned to the author, and even the definition of author, as 50 years. We're also exploring how we deal with copyright as it relates to Canada's indigenous people. One of the issues that we're finding, and on which I'm doing my research, we know that we need to ask permission, but a lot of times that production, that piece of work doesn't belong to an individual. It belongs to a first nation, or it belongs to a clan, or a piece of it.

My question to you is, do you have any ideas or thoughts on how copyright changes could help Canada's indigenous artists, and how we might enhance that and have more creative artistry in the indigenous world?

**Mr. Tim Southam:** I think one template solution that one might want to propose to various communities is that copyright not be automatically assumed to belong to the owner, but to the content creator, the originator of the material.

And how that is described in different communities is something that we should explore and be very sensitive to.

To automatically say that the original copyright holder is the owner, as opposed to the person engaging in the act of taking it from the blank page or the open set into something that exists for all to see is maybe the first mistake we made in this ambiguous definition of copyright. And perhaps being more precise in favour of the author would get us closer to not taking things from people who have made them.

**Mr. Terry Sheehan:** Yes, that would be good.

I'm going to pass my time to Lloyd. We're going to share some time down the line.

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

I just have one question and then I'll pass it over to Mr. Badawey.

On the business model, the original creation has a cost attached to it, and then subsequently the distribution afterwards has another cost. Does this copyright, because we're not paying the performers, impact on the business decisions to create works in Canada? Do people say, "Well, we don't have to pay the expenses in distribution if we create in Canada." Is there a connection there on the business model?

I'm getting some different looks.

**Mr. Tim Southam:** Your question is, what is the incentive to make things here if you're a producer from outside?

**Mr. Lloyd Longfield:** Yes, does our Copyright Act impact the cost decision of creating works in Canada?

**Mr. Tim Southam:** No, I think the only thing that the Copyright Act would do in that specific dynamic is produce greater clarity in the rights market.

**Mr. Lloyd Longfield:** Okay. Terrific.

Thank you.

Mr. Badawey.

**Mr. Vance Badawey (Niagara Centre, Lib.):** Thank you, Lloyd.

I have just a few questions with respect to the business model, and of course with that, establishing sustainable pathways.

Mr. Southam, you mentioned the fact that financial benefits can be accrued over time, and of course injected into the overall business model. But I want to concentrate on the Copyright Act and the mechanisms that all of you had mentioned earlier with respect to the Copyright Act. I am trying to walk away here with some tangibles so that way we can make some recommendations at the end of the process.

With that I've heard mechanisms mentioned with respect to new technologies and how we can capture a lot of the pirate sites. With that the second point is an independent organization to monitor the pirate sites engaged in this kind of activity.

The question on that, however, is, instead of a separate entity, would a sub entity of the CRTC suffice?

🕒 (1700)

**Mr. John Lewis:** Speaking for the IA, yes. We're looking for an objective third party that the industry and the population of our country would take confidence in that they would look at it in a fair, impartial way.

**Mr. Vance Badawey:** Ensuring proper legislation and ensuring the first right of copyright, I'm hearing that as a priority as well.

**Mr. Dave Forget:** That's what we're saying, that writers and directors are the authors of audio visual content and therefore the first copyright owners.

When it comes to all the things you talked about in your prior question about the exploitation, the distribution, the financing, that goes hand in hand. As an example, notwithstanding that the act is not clear on the question, our director members are asked to waive moral rights as part of the contract they engage with when they're creating content. There is an implicit recognition of their moral rights it isn't spelled out in the act. What we're asking for is clarity for something that is already the practice in our industry.

The second point to that is, nobody who creates content doesn't want it to be seen. There is nobody more motivated to have that content out in the world and fully exploited than the people who made it. What they're seeking is fair and equitable compensation for their work.

**Mr. Vance Badawey:** Thank you.

Someone made the comment about the royalties for streaming are compensated times eleven in the U.S. versus Canada. I'm not sure who made that comment. Can you dig a bit deeper in that one?

**Mrs. Annie Morin:** Maybe I could provide you with the notes that the Copyright Board had written pursuant to the decision that they rendered in the recent tariff [*Inaudible*] where they say in that document what is the rate for the U.S. at the same time. When you make the calculation of what is paid in Canada, it's eleven times

[*Français*]

C'est 10,78 fois plus bas.

[*English*]

**Mr. Vance Badawey:** With all that said, I'm assuming that if these are taken care of as take-aways for the committee to consider as recommendations moving forward that it would position you on a more level playing field in competition with the U.S. markets.

[*Français*]

**Mme Annie Morin:** Ce qui est fascinant pour nous, c'est de constater qu'un *stream* qui est fait d'un côté de la frontière vaut très peu, alors que si nous nous retrouvons à un kilomètre de là, de l'autre côté de la frontière, ce même *stream* va rapporter 11 fois plus d'argent. C'est quand même fascinant que deux pays voisins, avec une forte économie, ait une telle disparité au niveau de la valeur d'un seul *stream*.

[*English*]

**Mr. Vance Badawey:** Is there anything else that you want to add beside what I had already mentioned? That's what I took away. I might have missed something, but is there anything you want to add or anything I missed that in fact the committee should take into consideration moving forward?

**Mr. Tim Southam:** We're all tempted to look at the new Internet environment as a very different environment in terms of rights management, in terms of the creative act. I would challenge anyone leaning into the question to consider what it means to be a writer or a director alone in a kitchen or in apartment entering that universe and to articulate a rights environment where that person is not going to do it for free just because we're working with a different set of wires. That's a slightly reductive summary of the internet, but in terms of the creative act, it's one of our great challenges.

**The Chair:** Thank you.

**Mr. Frank Baylis:** Mr. Southam, what you're proposing doesn't exist in the States right now, does it, that they recognize more rights for the director and the screenwriter? It seems to say it exists in Europe.

**Mr. Tim Southam:** No, the U.S. and Canada do not have that in the law. Our concern is for all the creators—interestingly enough for a union—who do not actually belong to our union because our contracts, both the Directors Guild of America, and the Writers Guild of America and the Writers Guild of Canada and the Directors Guild of Canada, contain recognition of the intellectual property component of our work and also the moral right component of our work. It's in our contracts. It isn't in the law, so anyone not working inside that contractual universe—

🕒 (1705)

**Mr. David Lametti (LaSalle—Émard—Verdun, Lib.):** [*Inaudible*] rights in Canada, not in the United States.

**Mr. Tim Southam:** Correct.

**Mr. Frank Baylis:** Actually, I'm asking about the United States. This does not exist in the United States, then.

**Mr. Tim Southam:** No.

**Mr. Frank Baylis:** But in Europe it does.

**Mr. Tim Southam:** Yes.

**Mr. Dave Forget:** Yes, and if I may add, 1,300 members of the DRCC received compensation last year. There are only 800 or so working members of the DGC. We don't cover the entire universe of working directors in Canada, so there are many who don't get the benefit of the collective agreement. That's the umbrella for our members.

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

On that note, I would like to extend a warm thank you to our panellists for coming in and sharing information with us today. We have quite a bit of work to do ahead of us. As you can see it's quite the complex file.

Once again, thank you very much for showing up. I just need to spend two minutes with the group. I won't suspend, but if you want, say goodbye and we'll get right back down to it.

[*Français*]

**Mme Annie Morin:** *Thank you very much, merci.*

[*English*]

**The Chair:** Thank you.

**Mr. Lloyd Longfield:** Chair, can we get back together?

**The Chair:** Thank you very much, everybody. Let's come back.

Last week the Ukraine delegation said they wanted to meet. We said we couldn't do it during a committee. We're trying to arrange a lunch for Tuesday, June 12. I know a couple of people have already said they would come—I and Lloyd. Is there anybody here who would like to attend that lunch? We're just making the arrangements now.

**Hon. Maxime Bernier:** What is the subject?

**The Chair:** It's the committee members and the Ukrainian delegation. They're in town for a couple of days. On that

delegation you have, likely, the chair of the subcommittee of state financial control and activities, you have a first vice-speaker, secretary of Ukraine-Canada parliamentary friendship group, chair of the subcommittee on assessment of bills regarding influence on budget, that sort of stuff. We're looking at lunch on Tuesday, June 12, at noon.

🕒 (1710)

**Mr. Wayne Stetski:** Just so I can let Brian know, where will it be?

**The Clerk of the Committee (Mr. Michel Marcotte):** Room 356-S. It's on the Senate side. Unfortunately, there was no room in the restaurant, and none of the House of Commons rooms were available.

**The Chair:** It would be an hour. We'd have lunch. We just need to know numbers.

**Mr. Wayne Stetski:** With a name like Stetski I absolutely support your having the lunch.

**The Chair:** All right, so will you come?

**Mr. Wayne Stetski:** Well, Brian would be there.

**Mr. Lloyd Longfield:** Don't tell Brian about it.

**The Chair:** Can I see how many people will attend?

**Mr. Frank Baylis:** I could drop in later on, maybe.

**Mr. Terry Sheehan:** I could drop by, maybe.

**Mr. Dane Lloyd:** It's a cultural lunch.

**The Chair:** So, no, we got three people and we'll see.

We're good? We don't need to do this, do we?

**The Clerk:** We need a motion because I can't pay for the meal.

**The Chair:** The meal will be paid for.

**Mr. Dane Lloyd:** By the Ukrainians.

**The Chair:** By the Ukrainians? No we're paying their meal.

**Mr. Frank Baylis:** We're paying for the perogy part.

**The Chair:** It's nice to have interaction. We've done this before, and it's nice to have off-time where you can actually talk to your cohorts, especially in the Ukraine—

**Mr. Lloyd Longfield:** So I move—

**The Chair:** —a lot of stuff.

**Mr. Lloyd Longfield:** I move that the clerk of the committee take the necessary steps to organize a working lunch between INDU committee members and the Ukrainian delegation on Tuesday, June 12, at noon, and the cost of this activity be covered by the committee's budget.

**Hon. Maxime Bernier:** I support.

**The Chair:** All those in favour?

**Some hon. members:** Agreed.

Excellent. I just need the confirmation so send me if you're coming. If not, then we'll find other people who will have an interest to be there.

All right. Thank you very much.