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## **Standing Committee on Canadian Heritage**

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**EVIDENCE**

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## Standing Committee on Canadian Heritage

Tuesday, May 21, 2002

• (0910)

[English]

**The Chair (Mr. Clifford Lincoln (Lac-Saint-Louis, Lib.)):**  
Good morning. I'll open the meeting of the Standing Committee on Canadian Heritage, which meets today to continue its study on the state of the Canadian broadcasting system.

We are very pleased today to welcome the Directors Guild of Canada, represented by Mr. Alan Goluboff, president; Ms. Pamela Brand, national executive director; and Mr. Peter Grant, legal counsel.

From the Writers Guild of Canada we have Mr. Jefferson Lewis, vice-president; Ms. Maureen Parker, executive director; and Mr. Jim McKee, director of policy and communications.

So we have a full morning today. We are receiving a lot of guests, as you can see from the agenda. We've had so many requests for appearances that we've had to crowd the agenda as much as we can. We sit three days a week and four hours on Tuesdays and Thursdays. So I would ask you, on all sides, both the members asking questions and the witnesses, to make your presentations as brief as possible so we have time for questions.

I will start with the Directors Guild of Canada, Mr. Goluboff.

**Mr. Alan Goluboff (President, Directors Guild of Canada):**  
Thank you very much.

Good morning, Mr. Chairman, and members of the committee. My name is Alan Goluboff, and I'm president of the Directors Guild of Canada. With me today is Pamela Brand, our national executive director, and Peter Grant of McCarthy Tétrault, our legal counsel.

The Directors Guild of Canada is a national labour organization that represents key creative and logistical personnel in the film and television industries. It was created in 1962 as an association of Canada's film and television directors. Today it has over 3,500 members drawn from 47 different craft and occupational categories covering all areas of production, editing, and design of film and television programming in Canada. We are very honoured to appear here today. The Canadian broadcasting system is a key outlet for Canadian cultural expression and very important to Canadians, the guild, and our members.

The broadcast regulatory regime has been a tremendous success story for Canada. We now enjoy a strong television broadcasting sector owned and controlled by Canadians, and that includes programming services that Canadian television viewers want to watch. Canada's broadcast regulatory regime has also contributed to

the incredible success and growth of the independent production sector over the past 20 years. We now have over 400 members of the CFTPA, and in 2001, the volume of independent Canadian production was over \$1.8 billion.

Canada's independent producers are now creating top-quality programs in a diversity of genres. Our vibrant independent production sector is bringing to the small screen such programs as the Trudeau miniseries, *Made in Canada*, *The Red Green Show*, *Blue Murder*, *Tom Stone*, and *Degrassi: The Next Generation*.

These successes in Canadian television broadcasting and Canadian independent production are directly linked to government regulations and policies. As we discuss at pages 3 through 5 of our written submission, these measures might be called the Canadian model. They include support for a public network, the CBC; a requirement that broadcasters in Canada be owned and controlled by Canadians; Canadian content quotas for the exhibition of Canadian programming; Canadian program expenditure requirements; regulation of the basis upon which foreign signals may enter Canadian homes; and support for the independent production sector.

The guild applauds the standing committee for undertaking the review of Canada's Broadcasting Act at this time. The face of Canadian broadcasting has changed dramatically over the past 10 years. We have seen the arrival of dozens of new conventional, specialty, and pay programming services; the launch of digital television and digital distribution services; the ubiquitous usage of the Internet; the rise in global commerce; as well as the increase in horizontal and vertical integration of communication companies. Given these trends, it is likely that we will continue to see dramatic changes to our broadcasting system well into the future.

There is one change we would like to make in our initial submission filed last summer. At page 5 we expressed optimism about the satellite problem in Canada. However, the presence of black- and grey-market direct-to-home satellite services has increased, not diminished, and continues to pose a threat to our broadcasting system. We are hopeful that the recent Supreme Court of Canada decision will lead to further steps to address the problem, which is putting tremendous pressure on our Canadian distributors, our television stations, as well as our independent producers.

Despite the changes that have taken place, the regulation of television broadcasting continues to be highly relevant and very much needed if Canadians are to continue to have a strong production sector.

I'd like now to turn to Pamela Brand, our national executive director, to highlight our recommendations.

● (0915)

**Ms. Pamela Brand (National Executive Director, Directors Guild of Canada):** Thank you, Alan.

Good morning, everyone.

While we make a number of recommendations in our written submission, our presentation this morning focuses on seven of the proposals that we had set out in our brief.

Our first recommendation relates to structural measures. The guild is of the strong view that they should remain in place. These measures include CRTC licensing and regulation, investment rules and other measures that discriminate in favour of Canadian programs and Canadian service providers. We do not agree with any suggestion that Canadian government involvement in the cultural industry should be limited to pure subsidy measures.

Second, our regulatory regime should include measures that provide support for the creation and exhibition of priority programs, such as drama, children's programs, music and variety, comedy, and long-form documentaries. Funding and exhibition mechanisms should remain in place to support these programs.

Further, all private broadcasters should be required to make significant contributions to the production and exhibition of Canadian programming, particularly Canadian drama. These private broadcasters include conventional, over-the-air television stations such as CTV, CanWest Global, TVA, TQS, CHUM, and Craig, as well as the pay and specialty programming services.

Distribution undertakings must also continue to contribute to program production funds in order to ensure diversity within our broadcasting system. The Canadian Television Fund, which receives a significant portion of its funding from private distributors, has helped finance many popular Canadian programs, such as *Cold Squad*, *Da Vinci's Inquest*, and *Un gars, une fille*. It is also the guild's view that programming services such as pay-per-view services and video-on-demand should be required to provide financial support for the creation of Canadian programming.

Our third point relates to the Canadian Broadcasting Corporation. Ongoing support should be provided to our nation's public broadcaster. The CBC and Radio-Canada remain a fundamental underpinning of our country's cultural heritage and must have increased and ongoing financial support to provide priority Canadian programming.

Fourth, more support is needed for the production and exhibition of Canadian feature films. This should not only come from Canadian pay television licensees but also be considered a fundamental obligation of the free-to-air television broadcasters. DGC recommends that the renewal of future television broadcast licences should be conditional upon the broadcasters committing to spend a minimum amount on Canadian feature films.

Our fifth point relates to access. It is important for the success of our system that distribution undertakings provide access on an equitable basis to all licensed Canadian programming services. Pay-per-view and video-on-demand services should also be required to provide meaningful access in their service to Canadian programs in the genre being offered for consumption.

Sixth, the guild considers that the CRTC should focus on increasing the number of doors available to independent producers and thereby increase the diversity of voices within the Canadian broadcasting system.

Seventh and finally, there's international trade and investment. Canada's stance in international trade negotiations must be to insist on its ability to maintain both subsidy and structural support measures in the broadcast sectors, including broadcasting distribution undertakings. In that connection, the Canadian government should provide full support to the concept of a new instrument on cultural diversity to protect the rights of countries to protect and assist their cultural industries.

● (0920)

The Directors Guild of Canada strongly recommends ongoing and continued regulatory support for Canadian television and independent production, which will make for a richer and stronger broadcasting system for Canada.

The policies and regulations relating to television are very complex. In order to facilitate better understanding of these obligations, the guild provided a significant subsidy to underwrite the publication of a new book setting out the obligations of television broadcasters. It was prepared by McCarthy Tétrault. We are pleased to provide a complimentary copy of this book to each member of the standing committee.

Thank you. We'd be pleased to respond to any questions.

**The Chair:** Thank you very much for your presentation, especially the recommendations. They're very clear in their content and carry a very important message, which, I can assure you, will receive all our attention.

In regard to the publication, unfortunately the rules of the House of Commons provide that every document has to be in two languages before distribution. Would this copy be available in French as well?

**Mr. Peter Grant (Legal Counsel, Directors Guild of Canada):** I'm afraid, Mr. Chair, that McCarthy Tétrault, which publishes this volume every two years, did do it in French about four or five years ago, but we do not get any subsidy from the government or anyone to do it, and there were so few copies requested, it wasn't practical to produce it in both languages.

However, the document includes all the French services as well as the English ones. The references in the document take you to the website, where all the information in the book is available in French. So if you take a look at the cross-references in each document, there is a reference to the website, where essentially all the same material is available in the French language.

**The Chair:** Unfortunately, we won't be able to distribute it as it is.

Madame Gagnon.

[Translation]

**Ms. Christiane Gagnon (Québec, BQ):** You say that you have a version that is four years old. Is that the accepted version? Has it been updated?

[English]

**Mr. Peter Grant:** No, this is the first time we've done this version in this language.

**The Chair:** We will now turn to the Writers Guild of Canada, with Mr. Lewis or Ms. Parker.

**Ms. Maureen Parker (Executive Director, Writers Guild of Canada):** I will start, thank you.

Good morning, everyone. Thank you for the opportunity to appear before the committee. Your review of Canada's broadcast system is a very important one.

We are the Writers Guild of Canada, and we are here today to speak on behalf of Canada's English-language screenwriters. My name is Maureen Parker, and I am the executive director of the Writers Guild. With me is Jefferson Lewis, our vice-president and a respected screenwriter, with extensive credits in both English and French, including *Les Noces de papier* and *Democracy on Trial: The Morgentaler Affair*; and Jim McKee, the guild's director of policy and communications.

The WGC is the national organization that represents more than 1,600 professional screenwriters working in film, television, radio, and new media in Canada. As a labour organization, the WGC has had collective agreements in place for over 35 years with the independent production community, CBC, CTV, and Global.

No one has a greater stake in Canada's broadcast system than Canadian writers. It is through Canada's public and private broadcasters that writers reach their first, most important audience: Canadians. Of course, all writers want to reach the broadest possible audience around the world, but for Canadian writers, the primary communication is to Canadians, with whom the stories they create will most resonate.

If Canada is to exist and thrive as a nation, its people must continue to tell each other stories that reflect their experience. Being next to the United States, the world's largest producer of film and television, Canada faces challenges unlike any other country.

While it is certainly important that Canadians have access to their own news and public affairs programming, and programming reflective of regional and local experiences, it must also have a chance to see Canadian drama. Drama remains the most popular form of prime-time programming, and if Canadians can't watch their own, they'll watch U.S. drama programs instead.

Canada has an excellent delivery system for television, a well-established cable infrastructure, as well as rapidly growing satellite systems. It has a public broadcaster, the CBC, that is committed to a Canadianized prime-time schedule, and it has a healthy base of financially sound private broadcasters, both conventional stations and specialty channels.

We believe the existing policy and regulatory framework has done an excellent job of building a Canadian-owned and -controlled broadcast system. We believe this framework should be maintained. However, the system's record on telling Canadian stories on air has been less successful. The environment for Canadian stories, in particular for identifiably Canadian drama and point-of-view documentaries, is becoming increasingly difficult.

In the past three years, the Writers Guild has seen production of identifiably Canadian hour-long drama series fall from a high of 11 series in 1999 to just five series a year for each of the past three years. During this time, production of half-hour dramas has remained flat.

Long-form documentary has experienced similar pressures. It is increasingly difficult to get point-of-view documentaries—a genre that Canadians pioneered and at which we excel—produced and broadcast.

As dozens of new specialty channels have been introduced and as audiences have fragmented, broadcasters are increasingly resorting to low-budget, magazine-style documentary series for content. A number of factors have contributed to this decline in our dramas and POV documentaries. One important factor was the CRTC's 1999 television policy. While the CRTC's new policy set a prime-time quota of Canadian priority programming of eight hours a week, it expanded its definition of priority programming to include much cheaper genres of programming, such as regional programs and entertainment magazine shows.

● (0925)

The CRTC's new policy failed to set expenditure requirements for conventional broadcasters. This naturally made it attractive to meet Canadian programming requirements by opting for the cheapest form of programming possible. So we've now entered the era of *Popstars*, and *No Boundaries*, which is a reality-based series whose primary function seems to be to sell or market Ford SUVs.

There are other reasons for the decline in indigenous drama. Following several rounds of budget cuts, the CBC has been unable to maintain its role as Canada's leading broadcaster of drama. Moreover, following several rounds of corporate consolidation, we're left with very few distribution companies. Those that are left are no longer interested in supporting indigenous production without the security of an international pre-sell, something that is increasingly difficult to secure.

The one positive element in all of this has been the federal government's 1996 decision to create the Canadian Television Fund. The CTF has been of immense importance in countering these pressures, helping to make possible a continuing core of Canadian dramatic production as well as point-of-view documentaries, variety art shows, and youth and children's programming. But the CTF investment needs to be bolstered by greater commitment from private broadcasters. In exchange for their licences and the lucrative opportunity to simulcast American programs to Canadian audiences, private broadcasters must have an obligation to provide significant financial support to indigenous production and to assign to it a prominent place in their schedules.

Jefferson.

• (0930)

[Translation]

**Mr. Jefferson Lewis (Vice-President, Writers Guild of Canada):** Thank you for giving us this opportunity to take part in this important discussion.

[English]

The most frequent question I'm asked as a screenwriter living and working in Canada is, why do I stay here? Everyone knows that the pot of gold lies at the end of the rainbow in Hollywood. The answer is that I'm Canadian, and this is my home. I'd rather be writing about the Fenian raids or adapting a novel by Robertson Davies than writing about crime and punishment in the streets of New York City.

The argument we hear over and over is that Canadians don't watch Canadian drama and documentaries, but when they're given the opportunity they do watch what we write. We do not have a problem of creativity or talent; we have a problem of distribution and delivery. It's as simple as that. When the programs and movies made by Canadians are actually put in front of Canadian audiences, the response is overwhelmingly positive. The CBC earned significant ratings, well above 1 million viewers, for the Trudeau miniseries and such other productions as *The Last Chapter* and *Random Passage*. For years, the *Royal Canadian Air Farce* has drawn above 1.2 million viewers a week. *This Hour Has 22 Minutes* and *Da Vinci's Inquest* also attract strong ratings. And CTV has also drawn in excess of 1 million viewers for both Canadian movies of the week, such as *Lucky Girl*, and documentaries, such as *The Parkinson's Enigma*.

Why have these programs fared so well? It's because they are heavily promoted and broadcast in the heart of prime time, not on a Saturday night against the hockey game, and not dumped in a time slot against an established U.S. hit series. Canada has in place a delivery system perfectly capable of providing Canadians with a full range of Canadian and international programming choices, but broadcasters need to increase their financial support for these

programs and they need to give them a fair shot at prime-time audiences.

In the current environment, the temptation to move to Los Angeles, always a consideration for Canadian writers, is greater than ever before in our history. If we want to keep Canadian writers in Canada, we have to give them work to challenge their talents and feed their families.

The issue of maintaining a screenwriting community in Canada raises the issue of balancing the cultural and industrial objectives of the broadcast system, in particular the relationship between indigenous drama and export-oriented or industrial hour-long dramas. These terms are industry jargon for a series that are driven by sales to the international market. Mostly these are science fiction, fantasy, and action adventure series that have no recognizable Canadian elements in our story line. The argument in favour of this type of television production is that it creates jobs and supports a production infrastructure that can also create and produce recognizably Canadian stories.

Unfortunately, it's not creating jobs for Canadian writers. While these shows qualify as Canadian, under the current Canadian content rules they are largely created and written in Los Angeles. Our statistics show that more than 75% of the writing contracts go to writers living outside of Canada.

If a program is not written by a Canadian, it is not Canadian. That is now, and will always be, the core of our argument. Television programs and movies spring from the fertile imaginations of writers. Writers create them on the blank page and then producers, directors, and actors conspire to bring them to life—no script, no program. No movie. If Canada is to maintain and build a truly indigenous television production industry, it is imperative that programs and movies not only be produced here but also be created and developed here—by Canadians. Without a pool of resident creators to write and develop stories, there can be no viable indigenous industry.

The trend toward “made in America” Canadian content is growing at an alarming rate. In 2000, out of 1,531 members, 361 were Americans, an increase of over 250% from just seven years earlier. These writers have joined the guild because they were working on Canadian productions creating so-called Canadian content.

• (0935)

We at the Writers Guild of Canada believe the time has come to raise the bar in terms of the definition of a Canadian program. For a program to be recognized as Canadian, it should be produced, directed, performed, and written by Canadians.

Thank you.

**Ms. Maureen Parker:** In conclusion, Canada has an excellent delivery system for television, but greater emphasis needs now to be placed on content, to realize the potential of this delivery system to give Canadians the opportunities to see stories about their own experience.

Despite our excellent delivery system, the climate for indigenous drama and point-of-view documentaries has become increasingly dire. Our national public broadcaster needs stable, long-term funding to fulfill its mandate in this regard. Private broadcasters need to make a genuine commitment to the system in exchange for their lucrative licences.

Additionally, changes need to be made to the definition of Canadian content so that industrial drama production supports an indigenous creative community, rather than one based in Los Angeles.

Thank you very much. We'd be pleased to answer any questions.

**The Chair:** Thank you.

The statistic in your statement showing that more than 75% of the writing contracts go to writers living outside of Canada dramatizes, perhaps, what you're trying to express to us. We are grateful for your presentation. It certainly gives us a lot of food for thought.

Before we go on to questions, there's one very short item of business I would like to conclude. We need a quorum for this, which we now have. As you know, we had passed a motion that the sport subcommittee cannot sit at the same time as the main committee, to prevent it from drawing from our members. Unfortunately, because of the pressure of our schedule, we have to schedule a subcommittee meeting to look at the sports legislation before us at the same time as we sit together as a main committee to listen to Mr. Keeble tomorrow.

I would like to first ask for the unanimous consent of the members for a motion, without prior notice, to allow the sport subcommittee to sit tomorrow at 3.30 p.m., at the same time as the main committee. We don't have any other option. We just don't have any time in the schedule.

Is everybody agreed?

[Translation]

**Ms. Christiane Gagnon:** I agree, Mr. Chairman, because there is already another Bloc Québécois member who will be sitting on that committee, but not the critic responsible for the Broadcasting Act and sports issues. I do not know whether it is the same thing.

**The Chair:** It is not always the same thing.

**Ms. Christiane Gagnon:** I do not see any problem: someone else will be there.

• (0940)

[English]

**The Chair:** So is everybody agreed to give unanimous consent and let the committee sit?

**Some hon. members:** Agreed.

**The Chair:** Then it will be done. Thank you.

We will now move to questions, starting with Mr. Abbott.

**Mr. Jim Abbott (Kootenay—Columbia, Canadian Alliance):** I have no questions at this time.

**The Chair:** Mrs. Hinton.

**Ms. Betty Hinton (Kamloops, Thompson and Highland Valleys, Canadian Alliance):** Good morning. That was a very interesting presentation. I have yet to be disappointed in a presentation that's been made in front of us.

I am curious about one of the comments you made. You said, sir, if it's not written by a Canadian, it's not Canadian. I'm not quite certain I agree with that. If it were the philosophy in place in the United States, a lot of Canadian writers would be banned from writing in the United States as well. I think we may differ on the definition of what's Canadian content, but I certainly understand the thrust of where you're going. You're looking to have Canadian writers protected. So I can certainly understand that part of it.

You talked earlier about success. I was going to ask you how you define success. I was listening to the comments you made. I'm assuming you believe that if we have one million viewers watching Canadian programming, it would be determined a success. Is that correct?

**Ms. Maureen Parker:** Yes, in terms of Canadian ratings, it is.

Just to respond to your first question, the difference between the two systems, of course, is we're working in a subsidized, protected environment because we have much a smaller population. So if we did completely open it up to non-Canadian writers, I don't really know what you would be watching or what would be the point of having a separate country.

**Ms. Betty Hinton:** Should we be concerned, then, that Canadian programs have smaller audiences than foreign programming during prime time? Is that something you feel we should be really concerned about?

**Mr. Jefferson Lewis:** Absolutely. Canadian programs, when they're distributed with the kind of promotion that makes them comparable to American programs, will inevitably draw the same kinds of audiences. Everything that trickles across or pours across the border comes with advertising and promotion that go on non-stop, and budgets that are huge, by comparison.

It's extraordinary how well Canadian programs do when they're given a chance.

**Ms. Betty Hinton:** I watch a number of Canadian programs and enjoy them thoroughly. I'm certainly onside with that issue.

I watched a movie on the airplane coming back the other day that you might be able to define for me. I wish I could remember the name of it, but it was about Newfoundland, and had American and Canadian actors in it.

**Mr. Jim Abbott:** *The Shipping News*.

**Ms. Betty Hinton:** That was it. I wasn't certain whether that was a Canadian production or an American production.

**Mr. Jefferson Lewis:** It was an American production.

**Ms. Betty Hinton:** It was about Canadians, though, so it was quite interesting.

You also mentioned, at the beginning of your presentation, your concerns about grey- and black-market programming. That's been an ongoing issue at the heritage committee, and I agree with you it needs to be addressed. Do you not think it's a little late?

**Mr. Peter Grant:** Maybe I can respond to that. I was directly involved in the amendments to the 1991 Radiocommunication Act, which were an issue. As you know, it took over 10 years for the issue to come forward and finally get resolved in terms of the ambiguity of that section, in front of the Supreme Court of Canada.

That really has stymied, to this point, the real ability to go after dish dealers who are, in the judgment of many, presenting a fraudulent story to their customers. They've been indicating to them that there's no problem here; it doesn't breach any law, and it won't get them into any difficulty, even though everyone in the grey market is effectively fraudulently indicating that their address is not in Canada. Those in the black market, of course, aren't paying a penny for anything.

Now that the Supreme Court of Canada has defined the meaning of the term, the only issue left to be disposed of is the charter question. I think these dealers have a very weak charter case, mainly because when you analyse the situation, the two distributors of U.S. programming into Canada, the Dish Network and DIRECTV, themselves have indicated they do not wish to serve Canadians.

So it's a kind of perversion of the concept of freedom of expression, when you are trying to say to a court they should be protecting the freedom of expression of somebody who does not wish to express it, and in fact thinks of this as an encrypted conversation that should not be shared.

As this plays through, the courts will uphold the interpretation we've always felt was applicable, which will give real tools to the authorities to go after the dish dealers.

• (0945)

**The Chair:** Madame Gagnon.

[Translation]

**Ms. Christiane Gagnon:** Thank you for your presentations.

I have a question about the 75% of screenwriters who are in Los Angeles. We find it a bit surprising that there are so many in Los Angeles.

Are these Canadians? Under the Canadian Television Fund, points are allocated when the production, writing and scripting are done in Canada. So are points lost in terms of the contribution from the Canadian Television Fund, or is there a way of getting around that and having the same number of points as if the writer was a Canadian?

**Mr. Jim McKee (Director of Policy and Communications, Writers Guild of Canada):** The 75% figure refers to productions that do not qualify for funding under the Canadian Television Fund because American screenwriters are used. We are talking about industrial films that can take advantage of tax credits. They have to have a score of at least 6 out of 10 to be eligible. So it can be done without using Canadian screenwriters.

**Ms. Christiane Gagnon:** Both the Directors Guild of Canada and the Writers Guild of Canada say that they have a direct interest in the

broadcasting system, both private and public. The lockout at Radio-Canada is bringing into focus the future of public broadcasting. It is not just a matter of broadcasting Canadian content, but also the need to produce the programming internally. Does Radio-Canada produce its own programming or does it go outside? Is that an issue for you? If the private sector is contracted to produce a program, if everything is done outside and the public broadcaster is public only in name and has no internal production team, can we still call it a public broadcaster? That is part of the issue at Radio-Canada.

[English]

**Ms. Maureen Parker:** We definitely support the CBC as a public broadcaster, but we don't believe they have to be responsible for the production of the programming as well. In fact, in our experience, we find it works very well with the programs being produced by independent producers outside of the CBC—but working with the CBC to develop or produce programs to be aired on the CBC. But it's not essential that the CBC also be a producer of Canadian programming. In fact, we think it works better when independents actually make the programs.

[Translation]

**Mr. Jefferson Lewis:** We are in the process of drawing a distinction between news and dramatic programming or long-term documentaries. The CBC and Radio-Canada agree totally. For some time, they have been increasingly focusing on outside production. The news, of course, must be produced by Radio-Canada and CBC themselves. No private agency could assume the costs of that type of news programming.

**Ms. Christiane Gagnon:** In Quebec, as you know, Radio-Canada does a great deal of production for both radio and television. We know that the CBC has chosen a different approach, but there has been an enormous impact, because people in English Canada deplore the fact that there is less internal production at the CBC.

It would also completely change the way things are in Quebec, because if there is no more production at Radio-Canada, it will have an impact on programming that might be exported abroad and to francophone communities outside Quebec. That fear has been expressed by those working in the public broadcasting sector. If they no longer have the film crews and the basic infrastructures they need, it will spell the end of some of the quality programming at Radio-Canada.

• (0950)

**Mr. Jefferson Lewis:** You are quite right. I think that this highlights the fact that Radio-Canada is in a very different position from the CBC as regards its ability to capture audience share and the specific problems for people working in the sector.

[English]

**The Chair:** Madame Bulte.

**Ms. Sarmite Bulte (Parkdale—High Park, Lib.):** Thank you, Mr. Chair.

Thank you, both of you, for your very informative, and, I would submit, passionate presentations.



Let me start with you, Ms. Brand. You used a word today I hadn't heard in a long time in terms of the arts or culture. You used the word "subsidies". We don't use that when we talk about investing in health or education. While I understand the international trade problems we may have, and especially with NAFTA and right of retaliation, I think that's sort of a sixties term. If we're looking to the future, what we're talking about is investing in our directors, investing in our writers. I think we do ourselves a disservice by talking about it in terms of subsidies.

With respect to the new International Instrument on Cultural Diversity, as you know, the minister started her international network on cultural policy in 1998. Right now there is a draft agreement in play. She is working with both the Canadian Conference of the Arts and Mr. Pilon's group in Quebec. We hope to have the draft text to be presented in South Africa.

But let me ask you a question. You spoke during your presentation about the need for broadcasters to subsidize or put in a minimum amount in a Canadian feature film. I believe about eighteen months ago, the Canada Feature Film Fund was actually put into place—from script to screen—to deal with issues of distribution, delivery, and marketing. What you'll hear from the broadcasters, and what the broadcasters have been telling us, is that there are already excess funds sitting with the CRTC in broadcasting licence fees. Yet we have a private member's bill that wants to ensure broadcasting interveners have money.

Why should it always be the broadcasters? I guess that's my question. Are there not some other ways or incentives to ensure Canadian directors and Canadian writers are used, as opposed to...? If you think the broadcasters should participate in the fund, then why isn't the Canada Feature Film Fund working?

**Mr. Alan Goluboff:** On the last part, why the Canadian Feature Film Fund isn't working—if in fact it isn't working, and I'm not sure that is the case—feature film production in this country is quite a different animal from television production. In television production, we certainly have had some success in recent years. On the side of feature filmmaking, no matter what successes we have with individual filmmakers...even today, Atom Egoyan is on the cover of the *National Post*. He continues to have some international as well as homegrown success.

But the vast majority of filmmakers in this country working in the feature film world do not have any financial security or success, based on the fact that their films are not in the theatres. That's a whole different animal. They're not in the theatres because there is no regulatory environment here that encourages the placement of Canadian cinema in Canadian theatres.

Television is quite different and we've had success there, in our view, because the regulatory bodies have made the commitment to put Canadian programming on the airwaves. They have devised all kinds of mechanisms, which are obviously quite complex, as everybody knows, but with some success. In both organizations, we've certainly alluded to a number of programs that have had great success.

I think all we're saying is that we want to make sure the continued involvement on the regulatory side is maintained; it is because of the

regulatory commitment of the governments that Canadian television actually exists in any form.

**Mr. Peter Grant:** I might just add one point. From an international perspective, some of our trading partners have faced exactly the same problem. I think of the United Kingdom and of France. In the United Kingdom, as you many know, both the BBC and Channel 4 have made a point of developing and commissioning films that go to theatres first, if possible, but if not, end up on BBC or Channel 4. They are considered essential financing mechanisms for these films.

Similarly, in France, at the pay level, *Canal Plus* is a major contributor to all of the French film industry, but it also expects all its over-the-air broadcasters to finance theatrical film in France. And France probably has had the highest box office ratings for its local films of any single country in the world, in excess of 40%. This is an astounding feature in Europe, considering the problems it faces competing with Hollywood, as all countries do.

Frankly, it's a facet of inspired government support, not just through subsidies but also through requirements on the pay and specialty levels of *Canal Plus*, and requirements that the private broadcasters support feature film. That is the missing component in Canada. We do have requirements that the pay licensees support feature film. These payments have been materially increased recently in the last renewals of the Movie Network and Movie Central. But for conventional broadcasters, there is really still no specific requirement that they support feature films.

● (0955)

**Mr. Jefferson Lewis:** May I briefly address the same question, since you're talking about feature films?

**Ms. Sarmite Bulte:** I have a quick question for you, too.

**Mr. Jefferson Lewis:** All right.

Well, the last statistics I saw in terms of...and it's an embarrassing fact of being involved in an industry where we have to be constantly propped up by these kinds of protections, by this kind of investment. When you write a screenplay or produce a movie, the measure of success is that people go to see it. And this means, in a good world, that the movie is making money; and that money should be coming back to allow the producers who make successful programs to invest in other programs.

The subsidies are an admission that the system isn't working and that access to Canadian theatres is something that at the moment is beyond Canadian filmmakers. If we get 4% or 5% of the screens in Canada showing Canadian movies...and that's roughly what it is now, although it goes up and down from year to year. We've seen reports that say if we could get 10% of Canadian screens devoted to Canadian films, we could probably do without the bulk of what is investment or subsidy or whatever it's called.

So that's where the system is not working.

**Ms. Sarmite Bulte:** Very quickly, Mr. Lewis, I liked your redefinition of what is Canadian. You said it should be written, produced, directed, and performed by Canadians, and I must say that I agree with that.

I want your comments or opinion on something. On Sunday, after the hockey game, I happened to turn on the television and there was a CBC special with Céline Dion. Featured on this program, in the five minutes that I caught, was *Destiny's Child*. Do you call that a Canadian production, something that should be put on by our public broadcaster?

**Mr. Jefferson Lewis:** If I even open my mouth to comment on the content of a Céline Dion show, I will probably going to get into trouble. So I'll pass that to someone else who is braver than I am.

**Ms. Sarmite Bulte:** Thank you. We'll speak afterwards.

**Ms. Maureen Parker:** I won't speak on the specifics of Céline Dion, but one of the things we've addressed is our members leaving the country, and seeking to make a living in the States. We wish them well. It's a much bigger playing field. They have an opportunity to stretch their talents.

But what we don't consider, and what we don't want to see, but which is currently happening in the writing environment, is writers who have left our country and yet are back working on Canadian programs, because it seems they can only be hired in Los Angeles. Alliance Atlantis has an L.A. office, as does Fireworks Entertainment, etc. You now have to go to L.A. to get a job to work on these Canadian shows.

So I guess what we're saying for people like Céline, who've made it big in the international market, is that we wish them well. And that's great, but it should no longer count as Canadian content.

**Ms. Sarmite Bulte:** Thank you.

**The Chair:** We have three more questioners—Mr. Harvard, Mrs. Lill, and Mr. Mills. In the interests of time, I was wondering if you could maybe ask your questions, the witnesses make note of them, and they're answered all together.

Mr. Harvard.

• (1000)

**Mr. John Harvard (Charleswood St. James—Assiniboia, Lib.):** Thank you, Mr. Chairman.

I'm concerned about this issue of Canadian stories not being told. I gather we're talking about Canadian stories not being told in the form of drama.

Let's see if we can confine this to drama on English-language television. Based on what you're saying, because of the dictates and the criteria around the international marketplace, it seems a lot of the drama now produced is not so much Canadian but more for the international marketplace, if I understand you properly. So what I want to know—especially as it applies to the CTF—is whether almost all of the drama now appearing on Canadian English-language television is for the international marketplace.

If we could somehow change the rules, could we turn that around to have most of it be real Canadian stories? Tell me about that,

because I think if we're going to spend public funds, those funds should be, in the main, for Canadian stories.

**Mr. Jefferson Lewis:** The two things are not inimical. *Random Passage*, for instance, is a Canadian story. It's a co-production with Ireland. It will be broadcast around the world for the next 25 years. Probably over that period of time, it will make its money back. It's a good story. It's well done. It's in extraordinary locations. So that's an international and a Canadian production.

There are two streams at the moment. There is the production being done for international exporting, and there is the indigenous production appearing on Canadian television. That would include, for example, *Da Vinci's Inquest*, *Blue Murder*, and so on, which are made in Canada.

**Ms. Maureen Parker:** What we can say is that the CTF funds purely Canadian indigenous programming. The CTF, the Canadian Television Fund, is a success.

The other type of programming, which also qualifies as Canadian content, is what we call export programming, or industrial programming. These are the programs in which we're seeing most of the scripts written by writers living outside of Canada.

So there are two different streams—

**Mr. John Harvard:** Which is the larger stream?

**Ms. Maureen Parker:** The export industrial. For example—

**Mr. John Harvard:** How much larger?

**Ms. Maureen Parker:** We have five one-hour dramas scheduled for production this season. We also have 14 one-hour exports scheduled for production this season. So it's three-to-one.

**Mr. Alan Goluboff:** If I might jump in here, it is important to understand the two extremes, because they're both just as valuable, as far as we're concerned, to the overall health of the industry. In our view, we can't separate out the strictly indigenous programming from the more industrial international programming—

**Mr. John Harvard:** Except you're saying, though, that you are missing Canadian stories.

**Mr. Alan Goluboff:** I didn't say that.

• (1005)

**Mr. John Harvard:** Well, somebody said it.

**Mr. Alan Goluboff:** I understand that, but I just want to make it clear it's very important, and I don't want us to... That industrial international programming has a value to the overall system. One, a great deal of revenue flows through the production industry in this country, which supports particularly the independent filmmaker. There are obviously differing opinions on this, but there's value to that. There are people training, directing, and working. That type of program also keeps Canadians here.

The writers have a more critical problem than Canadian directors, because my Canadian directors work on all of that programming. My Canadian writing partners are writing primarily on Canadian programming, and have a more difficult time writing on the industrial stuff. So the stream affects different segments of the community differently.

Maureen mentioned 14 shows or something, and five shows or series; I didn't catch the exact figures. But we don't want to make decisions that somehow eliminate one for the benefit of the other, because I think there is great value in both, in building and overall infrastructure, that is healthy, long-term, as long as there's money flowing through the system.

We want to keep Canadians here. That's what Jefferson was saying. We have too many people being drawn to the United States—my members, as well. I have 100 directors living in Los Angeles. Some want to be there; some have been there for 25 years; and many of them would like to be here. But certainly in every endeavour, you're taken to where the work is.

As long as we can do whatever we can to keep people in this country, when we stay here we will be producing, writing, and directing Canadian programming.

**Mr. Jim McKee:** Just to go back to the issue of indigenous drama and what to do in that area, returning to the impact of the 1999 CRTC policy, when the commission was going through the exercise of setting its policy, several groups—ourselves, ACTRA, the Directors Guild, the producers association—asked that in addition to a time requirement, an expenditure requirement be set for broadcasters.

Without the expenditure requirement, it's just too logically tempting to go for the cheapest type of programming. So we felt that there was a need for a targeted-hour figure for drama, but that there be a dollar figure. Then you wouldn't end up with schedules that were concentrated on either exploit drama, which is a lot cheaper to license for Canadian broadcasters because an American cable station will probably foot the bill, or programs like *Popstars*, which are much cheaper.

**Ms. Maureen Parker:** We do support the Directors Guild, because we want this type of production to continue to come to Canada, but we're saying we want to be able to write those stories on the industrial programs.

It's just not right that Canadians have to leave the country to come back to work on those shows, because they have to be hired by U.S. networks from L.A. So we're saying we agree it's good training ground for all the artists in the community, but we want to ensure that we all have the opportunity to work on that, and that requires a revision of the Canadian content system.

**The Chair:** Mr. Harvard has raised a very important point. Obviously it shows there is a difference of opinion between the two organizations on a very critical point.

**Ms. Maureen Parker:** No, there is no difference of opinion at all. We both completely agree that these are essential types of productions. We're saying that on the point system, the producer can choose to go with a Canadian director or writer, and in television—I know you may disagree with me on this particular aspect—the writer is the key component in a television production. They're often show runners—people like Aaron Sorkin, or John Wells from *ER*. They're all writers and they run the production.

In the U.S., this means they want complete control over the writers, so they want to hire the writers. They want to hire writers they know, who live in the States. So they're perfectly content to hire

Canadian directors, but they don't want to hire Canadian writers, because they want to do all of the creative work in the States.

We're saying, how can it be Canadian content if it's created and developed by Americans in the States? We're not saying it's not a valuable form of production, because it creates work opportunities for everyone.

**The Chair:** What I would like to suggest is that our researchers stay in touch with both your groups just to make sure that we clarify this question from your perspective and that we have it completely right. We'll pick up the transcripts. I would suggest that our researchers liaise with you on a regular basis. If you want to drop us a line or give us more details about where you stand on this critical issue, by all means do so.

I'll ask Ms. Lill and Mr. Mills to please ask their questions one after the other so you can make note of both of them.

**Ms. Wendy Lill (Dartmouth, NDP):** I'm glad you referred back to the 1999 CRTC TV policy, because it seems pretty central to everything that's being discussed here. For example, there were the comments you made about the fact that the hour-long series dropped from 11 in 1999 down to five for the past three years. It seems to be connected directly to that change in the CRTC policy.

The fact that the policy is not now connected to expenditure requirements seems to be central. Was it ever? Did there used to be an expenditure requirement around that issue that gave some protection for Canadian content?

I just have one further question, on the issue of how the CRTC can focus on access for independent producers. Elaborate, if you could; please put some meat on the bones of that issue. We've heard it across the country, that independent producers need to have more support so they can be sustained, can continue to produce. The Directors Guild referred to that, so if you could, just clarify how you see that happening.

• (1010)

**The Chair:** Mr. Mills.

**Mr. Dennis Mills (Toronto—Danforth, Lib.):** Thank you, Mr. Chairman.

Over the last few years, since gutting the CBC, which had a huge capacity, especially in English Canada, to do the full manufacturing of productions, there's been a void created for younger people who have an aspiration to come along and be some part of the Directors Guild, the long list of people you have, or become writers. How do younger people get involved in your sector? Where do they get their training? Where do you find the future of your industry, of your sector, since we've taken away most of the capacity that used to exist in the CBC? In my experience, it's been a fabulous training ground for so many parts of your industry. Where does that happen today?

**The Chair:** We'll start with Ms. Lill's questions and then go on from there.

**Mr. Peter Grant:** Maybe I can address the question about the history.

In the late eighties, all private broadcasters in Canada were required to expend an amount on Canadian content production that was no less than the average of what they had done in the previous period of time. That applied to broadcasters other than CTV and Global. In the case of CTV, as of the late eighties, they had an expenditure requirement on overall Canadian production but not on drama specifically. In the case of Global it was on drama specifically.

Then in the nineties the commission changed the rules and said that private broadcasters other than CTV or Global could elect to have either a scheduling requirement or an expenditure requirement. Some broadcasters went one way and some went the other. Then in 1999 the commission eliminated all the expenditure rules for off-the-air broadcasters but kept them for the pay and specialty services.

There's one minor exception to that—namely, those broadcasters that have recently gone through an ownership change, and this applies to CTV, TVA, TQS, and the WIC stations that were bought by Global. Those stations alone do have an expenditure requirement simply because it has been set as a benchmark over which their benefits have to be measured.

At present, as we stand today, the principal broadcasters that are not subject to the expenditure requirements are the non-WIC stations of Global and stations other than those stations that were recently acquired. So CHUM and the smaller stations are also not subject to an expenditure rule.

**Ms. Maureen Parker:** With respect to the training question, Mr. Mills, we have wonderful training institutes in this country, one of which is the Canadian Film Centre. It does a very valuable job.

I'm so glad you asked this question, because one of the things we've heard from our writers who go in and run seminars and such, and the young people who are coming up from these programs, is that there's no question now of remaining in Canada. They're encouraged directly to pack their bags and move to the States, because there is no work. There's no work on indigenous, and Canadian writers cannot work on these export shows. I find that to be very, very discouraging and a very sad indication.

**Mr. Dennis Mills:** Excuse me, they're in the Bayview Centre there. Who is encouraging them to pack their bags?

• (1015)

**Ms. Maureen Parker:** Well, it's not encouraging them. They'll say to their mentors—the instructors, the screenwriters who are teaching the courses—what am I going to do after this?

**Mr. Dennis Mills:** There is no manufacturing experience in Canada; it's limited.

**Ms. Maureen Parker:** It's just that the job opportunities are so extremely limited at this time. If we have five one-hour shows going, and we have 1,600 members, all of whom are professional, experienced writers, who is a producer going to go with?

**Mr. Dennis Mills:** Absolutely.

**Ms. Maureen Parker:** There are no opportunities for the young writers and young directors coming up.

**Mr. Jefferson Lewis:** Very briefly, the other answer is that we all do this ourselves all the time. For instance, with regard to the telephone program that supports independent productions, every

writer who receives one of those grants is paired with a more experienced screenwriter who works with them one-on-one, helping them develop their story and working with them through the whole process. We fill in the blanks at universities, in courses, and the demands keep coming and we keep doing it. The mentoring takes place outside the context of a formal system as well.

**The Chair:** Thank you very much for appearing today. As Mrs. Bulte said, you expressed your points of view with passion and certainly commitment. We really appreciate the information you've given us. As I suggested, our research team will be in touch with you very soon. Again, thank you very much for appearing.

I would like to greet the Independent Film and Video Alliance in the person of Mr. Peter Sandmark, national director, and the Canadian Motion Picture Distributors Association in the persons of Mr. Douglas Frith, president—who is well known to us, having visited these premises before on many occasions—and Mrs. Susan Peacock, vice-president.

The floor is yours, Mr. Sandmark.

• (1020)

**Mr. Peter Sandmark (National Director, Independent Film and Video Alliance):** Thank you very much, Mr. Lincoln.

Bonjour, good morning. First of all, I'd like to thank the standing committee for the opportunity to make a presentation. My name is Peter Sandmark, and I'm the national director of the Independent Film and Video Alliance.

The alliance is a national association, in existence for 20 years now, of non-profit independent film, video, new media, and aboriginal media arts centres, representing the media arts sector of Canada's cultural community. We have 55 members—drawn from every province of Canada, I should add—and production, distribution, and exhibition centres that we estimate collectively represent over 8,000 individual creators.

I'm just going to add that this is indeed the milieu referred to earlier, where people get training. This has certainly been recognized by Heritage Canada as the place where a lot of the talent that goes into Canadian industries springs from. That was recognized with the creation of a low-budget feature film fund at Telefilm Canada two years ago.

As for our definition of an independent work, we define an independent production as one where the artist—the creator—maintains complete creative and editorial control over the work. The CRTC's mandate to maintain the delicate balance in the public interest between cultural, social, and economic goals of the Broadcast Act suggests a context for reviewing broadcast policy.

The application of the Broadcast Act must empower the public to be participants in, and not just consumers of, the broadcast system. The act states that the broadcast system should:

encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity

We feel the balance of the elements should be in the public's interest. On the cultural side, Canadian creators' works should be seen on TV. On the political side, the broadcast system should provide us with free debate that leads to an open presentation of ideas in the political sphere. In terms of the social good, the broadcasters should—*must*, I would say—represent the diversity of Canadian society.

In terms of economics, the economic interests of the public should be protected, including the Canadian independent professional artists who produce programming, not only the economic interests of private broadcasters. There must be harmony between the economic interests and the cultural interests, but the law must be based on the public's interests. By that we mean the public's interests must be given priority over the economic interests of the media conglomerates.

Large companies have the economic clout to advance their own interests. That's the way we look at it. The public is only protected by the Broadcast Act and the political will of the government to enforce that act. Priorities should be established, and the CRTC licences already provide for rules the broadcasters must follow. The rules are there to protect the public interest and ensure that the broadcasters provide a service to the public.

If the broadcasters don't want to accept those rules, then they should step aside and let someone else pick up the challenge. As it is now, the Canadian public is already supporting the broadcast system through their tax dollars, and we see that as a cultural investment by the public. Public broadcasting is more readily accountable to the taxpaying public when compared to private broadcasters where the public has little, if any, participation in what is broadcast, other than as a passive consumer.

For their part, the private broadcasters want to show less Canadian content; get more credit for what they show; make up their Canadian content requirements with low-cost, in-house productions rather than purchasing independent productions by Canadian creators; and also have access to government funding and tax credits. To top it all off, they also want more access to private foreign capital by easing the restrictions on Canadian ownership.

So those of us in the independent sector have a hard enough time getting the Canadian-owned broadcasters to meet their required Canadian content now. What guarantees could we secure from foreign-owned broadcasters? The Independent Film and Video Alliance opposes opening the door to foreign ownership of Canadian broadcasters.

• (1025)

If they're looking for extra Canadian content credits, why don't we give extra credit for showing productions made in Quebec, show French-language productions in English Canada with subtitles, or vice versa if we're going to encourage Canadian content and give them extra credit?

The private broadcasters don't need access to government funding to produce their own in-house Canadian programming. There's plenty of work out there. In fact, it's the artists, filmmakers, videomakers and so on who are already subsidizing their work from their own wallets and with their own labour, something we call in

our sector "sweat equity". They're the ones, really, who should have more access to government support. There are thousands of Canadian creators making their own films and videos, and the great part of this work is systematically unacknowledged and not shown on TV.

I'd like to take this moment to formally present this file as an annex to our presentation and brief. It contains lists of independent films and videos available from distributor member centres of the Independent Film and Video Alliance. In these lists there are, I estimate, over 7,000 titles by professional independent media artists: Cinéma Libre, Vidéographe, and Groupe Intervention Vidéo from Montreal; Vidéo Femme from Quebec City; V tape and the Canadian Filmmakers Distribution Centre from Toronto; Video Pool from Winnipeg; and Moving Images Distribution and Video Out from Vancouver. I've also included our membership list with that.

The airwaves are a public space. The new technological means of dissemination should be seen within the same citizen-based context. The Internet should be seen as a public space, albeit a virtual one. Canadian broadcasters, whatever medium they use—over the air, by cable, by satellite, or by streaming over the Internet—should still be obliged to meet the objectives of the Broadcasting Act.

It's strange for us to hear the Canadian Association of Broadcasters speaking about Canadian programming as the key to the future when they call for less Canadian content. If they believe in Canadian programming so much, why don't they do more now to promote Canadian programs, talent, and creators?

We feel we are unlikely to get a real reflection of local or regional Canadian culture from large media companies. Take as an example the national editorial policy recently adopted by Asper's chain of newspapers. As it stands now, we are dependent on corporate culture for our local media, so how will the broadcast system continue to assure local reflection in an area of media ownership concentration? Works by independent Canadian media artists are a genuine grassroots reflection of the Canadian cultural fabric.

I took heart in the comments by the Writers Guild about the importance of writers, directors, and producers. It's the same thing with us. The people producing work in our sector are 100% Canadian. We're not bringing in American independent filmmakers to make works.

The Independent Film and Video Alliance recommends that the standing committee strengthen the obligation for broadcasters to program works by Canadian independent film and video creators and the works of Canadian independent new media artists on the broadcasters' Internet sites.

In an era where profits are the primary goal of private broadcasters, the CRTC rules are obstacles to their profit. If given the chance, they might only simulcast U.S. shows since that would probably increase the bottom line. It is a waste of our national resource, the airwaves. Through cable and satellite technology we already have access to U.S. programming, and we don't need Canadian broadcasters to provide us with U.S. shows. The times have changed when over-the-air broadcast was the only way to get programs. If the private broadcasters want the right to profit from the exploitation of a public good, then they must abide by the rules, and the rules must be made in the public's interest.

Let me give you an example. Suppose the CRTC grants a licence to a channel, let's say an independent film channel, for a particular cultural objective, and a large media company, let's say Alliance Atlantis, simply buys out that new channel when their own licence application has failed. Then they are rendering the CRTC process meaningless, and private funding has been allowed to undermine the law and overturn the application of it by the CRTC.

• (1030)

If the CRTC is going to apply the law, then it must be given the appropriate power to ensure compliance with the law. That is why we wrote in our original brief that we must do something about the situation of cultural sovereignty, or simply concede that we are part of the United States domestic market, and give up trying to have our own culture. The rules of the Broadcasting Act and how they are applied by the CRTC must be enforced. They are there to serve the Canadian public's interest.

The Independent Film and Video Alliance believes the cultural diversity of Canada should be reflected in the broadcast system, and the rules in place now simply do not go far enough to ensure the reflection of Canada's multicultural reality. For example, now that the Aboriginal Peoples Television Network has been established, does that mean no other broadcaster has an obligation to show aboriginal programming? Canada is built on the first people's lands, and their culture is an inherent part of the Canadian cultural fabric. It should be represented in broadcasting all across the country. We all have a responsibility there.

The IFVA recommends that the standing committee add specific requirements, regarding the broadcasting of programming by producers from diverse culture communities, to the obligations of broadcasters. As we wrote in our draft, we're talking about the creator's side of it. It's not enough to put faces on a screen and say we're reflecting Canada's reality; you have to put the people from diverse cultural communities behind the camera—aboriginal communities. That's when you start to reflect Canadian culture.

Rather than requiring the CBC to get into alliances with private broadcasters, the CBC should simply be adequately funded to fulfill its mandate. It is underfunded, but still carries the task of balancing the private broadcasters and trying to reach the objectives of the Broadcasting Act.

Public TV provides a reflection of Canadian values back to the Canadian public, but does not easily allow the direct participation of Canadian creators. However, we applaud efforts by the CBC to reach out to independent producers. Again, we underline the fact they must have sufficient resources to do a better job.

Finally, we're concerned about community TV and providing it with the autonomy it requires. Community TV is clearly in need of more support if it is to fulfill its role as one of the three pillars of the Broadcasting Act. Being hosted by a cable company, as most community channels are, restricts access to the community channel, and blocks it from truly providing local programming.

The community channels should be independently run, and financial support for them should be found by transferring the percentage the CRTC requires cable companies to invest in community TV into a direct financial subsidy to community channels, which would be publicly run by non-profit community organizations. We have presented this argument to the CRTC in more detail already, and we support the arguments of the Quebec community television association.

Community TV allows for a direct expression from the public, and in the context of globalization, this local reflection is even more important. Local culture is almost a vanishing resource, as multinational companies sell their products globally and are thus contributing to a homogenizing effect on local cultures.

Once again, I'd like to thank the committee for this opportunity to make our presentation. I'd be happy to answer any questions, in either official language.

**The Chair:** Thank you, Mr. Sandmark.

Mr. Frith.

**Mr. Douglas Frith (President, Canadian Motion Picture Distributors Association):** Thank you, Mr. Chairman, and members of Parliament.

As previously introduced, my name is Douglas Frith. I'm president of the CMPDA. Susan is the vice-president. We solely represent the interests of the Hollywood studios here in Canada. That ought to endear us to many others in the room.

**A voice:** It usually does.

**Mr. Douglas Frith:** It usually does.

I'm going to divide the presentation into two. We've already given the submission. I'm going to talk to the issues on Canadian content and cultural diversity, with a sidebar on trade barriers. Susan, who by background is a lawyer, will address the impact of new technologies and copyright issues. Hopefully we will get through this in about six or seven minutes.

To the credit of the Canadian government, in the last twenty years there has been a tremendous increase in the amount of subsidy for Canadian productions. The Department of Canadian Heritage has been extremely vigilant in this area for the last two decades, trying to promote and increase the supply of Canadian programming in Canada.

That said, the difficulty, and the reality, after solely focusing in on the supply side, is that the demand for English-language Canadian content on television has not increased. This really is going to be at the heart and thrust of the issue before the standing committee on cultural diversity and Canadian content. How do you address the demand side of the equation? The supply, I think, has been addressed earlier.

We've pointed out that the same regulatory regime applies to both English and French programming. It's doubtful the substantially higher demand among francophone viewers is a result of this regime. It cannot be because of the government's policy. There are linguistic reasons why a significantly higher proportion of the Quebec population listens to their own indigenous programming. The reality is, after those twenty years, less than 4% of anglophone viewing is directed at Canadian comedy and drama, as compared to 16.6% in Quebec for francophones.

Now, we acknowledge that our members' or Hollywood studios' interests or products are the economic engine that drives the Canadian broadcasting system. You cannot change the marketplace. The advertising revenue from the broadcast of U.S. programs allows our Canadian broadcasters, particularly English-language broadcasters, to pay for their operating costs and cover their losses on Canadian programming.

As a matter of principle, the CMPDA is opposed to trade barriers, including television-content quotas. But that said, if the public policy in Canada and in other jurisdictions throughout the world is to support broadcast quotas, we have three recommendations we believe would better promote both the cultural and industrial objectives than the current system. Our view is that you have to recommend more flexibility in the way in which these Canadian content points are awarded.

First and foremost, we recommend that Canadian content quotas, currently expressed as a percentage of air time, be expressed instead as a percentage of total program expenditure. Other groups who appeared here just moments ago expressed the same idea.

Secondly, broadcasters should be eligible for bonuses toward quota fulfillment when certain numbers or shares of viewers were attracted to a particular Canadian program.

Lastly, amendments should be made to the definition of Canadian programming. I'll come to that, because I think it was the member of Parliament from British Columbia, Ms. Hinton, I believe, who said it was confusing to her that *Atlantic City* is deemed to be Canadian programming, but *The Shipping News* is not. This comes to the heart of the matter of how we determine what is Canadian.

We suggest the definition of Canadian programming take into account the factors already considered in the current definition. When you look at the public policy objectives, there's a cultural objective on programming in the heritage department, a training development component, and an industrial component. We think it's how the mix of the three is done that can end up synergistically getting more Canadian stories out with higher viewership.

We think the use of Canadians in key creative roles and Canadian expenditure, but with greater flexibility, is the order of the day. Each factor would be eligible for a range of Canadian content points. The

total number of points earned by a program would be used to weight the broadcaster's expenditure for that program, in calculating the amount of quota fulfillment.

• (1035)

If you had 100 Canadian content points in those three areas, 100% of the broadcaster's expenditure would be credited towards the quota fulfillment. You get fewer expenditures discounted, but on the other hand, if you have a success, if you build in an incentive to have a success, build in an incentive to promote that program, as we did the Trudeau miniseries, then you get additional points towards your quota. So there is an incentive for success.

We think currently all three categories must be satisfied by each program that qualifies for the quota fulfillment, and we think greater flexibility would encourage creative and commercial success.

On the nationality of a storyteller, points would be given for each role in this category performed by Canadians—for example, the director, the story's original scriptwriter, or the author of the underlying work. As to other key creative roles, points would be given for, as an example, individual producers or Canadian actors, and then we think the Canadian expenditure should reflect below-the-line cost of production and post-production costs to promote that area.

Another important goal is said to be the amount of distinctively Canadian programs for broadcast. However, nothing in the CRTC's current definition of Canadian programming requires Canadian programming to be distinctively Canadian, and a lot of it isn't. The children's television series *Babar* and *Madeline* are certified Canadian programming, but their cultural content is international, as evidenced by their sales.

Viewers might have difficulty in determining which programs are Canadian. That's what I mentioned. You're confused that *Atlantic City* is deemed to be Canadian programming and *The Shipping News* is not.

Another example I've often used is that if you force the producer to be a Canadian, that Canadian producer can go and study milk distribution in Albania and it's deemed to be Canadian. But a producer from the U.K. could come to Canada and do a 10-part miniseries on our prime ministers, and it's not deemed to be Canadian.

In our view, then, something has to be addressed in terms of the definition of "Canadian". If it's a Canadian story, it should get additional points, and if it's a Canadian setting, it gets additional points, so that you're promoting the Canadian story aspect of it.

Last but not least, I want to talk briefly on trade practices and exports. This probably won't sit well with some members of the committee, and I know there has been an awful lot of effort put on, on the part of Canada, to make sure that the cultural industries are not part of a trade agreement, but in my view, you're far better off to put cultural industries on the table and define the rules, because the disputes are going to occur, and at least when you have them on the table you can define what the dispute mechanism is going to look like. I think that's far better. Open it up to dialogue.

Traditionally when you have trade discussions, you normally keep on the table... You have grandfathering clauses, and in not only my personal view but obviously the view of my employers, you're far better off to have the rules for disputes set so that you have some mechanism of alleviating the dire consequences of a trade dispute.

Susan.

• (1040)

**Ms. Susan Peacock (Vice-President, Canadian Motion Pictures Distributors Association):** One of the areas the committee asked us to consider was the impact of new technologies. As we know from the CRTC's review of new media, when sounds and images are communicated over the Internet, that is broadcasting, and that is something over which the CRTC has jurisdiction. Its initial position, with which we agreed, was to exempt new media broadcasters, and from studying the proceedings of that hearing, it was largely focused on exempting originators of programming from regulation for the foreseeable future. And we agree with that, but it can't be ignored that this is an aspect of broadcasting.

Current broadcasting policy, insofar as it applies to the more conventional or traditional technologies, was based on spectrum scarcity and the high cost of producing and distributing content with mass appeal. You needed mass appeal for appointment viewing.

Although 84% of Canadian households subscribe to cable or DTH, even more Canadian households own a VCR. According to the latest statistics available from Statistics Canada, 52% of Canadian households have a home computer with Internet access. Both of those sources provide unregulated electronic delivery of information and entertainment.

Whatever the basis for, or the evaluation of, broadcast regulations, many of the concerns that gave rise to them are no longer true. Some of these concerns will be alleviated by new technology, including the availability of shelf space, and the reduction in production and distribution costs. Furthermore, regulations that are unenforceable with respect to new media broadcasters are unjustifiable with respect to conventional systems that compete with them.

The new technologies will provide unlimited shelf space, dramatically lower the cost of delivery, dramatically reduce the cost of producing attractive and imaginative content, and therefore make it commercially feasible to produce and deliver content of extremely narrow interest, either geographically or accordingly to subject matter. This could result in much more variety than today's broadcasting system with its reliance on mass audience for scheduled viewing appointments.

Regulatory restrictions on Canadian content producers, distributors, broadcasters, and other CRTC licensees limit the pool of available capital, cause players to be less efficient and competitive, and increase the need for regulatory protection. This has been described as a culture of dependency. But when new technology erodes the ability of the regulator to deliver the benefits of restricted market access, because the regulated participants competitors are unregulatable, participants become less willing and less able to deliver their traditional part of the regulatory bargain—adherence to quotas, contribution to subsidy, etc.

Maintaining restrictions on conventional broadcasters and delivery systems when they cannot be imposed on unconventional systems ignores the fact that these systems compete with each other to offer similar products and services to the same customers. The imposition of costly regulatory burdens on one group, when their historical protection from competition is eroding, hastens either the demise or the exodus of the regulated players.

I want to speak next about copyright, but there is certainly a new technology component to these remarks. The most significant impact that new technologies have had on broadcasting is where broadcasting and copyright intersect. In 1989, amendments to the Copyright Act created an exemption from liability for so-called retransmitters—you might in this context call them BDUs, or distribution undertakings—such as cable and DTH. When they distributed “free over-the-air” television signals, they were not liable for infringement for the programs on those signals, even though they had no licence, they had no consent, either from the owners of the programs or the owners of the signals.

• (1045)

When cable and DTH services deliver specialty signals and pay signals, they infringe copyright unless they have that consent. But this is not the case with free TV. The consent of the rights holders is not required. Their compensation is not negotiated. They're paid a royalty set by the Copyright Board of Canada. It is analogous and equivalent to an expropriation.

The exemption was drafted in 1989 so as to be technologically neutral. This is a principle of copyright law in Canada based on the theory that this promotes statutory stability. However, the very first new retransmission technology that came along since that provision was drafted is the Internet, and it has resulted not in stability but in chaos.



The issue overlaps with broadcasting policy, because the Copyright Act, in its retransmission exemption, requires that exempt retransmissions be lawful under the Broadcasting Act—so the Broadcasting Act is brought into the Copyright Act there—and then the CRTC's unconditional new media exemption order makes Internet retransmitters lawful under the Broadcasting Act, because there are no requirements for them even though they're unlicensed and unregulated.

This is a critical issue for the Canadian broadcasting system, the North American broadcasting system, and perhaps the global broadcasting system, as the Internet has a global reach. There is no proven technology that accurately and effectively restricts reception of Internet retransmissions to Canada. Internet retransmission has the potential to drive both Canadian and non-Canadian content away from free TV—to speciality, to pay services, to other means of program delivery—that are outside the scope of Canada's retransmission regime. That would be the motive.

The drastic and potentially fatal consequences for free TV broadcasters are obvious. Unless the Copyright Act is amended so as to exclude Internet retransmitters from the benefits of the retransmission regime, exclude them from the benefits of the compulsory licence: do not make carriage of material illegal, but make consent necessary. Then we urge the cabinet to direct the CRTC to amend the exemption order so that it applies only to content originators and not to Internet retransmitters.

The second area where broadcasting and copyright have overlapped is with respect to the eligible satellite list, which as you know is the list of satellite-delivered signals and services the CRTC has authorized for distribution in Canada. Although the commission requires that all necessary rights be obtained for programming on such signals, no rights are necessary for free TV signals because of the retransmission exemption.

The CRTC has recently added free TV signals from France, Ireland, Australia, and New Zealand to the eligible satellite list. Many of the most popular programs for which Canadian broadcasters have licensed exclusive Canadian rights, and on which their viability depends, can be imported into Canada on these foreign signals. Because they come from different time zones, it's unlikely the Canadian broadcasters would be able to use the simultaneous substitution provisions, because it won't be simultaneous.

Canadian and foreign owners of the copyright on the programs on these signals have not consented to their importation on foreign signals and will not receive one penny of additional revenue under the retransmission regime. The best solution would be to amend the Copyright Act's definition of "signal" so that only signals originating in the continental United States or Canada can be retransmitted under the compulsory licence; otherwise, we would urge that cabinet direct the commission to forbear from adding any non-Canadian free TV broadcast signals to the list other than those that originate within the continental U.S., which shares Canada's time zones, and that they be urged to delete those signals that have been added to the list but have not yet been carried.

In conclusion, I'd like to say that the work of this committee, the fact that this committee has undertaken this exercise, acknowledges that new technology and globalization have accelerated the need to

critically re-evaluate culture and industrial aspects of broadcast policies and figure out whether they're based on out-of-date realities, and, if they're not based on out-of-date realities, to decide what weight should be given to which, if it appears unlikely that every single Canadian-content program can be all things to all policies.

• (1050)

Increased multilateral trade commitments and stronger protection for intellectual property would benefit Canadians through additional employment opportunities in their own country and greater reciprocal access to foreign capital and foreign markets. A shift in focus to more flexible regulations, competition, collaboration, and reduced reliance on protectionist policies would have a better chance of achieving Canada's policy goals, we believe.

**Mr. Douglas Frith:** Just one last remark, Mr. Chairman. I think a lot of Canadians fail to understand the tremendous success Canadian firms have achieved in the last two decades. In many of the Canadian publicly traded companies that are involved, the majority of their revenue comes from offshore. When that happens, everybody has a vested interest in making sure that multilateral trade agreements serve both Canadians and foreigners alike. This comes back to why we really believe that in this area, particularly in this sector, you should put culture on the trade negotiating table and define it and define the dispute mechanism.

**The Chair:** Mr. Frith, in many instances I can refer to this as letting the cat loose amongst the pigeons. I think it will be a very interesting question period.

I will ask Ms. Hinton to start.

**Ms. Betty Hinton:** Thank you.

I found very interesting the comments that were made.

Mr. Frith, you touched on something that I'm extremely sensitive about. You talked about putting this on the trade dispute level. I come from a riding that has been devastated by the softwood lumber issue, something that is not the fault of the people who work there, but rather the fault of the trade agreement to begin with and the way it's being protected. So when you ask me to put something else on the line that could be a trade dispute, I get nervous, I must tell you that.

But on the other side, I think that one of the things this committee must look at seriously is the free will of Canadians. I don't believe you can dictate to people what they can and cannot watch. We've seen what happens when we try to do that. That's how the grey market came into Canada and why it has proliferated. Because that grey market came into Canada, the Canadian Television Fund suffered dramatically.

I'm not sure if this has been touched on before. You may or may not be aware of a program that was under development called *Beachcombers II*. They were applying to the CTF for funding. Because of the loss of revenue to the producers, the licence-holders, and those people who had paid good money to have distribution rights in Canada, they lost their profit and less money went into the CTF. As a result, *Beachcombers II* got bumped. I thought that was a shame.

I'm wondering if you might be able to shed some light on that aspect of it.

• (1055)

**Mr. Douglas Frith:** I share the same concerns you do. Some people accuse the Americans of being free traders until it hurts them. That said, the reality is that at least with the softwood lumber issue, there is a mechanism and it's defined. Hopefully, the Canadians will win their case. It's painful in the interim. That is one of the strengths of having the multilateral trade agreement. There is the dispute mechanism, and it's better defined than not defined, especially when you're fighting with an elephant.

On the issue of the grey market, I agree completely with you. What does regulation do? It basically forces commercial enterprises to do something they don't really want to do, because it's not commercially smart for them to do it.

The conditions the CRTC originally put on Canadian entities that wanted to start up their own direct-to-home companies delayed the ability of those companies to enter the market. In the meantime, there was the availability of the American system. The marketplace dictated where they walked. They walked with false addresses and created the grey market. You're right, a substantial amount of money is lost, particularly on the percentage that would go into the television fund. But that's why you also have to be very careful when you get into regulations. Usually when you regulate an industry, it's because you want them to do something they normally wouldn't want to do.

**Ms. Betty Hinton:** I agree with part of what you've said.

I have been listening carefully for months at this committee, and I have yet to have someone clearly define for me what Canadian culture is. Mr. Sandmark spoke about making it mandatory to add more aboriginal programming. If we did that on the aboriginal side of the issue, we would have to do that for a number of ethnic groups. Pretty soon we would have a huge percentage of mandatory programming, which would tie our hands even further.

I need someone to define for me what Canadian culture actually is.

**Mr. Peter Sandmark:** Is that a question?

**Ms. Betty Hinton:** Yes, I guess it is.

**Mr. Peter Sandmark:** Perhaps we might more clearly reflect the multiracial, multiethnic, and multicultural nature of Canada. The question is, why do we have to put in a mandatory thing? It's because it's not working now. We're not seeing the different cultures of Canada reflected. There's just tokenism.

It has to come from the creators. What I'm talking about in the brief is having producers from various cultural communities. If you

look at APTN, you see aboriginal productions. They're made by aboriginals, but it's not just about aboriginal culture.

Obviously, you would hope it wouldn't have to be mandatory, but what can we do in the absence of either the private or public sector stepping in and filling the void? We're talking about reflecting Canada's culture.

**Mr. Douglas Frith:** Susan and I have wrestled with this issue: What is the definition of Canadian culture? Certainly, from our perspective, it has to have something to do with the story. It should be Canadian, and it should have a Canadian setting. But this is no different a business in Canada than it is in the United States. You have to start with a good story, you need a good script, and you have to have risk capital, yet you don't even know what you have until your product collides in the darkness of a theatre with the audience.

If there were a formula for success, we wouldn't have seven out of ten studios losing money in the theatrical window. Why would you go out to make a failure? You wouldn't. It's just that it's complicated and that it's so much a risk-taking business.

That's why we're asking the committee, when you're looking at this area of cultural definition.... Nor does the CMPDA have any difficulty any longer with cultural subsidies as long as they're not out of our pocket. That would be the caveat.

That said, I think you ought to be more flexible in most points and create a system where, if you have a Canadian story and a Canadian setting, if you've looked at the program expenditure to make sure you're actually giving an incentive not to the cable system but to your CTV, Global, or CBC to promote the product, and if it does have a success, then reward the success.

Don't view success by criteria such as, you have to have eight hours a week in prime time to have this. The reality is news and sports. Take away news and sports and there's not a lot left. What you want to do is promote production and give incentives so the broadcasting companies have a vested interest in getting a successful model instead of just filling the airwaves.

• (1100)

**The Chair:** *Madame Gagnon.*

[Translation]

**Ms. Christiane Gagnon:** Thank you, Mr. Chairman.

Mr. Frith, you talk a great deal about a Canadian cultural model. As a Quebecker, I know about the Quebec cultural model. Earlier, you mentioned that it is because of language that our programming is not competitive on the American market. You may not have put it in those terms, but it seems that the language of programming is why we do not have the same problems as you do and why we do our own production.

However, I feel that it goes much beyond the language factor. I think that it is the way Quebec production is done, our sensibilities regarding history, politics and our cultural values. That is a much more significant factor in who we are and what we produce.

I understand that language may be a factor that distinguishes our productions from those in the U.S., but Quebecers are also keen on American productions. However, *Bouscotte*, for example, or *La Famille Plouffe* in earlier times, have set the tone for Quebec productions, and that type of programming has increasingly been the trend over the years. You talk about Canadian content and Canadian productions. I think that you are talking about a reality that exists in English Canada, and that it is English Canada that is looking for its identity in Canadian culture.

When I look at the programming produced in Quebec, it seems that we may have targeted our stories better. Our minority status in Canada has perhaps meant that we have tried to develop productions distinguishing us from Canada to start with; we are now hearing a lot about Canada's cultural sovereignty. I would like to hear your views on this. When we talk about a Canadian cultural model, I think that we also need to take into account these two visions when we look at the problem of Canadian identity and Canadian cultural productions.

Mr. Frith, is that your perception as well?

[English]

**Mr. Douglas Frith:** First, the answer is, no, I don't look at in the same way. That said, I think you might have misinterpreted what I said.

My point is that in Quebec, with or without quotas, you get 16%, quadruple the number of people, watching indigenous programs. Quotas didn't do that. That's done for all of the reasons you enunciated, all of those various reasons. And that is true in other countries. In Quebec, 9 out of the 10 most popular television programs are indigenous, Quebec-based, Quebec stories, whereas outside of Quebec, 9 out of the 10 most popular movies happen to come from the United States.

So there is a distinct society operating in Quebec, and I think there are so many other variations or rules as to why that results. It's certainly not from regulation, in our view.

Susan, I don't know if you want to comment.

**Ms. Susan Peacock:** No, I think that was our main point, that there is a striking difference. And I'll agree with Doug, who's agreeing with you, that it's for a variety of reasons, many of which you've enunciated. But our point was it's not because of regulation, because the regulations are the same for English and for French Canada.

**The Chair:** *Madame Gagnon.*

[Translation]

**Ms. Christiane Gagnon:** Thank you. I find this very interesting, especially when we are talking about culture. You say that the Copyright Act should be changed to give the concept of signal a narrower definition. You also talk about amending the exception order to apply to content originators and not retransmitters. Can you tell us whether the guidelines you are giving us are used in other countries with respect to protecting copyright in the case of Internet retransmission? Has this signal been given by other countries in order to protect material created in Canada or elsewhere? Are there other countries that have looked at this approach?

• (1105)

[English]

**Mr. Susan Peacock:** If I understand your question, Canadian copyright law protects Canadian works—works created in Canada by Canadians—regardless of whether they meet anybody's definition of “Canadian content”. They also protect, in Canada, works by nationals of many other countries, all of the countries with whom Canada and those countries are signatories to international treaties.

I won't go into the intricacies of it, but as a general rule, many countries of the world, most of the substantial countries that produce copyrighted works, give protection to the nationals of other countries if those other countries protect the works of their citizens.

Does that answer your question? I think the translator had a little difficulty, so maybe I did, too.

[Translation]

**Ms. Christiane Gagnon:** I was talking about retransmitting Canadian content on the Internet. You gave suggestions for protecting copyright, to avoid having Canadian content retransmitted on the Internet. You gave two suggestions on limiting the interpretation of a signal so that Internet retransmission can be regulated. You said that an amendment to the exception order was needed in order to focus on the content originator.

Are there other countries who have thought of that or is it an entirely new idea? That is what I would like to know. Where did you come up with these ideas?

[English]

**Ms. Susan Peacock:** There are two issues there, I think.

I'm going to deal with the Internet retransmitters first. There are many countries in the world where it is not addressed specifically in their law. However, it is addressed in the United States, Australia, and the European Community. In these places, Internet retransmission is an infringement if it's done without the consent of the owners of the program.

I can't say it too often. We have been accused of being anti-innovation, as if we wanted to prohibit the carriage of films and television programs on the Internet. We do not. What we want to prevent is the carriage of our members' programs on the Internet, without our consent, for the commercial benefit of the person carrying them, and at risk to our international television market.

So to answer, yes, some countries have addressed it specifically. I know of no country that has specifically permitted non-consensual Internet retransmission. Some are silent. A number of the major modern countries of the world prohibit it.

**The Chair:** Thank you.

We have Mr. Mills, Mr. Harvard, and Mr. Volpe.

**Mr. Dennis Mills:** Ms. Peacock, first of all, I thought the way you made your point on the retransmission was well done. Obviously, when Bill C-48 comes before us we can deal with that.

Now, Mr. Frith.

**Mr. Douglas Frith:** Yes, Mr. Mills.

**Mr. Dennis Mills:** Since I've been a member of Parliament, over 700 motion pictures have been manufactured in my community. I always hear from the various studio representatives who are here—whether they be Warner, Disney, or whoever—the reason why they're here in Canada, making these feature motion pictures is, first and foremost, the quality of our workforce, including lens grinders, set designers, our camera men and women, etc. The second reason, of course, is the dollar. The third would be the rather progressive or special preference we have in the tax act towards this sector.

Would you agree with that?

• (1110)

**Mr. Douglas Frith:** Yes. I would put them in that order, as well.

In the last five years, the reality is we've tripled the number of feature film products done in Canada. Part of that has been driven by the value of the Canadian dollar. But don't take away the talent pool that now exists in this country.

All of what you said is true.

**Mr. Dennis Mills:** So we agree.

Then where I'm having difficulty is this idea that we should move away from intervening and supporting this sector. A lot of your tone in your presentation is to move away from intervention and move away from regulation. It's only because of the massive amount of intervention the Government of Canada has placed in this sector that the trajectory has been so solid.

These are not my words. These are the words I'm now seeing you agree to as well. How do we square this? We agree with all of the things you've done, but now let's sort of move in another direction, when it's going so well.

**Mr. Douglas Frith:** Bear in mind that there's a whole movement south of the 49th parallel to stop runaway production, led by the union movement in the United States. Our view is that the producer or the director ought to be allowed to decide where he wants to locate his shoot. We believe there shouldn't be regulations that stipulate that if you receive any incentive to go elsewhere other than the United States of America, we should be able to slap a tariff or a duty on that product. We don't agree with that. We're suggesting to allow the marketplace....

Canada is in competition in feature film, in particular, with other jurisdictions—Australia, the U.K., the European Union. All of them have what we call industrial incentive programs to be able to locate. The reason you do this is that in the absence of the ability to attract these foreign productions, you cannot build up the infrastructure to be able to produce movies for indigenous.... If suddenly you had all U.S. productions in Canada dry up, the infrastructure built up over these last five to six years couldn't sustain itself, just based on Canadian or indigenous production.

**Mr. Dennis Mills:** I hear you talking about the almost free market approach, and when they see the value of the craftsmanship, the value of our dollar, and the value of those unique tax preferences that we give your sector, I don't understand why businessmen or women would go elsewhere.

At any rate, I hope we stay the course on this, because it's working, and I think if we were to walk away from that we would

leave ourselves in a very exposed position. I think the intervention and the tweaking that we've done in the industry has produced a pretty solid sector.

**Mr. Douglas Frith:** Dennis, I don't want to leave the impression that we're sitting here with a list of complaints, because due to the convergence of some commercial entities in Canada in the last five to six years we have far more issues that unite our representatives to the Hollywood studios. The Canadian Association of Broadcasters and the Canadian Film Production Association on most issues sing from the same hymn book because it is all designed toward the employment of Canadians on most fronts. I don't want to leave the impression that there's a lot that this—

**Mr. Dennis Mills:** Fair enough. Thank you.

**The Chair:** I would remind members that we're running way behind time, so we'll close with Mr. Harvard and Ms. Bulte.

**Mr. John Harvard:** You take all the blame if we're running behind time. That's why you get the big bucks there, Chairman.

First of all, I think I empathize with Ms. Hinton when she says she has trouble defining what Canadian content is, but I would suggest, Betty, that you'll know it when you see it.

To you, Mr. Frith, you certainly haven't lost your political touch, despite the fact that you haven't been in these hallowed halls for a good many years, but I think your suggestion that culture be put on the international trade negotiating table won't fly too well around at least the Canadian heritage committee.

It seems to me, Mr. Frith, that when you talk about putting culture on the international trade negotiating table, you're basically saying that you want culture turned into a commodity no different from wheat, steel, or cars. This is not a cultural policy you're proposing, it's an industrial policy. You also say, Mr. Frith, that Canadian firms have done quite well. It's true they have done well when they choose to compete in the international market, but I don't think they're doing that well in terms of selling Canadian identity and promoting Canadian culture. They're just good business people, as are Americans, British, French, and Germans. They're no different from anyone else.

But we're here to talk about culture and how do we promote Canadian culture and how do we promote Canadian identity. If we were to put, as you suggest, culture on the international trade negotiating table, what would the world look like shortly after? And when I say shortly, it might be a few years. I would submit to you that we would not have to go any further, Mr. Frith, than the Canadian theatres, where 97% of screen time is devoted to foreign films. That's the kind of world you may not be suggesting, at least with your words, but I think that's what you're advocating.

I have one other point. I know you'll have much to respond to in my remarks, but when you talk about a dispute settlement mechanism, I can understand that, but I think it detracts or diverts us away from the central issue. There is naturally merit in that kind of a mechanism, but I think that's a peripheral issue, far from the centre. The centre of the issue is whether we are going to have a cultural policy. Are we going to have a policy that promotes Canadian identity? We don't have the advantage Quebec has. Quebec has a cultural wall. It has a linguistic wall, and thank God Quebec has that. Canada at large doesn't have that, so we have to resort to other mechanisms. This is what we have chosen over the years. It's not perfect, far from it. But what I think you're suggesting is just give up.

• (1115)

**Mr. Douglas Frith:** Mr. Harvard, you are very eloquent in your presentation.

I think there's been a misconception laid out here at the table. I am not suggesting for one moment that Canada step back from the public policy of creating a cultural program in this country that reflects the desire of the Canadian public to hear their own stories and to have access. You have to look at the public policy as a continuum. At the one end, you have cultural concerns. I'm just suggesting that this committee look at and define what that means. If you can define it, you can at least negotiate it in a multilateral trade negotiation.

We're not trying to take away from Canada the ability to create its own cultural public policy, any more than we do in France, in Germany, or in Norway. But at the other end of the continuum, the industrial component here, Mr. Harvard, has no Canadian content, no quotas; it is all market driven. In terms of that word "cultural," I would suggest that this committee take a long period of time to study it.

I think the proposal Susan and I have come up with, in terms of creating the flexibility, getting more points.... At the end of the day, yes, we represent American interests, but we are Canadians. I find the abuse of the system frustrating: simply because you're a Canadian you can go out and do such and such a thing that has nothing to do with Canadian culture—zero—and have access to Canadian dollars.

I think we should define it, pump all the dollars out of the consolidated revenue fund to develop the cultural policy. I have no difficulty with that at all. But it should come out of the consolidated revenue fund and it ought to have the semblance or be the seed or the germination of good public policy as it relates to cultural product.

Coming back down to the level of the movie theatres, I can't solve that problem.

**Mr. John Harvard:** You don't have to. You don't have a problem.

**Ms. Susan Peacock:** When you say 97% of screen time—or any percentage of screen time—it kind of waves a red flag.

**Mr. John Harvard:** He said it.

**Ms. Susan Peacock:** Lots of people say it frequently. The percentage varies a little bit from speaker to speaker.

I have looked hard and long, and I know several economists who have too, and as far as I can tell, nobody is now counting or ever has counted the percentage of screen time for Canadian films. Often when this statement is made, I think what they're talking about is the percentage of revenue, the percentage of the box office earned by Canadian films. But believe me, the percentage of box office Canadian films earn is substantially less than their share of screen time. If the share of box office for Canadian films were the same as their share of screen time, they would get more screen time. That's how it works. It's supply and demand.

• (1120)

**The Chair:** Now to Ms. Bulte, then Ms. Lill, and then we'll close.

**Ms. Sarmite Bulte:** Thank you, Mr. Chairman.

Very quickly, Mr. Sandmark, I'm going to refer to page five of your submission, where you talk about the non-profit and educational broadcasters and the Canadian Television Fund. I believe what you are trying to address there are the guidelines and the governance issues. Have you put this proposal to the board to allow some kind of flexibility to these programs that would enable them to draw from the Canadian Television Fund?

**Mr. Peter Sandmark:** No, we haven't appeared in front of the board. We've written it a letter.

**Ms. Sarmite Bulte:** Let me ask you another question. Do you think the continuation of the Canadian Television Fund is still very important and integral? The budget has only prolonged it for another year. Do you think it's important for the groups you represent that this fund be continued and in fact expanded upon?

**Mr. Peter Sandmark:** Quite frankly, no. The number of independent filmmakers and video artists and so on who get support from the CTF is very small. I know of a few. We are talking about very small production companies, for example. It's arduous to go through the paperwork you have to go through for the CTF. So, to be honest, the answer is no.

**Ms. Sarmite Bulte:** Very quickly, Mr. Frith and Ms. Peacock, I know you will have a chance to come before us when we look at section 31 of the copyright regulations. Does your organization want a complete carve-out on the Internet?

On trade agreements, NAFTA, we put in retaliation. People said: "Put in retaliation and you're going to damn us". We saw it happen with the magazines. Art became subject to plastics retaliation and steel retaliation.

Since NAFTA, in the Chilean agreement with Canada, and even in the recent Costa Rican-Canadian agreement, there is a complete carve-out for culture. So why, based on what has happened with the NAFTA experience, would anyone in his or her right mind believe that it could possibly work?

**Mr. Douglas Frith:** The North American Free Trade Agreement has been in place for 14 years. Even the negotiators at the time, Simon Reisman and others who did the negotiating for Canada and for the United States, recognized there were flaws in some of those dispute mechanisms. It takes time to overcome them. But you take the country music channel—it got resolved, correct, Ms. Bulte? It did get resolved. The point I'm making is that it got resolved, though perhaps in a way you didn't really like, mainly because you didn't have any rules about how to resolve the dispute.

If at the end of the day we can define Canadian culture, let's start there. I've wrestled with it. I don't have complete answers to it. When you do, by definition you ought to be able to define it well enough so you can negotiate it.

**Ms. Sarmite Bulte:** I remember when in the subcommittee on international trade we looked at the multilateral agreement on investment. We looked at the definition of culture and culture product in NAFTA and tried to bring a new definition. It was actually SOCAN who came up with the newest definition, and we didn't know for sure that it would catch all the technology-neutral media that would happen.

My concern is, how do you ever bring the Americans to the table on a regular basis to renegotiate something that may be ever-evolving? It's food for thought.

**Ms. Susan Peacock:** Speaking only for myself, I'm not a big international trade expert. The main point we wanted to make is that we Canadians have seen and may be about to see again how exempting cultural industries from trade agreements does not mean there won't be any trade disputes. That's all. A lot of people talk about exempting cultural industries being a form of protection. It protects, but it only protects until there's a dispute.

• (1125)

**Ms. Sarmite Bulte:** You represent the American studios, and one of the great things about the Americans is when you negotiate with them, remember it's about negotiating away your protection, but you're never going to be able to negotiate away American protectionism. That's the reality of negotiating with the Americans.

**The Chair:** I think we'll leave it there. I don't think we'll agree today.

**Some hon. members:** Oh, oh!

**The Chair:** Thank you very much for appearing today. You certainly have provided the basis for a lively debate, and we appreciate it.

We would now like to welcome the Communications, Energy and Paperworkers Union of Canada, represented by Mr. Peter Murdoch, the vice-president of media, and Mr. Michael Sullivan, national representative.

[Translation]

We would also like to welcome the Provincial Council for the Communications Sector of the Canadian Union of Public Employees, represented by Jacqueline Turgeon of the Union representing Office and Professional Employees at Radio-Canada; Réal Leboeuf, President of the TVA Employees' Union in Montreal; Bernard Chabot, Journalist at the TVA regional station in Quebec City;

Jacques Denommé, Vice-President, Broadcasting, and First Vice-President of the Videotron Employees Union; and Armand Dubois, TVA Journalist in Montreal.

[English]

I'll ask Mr. Murdoch to start. If you could, please make your presentation as brief as possible to give members a chance to ask questions.

**Mr. Peter Murdoch (Vice-President, Media, Communications, Energy and Paperworkers Union of Canada):** Thank you for allowing our union to have a voice here. As you know, the Communications, Energy and Paperworkers Union represents 150,000 Canadian workers in many sectors of the economy. It is Canada's largest media union, representing 20,000 Canadians who toil in the media for both private and public broadcasters, as well as in our film industry.

As our earlier submissions pointed out, others may design the bridge; our members build it. Our members' voice is unique, toned by the commitment of their working lives. I appreciate the fact that you have already heard a number of submissions from our members, as you have toured across Canada, and I want to thank you for your attentiveness to their comments.

Let me just point out that as I was sitting here I was struck by the culture in this room, by the artwork of working Canadians, and by the two centrepieces—the one behind me, *The Printed Word*, and the one in front of me, *The Spirit of the Printed Word*. One defines technology; one is the spirit of the culture. I think it's something you might want to keep in mind during your deliberations.

I want to begin my remarks by first commenting a bit on your role. I recently read over a number of weighty submissions, and wonder how this committee is going to understand some of this mumbo jumbo of techno stuff, which was a little difficult for me, at times, to understand. More importantly, how are you to believe predictions of future broadcast environments, when it's clear by the spiral of share prices alone that many of the big media companies have failed miserably in looking into the crystal ball of technology and convergence?

In CEP's opinion, the political side of your work needs no further tinkering. The Broadcasting Act defines the core values well. The questions before you are the mechanics, and the mechanics are understood by performance. How is our broadcast and regulatory culture performing, in order to ensure that core values, as described by the act, are evident? What changes, if any, should be made to see that it behaves better?

We have touched on five or six points in this presentation, and I want to say off the top that many of the comments that were made by the Directors Guild and the Writers Guild regarding Canadian content and a variety of other things are certainly things this union agrees with.

On the points we have selected, first, it is possible that one of the largest players in the broadcast arena today is the banking industry. Banks holding large IOUs from a handful of the major multimedia corporations, and with responsibilities to their own shareholders, now have a keen and active interest on the boards of our largest media corporations. CEP does not suggest that banks are telling CanWest, for instance, what to put on the eleven o'clock news, but they undoubtedly have influence on where and how much money should be spent and or saved.

The debt incurred from acquisition and misjudgment of predicted windfall from convergence, the rise in the cost of resources, the fluctuation in interest rates, the shifting demand from advertisers, and other factors have created an environment where, despite best intentions of public policy initiatives, private sector broadcasters may find themselves handcuffed by the financial obligations of parent corporations.

This environment encourages neither creativity nor risk-taking, which are both essential ingredients for good broadcasting. Indeed, quite the contrary, it may foster an environment of ever-decreasing investment in the production of Canadian programming. Furthermore, debt and its holders may place in jeopardy what Canadians feel are baseline requirements for the operation of media companies with national obligations.

CEP believes this climate of debt has helped create unwarranted antagonism and aggression toward public broadcasting and increased pressure to destabilize government commitment to the national broadcaster in order to free up markets for the private sector. Furthermore, since a handful of these multimedia companies also own Canada's major newspapers, coverage of their serious financial challenges and their effect on Canada's major media may not be as diligent as we might otherwise expect.

CEP also believes these debt loads have created frantic motivation to lobby for relaxation of foreign ownership regulations. Corporations finding themselves overextended as a result of poor investment strategy are urging a quick fix to the solution—a media sell-off, most likely to U.S. investors. This is hardly in the public interest, and is undoubtedly not an increase in Canadian content programming, but a decrease in corporate debt.

• (1130)

While shareholders of these major companies have sadly seen their investment stumble, we do not believe the answer is to allow a lowering of commitment to the values spelled out in the Broadcasting Act. CEP's view is that the breakup of these media giants may be the sole solution. With all these and other serious considerations in mind, CEP believes it is essential that the government take action now on the part of Canadians.

Our first recommendation is we recommend that the heritage committee urge the federal government to conduct an immediate inquiry into the financial health of Canada's major media corporations, the effect and influence of debt-laden parent corporations, and the effect and influence of the holders of debt—namely the banks. Further, such inquiry should study the effect this debt has had on the ability of these companies to serve the communities in which they are located and to adhere to the spirit and objective of the

Broadcasting Act, and where it is in the best interests of Canada should make recommendations for divestment.

Our second area of concern is the CRTC. It has been a frustrating experience for a variety of players appearing before the Canadian Radio-television and Telecommunications Commission. The latest controversy over station licensing in the Toronto area has stamped "change required" in bold red ink on this agency.

CEP believes the government, through a number of vehicles, has available to it now ways to influence public policy through the CRTC. It has allocation of budget, power of appointment, power to establish a policy framework, and power to give directives both before and after decisions are made. Still, in the light of some head-scratching decisions, it is difficult to believe the public interest has been as heavily weighted as the corporate.

In this light, and as we have proposed elsewhere, we believe the CRTC should be more reflective of the public it serves. Where, for example, a regional or local licence is at issue, the panel should include persons who are prepared to rigorously review applications with a view to serving the interests of that community. In tone, the CRTC should be more like a public utility, advocating for the public interest and consumers, and demanding applicants set out exactly how standards are going to be met. Flowery rhetoric from applicant broadcasters should not be the test.

CEP believes and agrees with others that it would be most helpful to change the process of appointment. Appointment to the CRTC must be more transparent, more accountable, and more pluralistic.

Recommendation two: we recommend that a public nomination appointment process be established, with input from a cross-section of Canadian society sitting on the selection committee.

We further recommend that commissioners not be allowed to receive any financial benefit from any licensing for a period of five years.

We further recommend that financing be established for the intervention of public interest groups that have cause to intervene.

We further recommend that the commission ensure representation on the commission is more pluralistic in background and interest, and that panels be established to review applications for new services and review of licence renewals from among the communities the broadcaster proposes to serve.

We further recommend that the commission change in direction its bias towards corporate interest and reposition public interest on top of the agenda.

Our concern number three is foreign ownership. CEP believes the current measures to limit foreign ownership should be maintained. It has been well documented in other submissions that the present limits are working as was expected. There is no obstacle to U.S. programming entering into Canada, but the downside of increased foreign ownership is substantial.

The movement of head offices alone to outside our national border means decision-making, research, response to cultural policies, broadcasting management expertise, and a host of other head office functions now homed in Canada would be lost. Everything from lobbying on changes to our tax structure to imposition of foreign programming affiliated through shared ownership would become the norm, and there would be less choice for Canadians but more influence from Americans.

While regulations on Canadian content could be maintained, it would be only a matter of time, in our opinion, before ownership with little commitment to national priorities would be using its media influence to have these regulations ended.

As mentioned earlier, it is clear that the loudest voices to have these regulations changed come from companies burdened by debt. Their interest is in appeasing disgruntled shareholders, not Canadian viewers.

Recommendation three: we recommend strongly that there should be no tinkering, amendments, or adjustments with current mechanisms and legislation restricting the amount of foreign ownership of our media. When Canadians want to turn their national culture and heritage over to the United States, we're sure they'll let us know. That time is a long way off.

• (1135)

On local programming, if there is one common theme of the entire broadcasting piece that brings anger and frustration to those who have worked in the industry for most of their lives, it is the abandonment of local programming. I know your committee has heard stories from our CEP membership from coast to coast about how smaller Canadian cities, cities that used to see themselves reflected on local stations, have now become broadcasting ghost towns. Sadly, the desertion of local programming has come from the CBC, as well as private broadcasters. Resources, talent, infrastructure, and technology are now centred in essentially three cities: Toronto, Vancouver, and to some extent Calgary. Smaller cities, which once proudly held lively stations, producing programming of local interest and reflection, are now ignored. Their studios have faded to black. They are empty shelves with remnants of equipment, waiting like old mine machinery, hoping to get fired up again.

Our mid-size and smaller communities have seen no sign of the promised land of technology, merged ownership, or shared resources. The process has not been enhancing—far from it. These cities and communities have been literally abandoned, left out in the “bigger is better” cold. They have been taken for granted, seen only as eyes and ears with which to sell national advertising.

We have heard from both the private and public broadcaster that the numbers are not there to support such programming. We have been told it is a matter of geography. It is time to say loud and clear, “Nonsense”. Geography is what this country is about. If we abandon geography, we abandon Canada.

CEP is not suggesting that every burg of over 10,000 should be producing its own version of *Da Vinci's Inquest*. We're advocating an increased commitment to local programming, which would mean everything from folk stories to music festivals, a sense that the very notion of community matters and will be reflected by conventional

broadcasters. Let community stations create and contribute as they once did to network programming. *Romper Room*, *The Galloping Gourmet*, and a host of other programs were conceived, developed, and produced locally.

CEP is not prepared, and neither should this committee of MPs be, to suggest, whether you live in Flin Flon or Pictou, that your choices are going to be limited by geography. The fact is, the technology has made it easier to develop and produce stories in remote communities, let alone mid-size cities. Production is not expensive; it is efficient and easily achievable. But the stories need air time.

CEP is a solid supporter of community not-for-profit television. We fully echo and support suggestions made elsewhere that community television should be further supported, both through guaranteed access and funding. But let's be clear: community television and local programming by conventional broadcasters are not the same thing, and one should not be thought of as a replacement for the other.

Our fourth recommendation is that a two-tier system of Canadian content credits be established that rewards broadcasters for performance in local programming. We recommend that the CRTC revisit its benefits programs and in future ensure that local communities, not just large cities, share in these benefits.

We recommend that where advertising is focused on local communities or advertising dollars withdrawn from communities, broadcasters be forced to maintain some presence within those communities.

We recommend that further support and guaranteed access be provided for not-for-profit television, and we recommend that particularly our public broadcaster revisit its mandate, and, in the rush to compete with the privates, ensure that the CBC's commitment to all of Canada remains active and not just sloganeering.

On public broadcasting—

• (1140)

**The Chair:** Mr. Murdoch, I wonder if you could go directly to the recommendations, which are the key—

**Mr. Peter Murdoch:** Okay.

**The Chair:** If you don't mind....

**Mr. Peter Murdoch:** I only have a few more here, actually.

**The Chair:** I know, but all the same, if you could just go directly to the recommendations, we'd appreciate it.

**Mr. Peter Murdoch:** All right.

Regarding the CBC, we recommend that CBC funding be substantially increased in order to reinvigorate its mandate to local programming. We recommend that the increase in funding be of such magnitude that it can gradually relax its current dependence on commercial advertising. We recommend that the funding be of such magnitude that it can attach with it commitment from the CBC to do increased in-house productions. And I want to let you know that the preamble to these recommendations spent a lot of time on in-house productions.



We recommend that, to the degree it can, the CRTC also encourage that publicly funded educational television be adequately funded by provincial governments.

We have one recommendation in the area of films. We have over 2,000 members who work in the film industry in this country. We recommend that in order to encourage and bolster indigenous film production, the CRTC set a protocol for broadcasters that would encourage air time for Canadian film.

On cross-media ownership and concentration, here it's important for me to read two paragraphs as part of the recommendation.

The answer to the readiness of cross-media ownership and concentration of ownership has been spelled among other ways by share prices, a downward spiral that has affected Canadians' pensions, bank accounts, quality of life, and possibly news coverage. The concentration of ownership of Canada's media has brought widespread concern among Canadians of all walks of life. The erosion of diversity, the closing of access, and fear of bias has Canadians rightfully worried about abuse of the power of the media.

Journalism professors, public interest groups, professional journalist organizations, unions, eminent citizens, former publishers, MPs and senators have voiced concerns regarding concentration of ownership and the effect on journalistic practices. They have called for action from government. But though the evidence is in and clear, the government has been silent—too silent. We ask this committee to take action.

We recommend that this committee call for an immediate inquiry into the state of the media industry, and accompany that call with a recommendation to break up these huge media conglomerates.

Those are the last of our recommendations. Thank you for your time.

**The Chair:** Mr. Murdoch, I hope you don't think we are being unfair or anything—

• (1145)

**Mr. Peter Murdoch:** A short shrift? No, it's okay.

**The Chair:** Actually, this is the fourth hearing we've given to your union. It's just in the interest of time so we can give a chance to the ones following you.

Thank you very much. I think you bringing in some very important issues. We appreciate it very much.

*Madame Turgeon.*

[Translation]

**Mrs. Jacqueline Turgeon, President, Communication Provincial Council (CUPE); President, Provincial Council for the Communications Sector, Canadian Union of Public Employees:** First of all, we are sorry that you did not receive the text of our presentation this morning as well as the document on funding for community television. We sent the French and English versions of these documents late last week, but they seem to have gotten lost in cyberspace. We are very sorry.

My name is Jacqueline Turgeon, and I am the President of the Provincial Council for the Communications Sector of the Canadian

Union of Public Employees and President of the Union representing Office and Professional Employees at Radio-Canada.

CUPE represents close to 500,000 members across Canada, including 100,000 in Quebec in various facets of the public, para-public and private sectors. As President of the Provincial Council for the Communications Sector (PCCS), which brings together nearly 7,000 CUPE members, I find it important to point out that CUPE in Quebec is a major force in such areas as television, radio, cable TV and the press.

We have been closely following developments in the Canadian radio and television broadcasting system for nearly 20 years now, and have presented our views on a number of occasions to the CRTC and various parliamentary committees and task forces in more than 60 briefs. We thank the Standing Committee on Canadian Heritage for this opportunity to take part in and contribute to the collective process of reflecting on the future of our Canadian radio and television broadcasting system.

I would now like to introduce the people accompanying me: Jacques Denommé, Vice-President for the cable TV sector at the PCCS and First Vice-President in charge of Internal Affairs at the Syndicat des employés de Vidéotron; Réal Leboeuf, President of the Union Local representing TVA employees in Montreal; and Bernard Chabot, a journalist at the Quebec City regional station in the TVA network. They will be available to answer your questions after a brief presentation by my colleague, Armand Dubois, who is a journalist with the TVA network in Montreal.

Before we begin, I would like to state that we are proposing a comprehensive reform of the role and mandate of the CRTC, an increase in public funding for the CBC and heightened protection for local production to ensure that quality services are maintained in the regions.

The convergence of broadcasting activities and the concentration of both production operations and information are of great concern to us, and we believe that urgent action must be taken.

**Mr. Armand Dubois (TVA Network Journalist in Montreal, Provincial Council for the Communications Sector, Canadian Union of Public Employees):** Mr. Chairman and distinguished members of the Heritage Standing Committee, thank you for hearing our opinion.

[English]

We rejoice in the fact that your committee is giving serious consideration to the current state of the Canadian radio and television broadcasting system and the direction it should take in the future to further Canadian cultural expression and ensure the distinctive character that enriches and strengthens this Canadian identity.

[Translation]

In light of the trends observed in the past few years in which the balance between the private and public sector has been upset, we believe that the very survival of our Canadian system of radio and television broadcasting will be at stake if nothing is done to remedy the situation. We nonetheless want to point out that we are in no way questioning the current Broadcasting Act, which reaffirms principles that we fully endorse. This legislation is still relevant.

By the same token, we are not questioning the relevance of reviewing the CBC's mandate. This mandate is clearly defined, and we believe that the CBC should be given the financial means to adequately comply with its mandate.

However, we do think that a thorough review of the role given to the CRTC is urgently needed. We would go so far as to envisage eliminating this organization altogether, if necessary, and to create a new one better suited to today's realities and better equipped to safeguard Canadian culture when only the bottom line seems to count. We are greatly concerned, in particular, by the unforeseen and dangerous effects of greater concentration of the press. The CRTC has proven to be of no use whatsoever when it comes to safeguarding this sector. The CRTC has become archaic and ineffective.

In our view, the procedures for granting public funds for producing and distributing program content in our Canadian radio and television broadcasting system must be revised as well. Canadian broadcasting policy stipulates that the Canadian broadcasting system should serve to safeguard, enrich and strengthen the cultural, political, social and economic structure of Canada.

• (1150)

[English]

What has become of this safeguard? The media landscape has changed at breakneck speed in the past few years. The movement began in the United States with the AOL-Time Warner and ABC-Disney mergers. Canada has not been exempt from this trend with the advent of the CanWest-Global-Southam and Bell-Globe-CTV mergers.

[Translation]

In Quebec, it is important not to forget the acquisitions made by Gesca, which now owns 7 of the 10 French dailies and has just clinched a partnership with Radio-Canada/CBC.

[English]

The consequences are common editorials in newspapers belonging to the Asper family, which owns CanWest Global Communication, and identical texts for the different newsrooms, including *The Globe and Mail* and CTV.

[Translation]

Ninety-seven per cent of French news circulated in Quebec lies in the hands of two entities: Quebecor and Gesca. These are but a few examples illustrating the current situation.

Is this how the CRTC protects Canada's cultural, political, social and economic structure? Is this how the CRTC protects our cultural identity? Is this the way to promote more diversified content and sources? Of course not!

The CRTC issues licences for the specialty channels, and then it decides to relax the rules. The CRTC no longer has any real control over the general channels which, we must acknowledge, are in decline, to the benefit of the specialty channels. Moreover, both types of channels often belong to the same financial group, which rakes in more money by relinquishing its responsibilities.

For example, where are the children's shows in TVA's program schedule?

What was recently done with TVA's sportscast? How long will it be before news bulletins are eliminated on weekends, to the benefit of LCN (TVA's news channel)? We have just learned, for example, that Astral media, which has acquired Radiomédia, will eliminate its newsroom at night, starting May 27, to broadcast pre-recorded bulletins.

The former publisher of *Le Devoir* and former leader of the Quebec Liberal Party, Claude Ryan, expressed his grave concern in the face of greater concentration of the press, at the Quebec Federation of Journalists' convention last fall. He wrote:

Wherever a financial group has direct control over a newspaper, the latter can't be expected to give a truly unfettered treatment of subjects involving the interests of its owner.

The CRTC has thrown up its hands, and instead of defending the public interest, it is focusing more on yielding to financial interests.

The law recognizes that our broadcasting system is made up of public, private and community components. Has the CRTC forgotten this principle that is enshrined in the law? Its latest decisions have certainly not helped solidify the community component or ensure its ability to survive.

[English]

The CRTC has proven to be incapable of reinforcing cultural diversity, which is one of Canada's essential constituent values.

[Translation]

If there is a fear of radio and television broadcasting in which diversity of content, forms and ideas can really be articulated in a creative way, it is in the community sector. Yet what do we see happening currently? Community TV everywhere is on its deathbed, if it is not already dead.

In 1997, the CRTC handed down a decision that on the one hand allowed cable companies to provide a community channel if they so desired, and on the other hand weakened the ones that wanted to continue providing such a channel, by withdrawing part of the funding. The large cable companies that kept their community channel thus saw their contribution to community television limited to a 2% ceiling that came out of the 5% contribution made to the Canadian Television Fund. That is limiting the scope of this broadcasting window which is considered to be important for Canadian citizens in that it enables them to have greater ascendancy over their community and its identity, wherever that community happens to be located in this vast country of ours.

The Canadian Broadcasting Corporation. The mission of the Canadian Broadcasting Corporation is just as essential now as it was when it was created more than 60 years ago, if not more so. It is the solid foundation that supports the rest of the structure, and must remain so.

A strong public sector can only engender an equally strong private sector. The CBC must remain a resolutely public organization that is independent of government and not defined by profitability criteria. It must retain its specific responsibilities that enable it to maintain its role as a safeguard of quality that can be referred to in terms of content and diversity—a beacon lighting the way, in which each Canadian finds his or her own sense of expression.

To do so, it is crucial for the CBC to receive public funding commensurate with its conferred mandate. The CBC must be free of the overly extensive commercial constraints that are now imposed on it. The CBC still remains a tool that is indispensable to our cultural identity.

For a good 10 years now, the CRTC has been colluding with, and acting as service manager for, independent producers. This has to stop.

• (1155)

Year after year, the CRTC has set in place a gamut of measures that increasingly favour independent production, without ensuring, however, that it can assess the results and measure the impacts on the Canadian radio and television broadcasting system as a whole, which is something you are currently mandated to examine.

To put it plainly, independent producers are taking advantage of the CRTC's policies and in exchange are not accountable to it. The best of both worlds! This is how public funds were misappropriated—and I mean misappropriated—for projects that were at the very least questionable. Examples? Programs like *Piment Fort*, *Sex-Shop*, and *Je regarde, moi non plus* have been subsidized, where tales of sex and stupidity go hand-in-hand.

Let it be noted that we are not posing as censor here, and are not even remotely pretending to be. But we don't believe that public funds should be used to finance shows that acclaim the latest lotion for toning our spouse's penis or vagina. The language is crude, and the reality is just as crude for taxpayers! We are telling you in plain terms: if the taxes of Canadian citizens are being used to fund this kind of production, stop this and re-invest the funds promptly in the health care sector. Ill Canadians who are on waiting lists and can't receive care within a reasonable period of time will be the first to thank you for your political courage.

In the Provincial Council's estimation, independent production is very costly to Canadian taxpayers.

[English]

The provincial council estimates that independent production is very costly to the Canadian taxpayers, and its financing has become pernicious.

The CRTC is no longer demanding that the number of hours devoted to production by the regional stations of the big networks be tabulated and justified.

• (1200)

[Translation]

The formation of the big television networks has “metropolized” the air waves. Shows produced in local stations are for the most part destined for the network and don't grant much room to reflect local

culture. Once again, will the cultural identity of Canadians be protected if everything comes from the big cities? We don't think so.

In addition, the advent of radio and television broadcasting services by satellite complicates the situation. We are, of course, reliant on these new technologies. However, with the advent of satellite radio and television broadcasting services, local identity is being drowned in the staggering quantity of available signals, including those held by any single network. A person who lives in Sherbrooke, for instance, who subscribes to the Star Choice service, will be able to watch either one of TVA's stations. Once again, the CRTC has weakened itself by eliminating one of its control mechanisms that is essential to safeguard a plurality of sources. You should take a close look at that.

Why did it do that? Just to meet the profit expectations of owners of the large broadcasting networks that have enormous lobbying power and know full well how to play the economics card. If you don't give us that, we won't be profitable and won't be able to provide content, they say. But what do they mean by content?

All that, of course, is done at the expense of the development of Canadian culture. Do these owners have a stake in promoting diversity? Their concern is not rooted in the public interest, but in financial interests.

As members of Parliament, it is your duty to defend the common good. There is nothing wrong with wanting to run a lucrative business, provided that the business plays by the rules of the game... These rules are the broad principles formulated in the Canadian Broadcasting Act, which we are not in any way questioning. Yet the CRTC has been constantly relaxing the rules to allow corporate broadcasting executives to satisfy the voracious and boundless appetites of their shareholders.

In conclusion, the CRTC has become archaic and ill-suited to modern realities. We recommend that you disband this organization and create two new entities: one that would be responsible for granting operating licences and the other (which would be independent of the first) that would be in charge of monitoring and oversight. We also recommend that these organizations be able to embrace all the bodies involved in broadcasting content: television, radio, newspapers and the new online media, to ensure closer monitoring of the effects of greater concentration of the press.

We will most likely have the opportunity to answer your questions, but you needn't feel timid when it comes to this issue because many countries have already legislated to at least limit cross-media ownership.

[English]

We recommend that these agencies operate on the principles of transparency, political independence, regional representation, and diversity of interest.

[Translation]

We also recommend that the Canadian Broadcasting Corporation have access to financing that does not compromise—I repeat—that does not compromise the mission it has been given.

We recommend that cable and satellite signal distributors be required to offer one station per network and that the station be that of the region concerned.

Finally, we recommend full expansion of community television, as it also offers Canadian programming, by allowing signal distributors to adequately fund their operations in all the regions they serve.

[English]

We are proud to be Canadian, and that's why we're concerned by what is going on right now in the Canadian system.

• (1205)

[Translation]

We missed an important recommendation. We recommend that public funding of independent producers be restricted and subject to the same relevancy rules as those that prevail in supporting public broadcasting.

Thank you, ladies and gentlemen.

**The Chair:** Mr. Dubois and Ms. Turgeon, you have certainly made thought-provoking recommendations, which, I am sure, will give rise to some questions. Thank you for your presentation, which was definitely clear in terms of its impact.

We are now going to go to question period. I would remind committee members that

[English]

we have three more groups to be heard today, so I would ask you to be disciplined in your questions, please.

By consent, we have agreed that Mrs. Lill, who has to leave us for another committee, will start the questioning.

**Ms. Wendy Lill:** Thank you.

I just want to thank you very much for coming before us. It's always a pleasure to hear the stories from the people who are actually working in the field. There's nothing hypothetical about what you're telling us right now.

I'd like to just talk about local programming and the abandonment of local programming. Our committee has gone across the country now. We have seen some incredible examples of that occurring. I think probably the most incredible one was in Newfoundland, where the only programmer of local content right now is Rogers Cable. They're doing a show called *Out of the Fog*. This is a place that used to be just a mecca of Canadian programming. There were ten or eleven local programs coming out of St. John's in the 1980s, and now there are none. I think we've all identified that. As a committee, we've identified that as a central issue.

I notice in the CEP document some suggestions about incentives, how to bring this all back, get us back in balance. I'd consider granting a broadcasting licence already an enormous incentive to do the right thing and to do Canadian content and local programming. But you've mentioned the idea of having better rewarding of broadcasters who have all but deserted their smaller franchises, some sort of incentive system. I'm wondering what kinds of incentives you're considering.

Is there anything further you would like to talk about, specifically about how we get local programming back in the equation?

**Mr. Peter Murdoch:** I'll let my colleague Mike Sullivan answer some of that question.

We'd heard about a point system here. The gentleman from *Hollywood Voice* talked about having some various point systems. I sort of thought this sounds like Kyoto, where you'll be able to trade off one *Da Vinci's Inquest* point for something else here. But it might be that within the Canadian context there is a way to reward broadcasters for local programming so that there's some kind of trade-off in some way for their investment.

I think the sad thing is that this is not being carried out of their own initiative. What surprised me, coming on the scene here, is that despite all the rhetoric, despite all the grand statements, in fact it has been deserted for a long period of time. The comments from my colleague here, in terms of the CRTC.... Where has the regulatory agency been in this issue? Where have they been? How has this desertion of local programming been allowed to happen in this country?

I think fixing it is going to require some creativity, as I have suggested. A two-tier system might be one way to go, and some sort of point system that actually rewards local programming, compared to some others, is another possibility.

Mike might want to answer your questions.

**Mr. Michael Sullivan (National Representative, Communications, Energy and Paperworkers Union of Canada):** The principal producer of local programming for 20 years up until the early 1990s was the CBC. Of course, the CBC can no longer afford it, and it has made it very clear that with the funding structure they now have in place, there will be no return to local or regional programming.

Based on the comments made here by the president of the CBC, even the little local newscasts that are still on the air might be in some jeopardy. I think he said to you, "Unless we get a lot more money, we will not be able to continue to carry losing newscasts. These newscasts don't gain the audience they used to when we funded them properly, and as we can't afford to fund them, we may not be able to afford to continue them."

My fear is that it's going to get worse before it gets better. There has been a gradual and precipitous decline at the same time. In the private sector, they've gradually realized that they don't have to compete any more with the CBC's newscast because it isn't a competitive newscast. So they don't need to put on a big, expensive newscast any more. In the smaller locations, they're backing away. When they back away in the news production capacity they also back away in the production capacity, and when they back away in the production capacity you can't produce anything, so there's nothing left.

For the private sector, some sort of reward mechanism, a carrot as opposed to a stick, might work.

I believe it was Mr. Abbott who asked why we can't just remove the licence from people who don't actually produce locally any more, who remove themselves from the landscape but still have a licence. Perhaps that's something this committee has to look at. Certainly the Broadcasting Act doesn't require the CBC to be local or regional, and maybe that's part of what you're looking at.

• (1210)

[Translation]

**The Chair:** Sorry. Go ahead.

**Mr. Bernard Chabot (Journalist at the Quebec City Regional Station in the TVA Network, Provincial Council for the Communications Sector, Canadian Union of Public Employees):** If it's okay with you, I would like to add a few words about the regional issue, because I was front and centre in a number of battles fought at stations outside Montreal.

I have the good fortune of working for the oldest French television station in North America. CFCM-TV, in Quebec City, is the oldest francophone television station in Quebec and Canada. The station came into being in the 1950s and used to produce up to 50 or 55 hours of original television coming from Quebec City. It took a huge fight in the 1990s to keep barely 20 hours of production coming from Quebec City, the capital of Quebec. It is ludicrous.

To illustrate what Ms. Lill was saying earlier, I will tell you that in the capital of Quebec, there is no longer any television news on weekends, because regional television stations are closed then. It doesn't make sense, to my mind. It is incredible, but true. Even the crown corporation, CBC, no longer produces weekend news.

It is said that the Canadian broadcasting system works well. That may be true for production of non-news programs. Subsidies and tax credits go to the production of blockbuster shows, and I think that is a good thing for television dramas, but it is very bad for the news.

In Quebec radio stations outside Montreal, there is no more news production. Radio hosts read the newspapers in the morning in order to be in a position to provide some news. You no longer see radio reporters on the streets of Quebec City, and that is absurd. I think the system is in very poor shape and incentives are definitely not the only solution. You need subsidies, but you also need to force broadcasters to put production back on the air during prime time. You have to force people.

There is a responsibility that comes with holding a licence. News is an essential part of cultural identity. News is as important as culture. News is part of culture. There you have it.

**The Chair:** Thank you.

**Mr. Armand Dubois:** Can I add something?

**The Chair:** Yes, but very briefly. Otherwise, we will be here until three o'clock.

**Mr. Armand Dubois:** To add to what my colleague said, I would say that news is also one of the foundations of our democratic system. Without news, the very foundations of democracy are shaken. One of the previous witnesses said she came from an area where the softwood lumber issue had rocked the community. I would say that currently, in terms of diversity of content, what we are seeing is clear-cutting. We are concerned about that.

• (1215)

[English]

**The Chair:** Ms. Hinton.

**Ms. Betty Hinton:** Thank you, Mr. Chairman.

There are a few points that were touched on that I found very interesting. I will take back what Mr. Dubois had to say about the operating and the oversight being divided, and I will give that a lot of very serious thought. I thought that was a worthy recommendation to have a look at.

The media concentration issue that was raised by Mr. Murdoch has been raised in committee before, and I share some of the concerns you have. I'm not certain whether they're valid concerns or whether I'm seeing things I shouldn't be seeing, but I am watching very carefully. I think independence of information is very important, and when you concentrate it within just a few pairs of hands, I agree that it becomes dangerous. I've said that myself at this table.

With regard to Ms. Turgeon's comment about more funding from government, I can tell you as a member of this committee that I have yet to hear anyone come before us who hasn't asked for exactly the same thing: more funding. The part I still have difficulty with when it's a question of more funding from government is that government doesn't create any income. It comes from taxpayers. They have some serious concerns about the way their money is being spent, and I have to honour that.

I'm looking for the same kind of local programming my counterpart, Ms. Lill, is looking for. It concerns me greatly that there aren't any local news programs happening any more. You've touched on it quite a bit today, but if there were one simple solution you could propose today, what would it be? How do we get back to having information in your own home town that's important to you, or is that what you actually define as local? Are you talking about a more regional aspect or the individual home town aspect?

**Mr. Peter Murdoch:** I think there are a couple of possibilities. As I said earlier, it probably requires some creative minds to think about them all. First, one of the reasons these things have been abandoned, at least in print and to some degree in broadcasting, is the concentration of ownership, plus the earlier problem I mentioned, the debt load. There's really no excuse for the recent abandonment of northern Ontario by CTV other than that it appeared to them to make good business sense. It was absolutely not culturally effective in any kind of way.

At some point that large picture is going to have to be looked at, whether here by this committee or somewhere else. If things stay the same in terms of this concentration of ownership, you're going to have to regulate it. Part of the broadcast licence is going to have to be a requirement to start doing some local programming. They're going to kick and scream and say "But it costs us money; this isn't profitable." Well, it's the cost of doing business. Part of the cost of getting your share of the airways in Canada is reflecting Canadians to themselves.

By the way, that's not to say it doesn't hold out the possibility of being profitable, and I'm talking now about the private sector, of course. The CBC needs some infusion of money so it can fulfill its mandate, as my colleague here has suggested. I don't think the solutions are difficult. I think having the will to make those decisions is difficult.

**Ms. Betty Hinton:** Receiving programs via satellite is an option consumers have, whether it's the licensed or the unlicensed kind. They choose the satellite and the foreign broadcasts that come into our country, which many people enjoy, and I'm not opposed to allowing people to choose by free will.

From my perspective, the difference between that and what you're talking about here today is exactly local programming. Satellite won't offer it to you. Foreign programming won't offer it to you. Really, the only thing we have left we can put a tag on and call a cultural component of Canadian content is in fact what you get as a local resident.

• (1220)

[Translation]

**The Chair:** Mr. Leboeuf.

**Mr. Réal Leboeuf (President, Union of TVA Employees in Montreal (CUPE local 687), Provincial Council for the Communications Sector, Canadian Union of Public Employees):** You asked whether the budget of the CBC needed to be increased in order for the CBC to fulfil its mandate. We are not asking for new money. I think it would be better to tighten up the funding mechanism for independent production especially and to give some of that money back to the CBC. At any rate, some of the money allocated to the CBC has been used to increase funding for independent producers. So it is not a question of new money, but of having a much tighter funding mechanism.

Some very questionable projects were mentioned. Tightening up the mechanisms would not impinge on cultural content because a number of shows that are currently funded contribute nothing to Canadian cultural identity. These shows are often presented to the broadcaster, who, before deciding to air them, considers whether they will be profitable. The broadcaster does not ask whether they will contribute to Canadian cultural identity, but whether they will be profitable and get good ratings. If so, the broadcaster accepts and airs what the independent producer has to offer.

So it is a matter of having a much tighter mechanism and of using some of the money thus saved to increase the funding of the CBC.

[English]

**The Chair:** I'm going to suggest that the three members who are left put their questions forward and that the witnesses make a note of them and answer them all at once. Then we can gain some time, because there are three other groups to be heard.

I will start with Mr. Mills, Mr. Harvard, and Madame Gagnon.

[Translation]

**Ms. Christiane Gagnon:** I was asked to let Ms. Lill go first so she could attend another meeting. If I lose my spot or have to ask my questions at the very end, I will never again give my permission. I am losing my privilege to ask questions.

**The Chair:** Ms. Gagnon, let's give it a rest. You agreed to give up your spot.

**Ms. Christiane Gagnon:** I did not agree. I was told I was third.

**The Chair:** I don't know who told you that. Go ahead, Ms. Gagnon.

**Ms. Christiane Gagnon:** Thank you, Mr. Chairman.

Mr. Dubois, you talked about clear-cutting and diversity of content. I think the two briefs we received this morning echo the evidence we heard on our trip to English Canada and Quebec. It is the same thing. Francophones outside Quebec told us what the French CBC needs, and we heard the same thing from English Canada.

You said that both the English and French CBC should have better funding in order to fulfill their mandate. I think more than that is needed. There also has to be a change in CBC management and in the choices that are made. Even with greater funding, do you think there would be a change in attitude within the CBC, both English and French?

Secondly, you say the CRTC is archaic. Licences are given, and then the rules are relaxed for specialty channels. I would like you to give me more information about how the CRTC deals with specialty channels. What do you mean when you talk about a relaxation of the rules after a licence is granted?

[English]

**The Chair:** Mr. Mills and Mr. Harvard.

**Mr. Dennis Mills:** I have three very short questions.

These questions would apply to everyone, but I'll ask you, Mr. Murdoch, in response to Mr. Frith's point about being competitive. Are the wages for the unions in Canada who are in the motion picture manufacturing industry comparable? We know the quality of production is better. I want to know if the wages are comparable.

The second thing, Mr. Murdoch, is what would the value of your pension fund be? Would it be possible for your union to maybe invest from that pension fund into the sector?

This will really cover it. Thank you.

**The Chair:** Mr. Harvard.

**Mr. John Harvard:** I'll just keep it short.

My concern is with respect to the concentration of ownership. Perhaps we could have dealt with this 10 or 20 years ago. I'm just afraid it's too late now, unless we do something dramatic. In the States a hundred years ago they broke up the Rockefeller empire. I don't know how you do it. One of my colleagues said the horse is out of the barn. It's true, the horse is out of the barn. I don't know how the hell you get it back in.

I think we all fumble with this. That's what we do. We fumble because the possible solutions—which you suggested are easy—I don't think are easy, Mr. Murdoch. When people think of what the possible solutions are, these are just very, very daunting. You're taking on a huge interest. They're formidable.

•(1225)

[Translation]

**The Chair:** You may now answer, please.

**Ms. Jacqueline Turgeon:** Ms. Gagnon, you asked a question about CBC funding. Even with more money, we are going to encourage our managers to broadcast more Canadian content. Unfortunately, we do not have much internal influence on them. So we can only support your recommendations.

**Mr. Armand Dubois:** You asked for examples of relaxed rules. First you have to ask what the mandate of a general interest station is. It is to offer diverse content. For example, children no longer have access to their shows because those shows have been sent to a specialty channel; the rule has been relaxed. The mandate of the news channel on TVA was to be a headline channel, and now there is a request for that channel to be authorized to broadcast live press conferences on important events, like its counterpart RDI; once again, the rule has been relaxed.

The owners of the big networks know it well. They ask for a limited licence, knowing full well that in six months, they can go back to the CRTC to ask that the rule be relaxed at the expense of the general interest station. It is outrageous! We say it is outrageous!

As for concentration of the press, sir, you asked whether it is too late to do anything about it. I think not, but it takes political guts. It is too easy to shrug your shoulders and say something should have been done 20 years ago but it is too late now. Be careful, because we are at an important turning point.

When you have the same editorials from coast to coast, there is a problem. That may currently serve certain political interests, but there is a potential danger, and it is your responsibility to defend the common good. If you do not, we, as citizens, will be able to tell you are not doing your job properly. We are here to tell you to do your job, and your job is to defend the public interest for the cultural well-being of Canada. We are currently under the impression that everyone is talking double-talk. Committees study the Canadian broadcasting system, but in the end, nothing is done. You have a job to do and you should get down to it. It is urgent! Canadians no longer relate to what is being passed off as Canadian content, and that is dangerous. I repeat, these are the pillars of democracy that are currently being shaken in Canada.

**The Chair:** I suggest you await our report. You can judge then.

[English]

**Mr. Dennis Mills:** That's the subject of the study.

[Translation]

**Mr. Armand Dubois:** You are rushing us, but we are willing to answer all of your questions.

**The Chair:** Mr. Dénomé.

**Mr. Jacques Dénomé (First Vice-President, Videotron Employees Union; Vice-President, Cable TV, Provincial Council for the Communications Sector, Canadian Union of Public Employees):** I have something to add. We are talking here about Canadian identity and Canadian programming. There is something that we have not yet touched on and that I think is important. I would ask people to look at the brief that has been tabled. It refers to the

input sought by the CRTC and Public Notice 2001-129 dated February 20, 2002.

In it, there is a brief description of how all of the money winds up going to large consortia and independent production. We are not asking for more money. In 1998, the CRTC decided that community television would no longer be required for cable companies. At the same time, we are told that funding will be capped at 2% within the envelope of 5% of Canadian programming.

That translates into a slow death for community television. Local and community programming will disappear. Why? Because with deregulation and competition, the number of cable subscribers will go down, and as a result, so will the residual value of 2%. Subscribers are turning toward satellite carriers, who invest 5% in independent production. That investment will basically go to independent production. Independent production, except for dramas, consists of game shows and all kinds of other meaningless shows.

•(1230)

Before you say you need more money, you have to look at how the money is distributed. That is the root of the problem.

**The Chair:** Mr. Dénomé, I can assure you that we have already heard what you are saying. We have heard a great deal of similar evidence. So we are well aware of what you are saying.

[English]

Mr. Murdoch.

**Mr. Peter Murdoch:** This will be in answer to a few questions.

Our wages are competitive, depending on the films. It's actually quite a complicated system, Mr. Mills. Some of the American unions, such as IATSE, take on the large American shows, and some of those tend to pay better. Our rates are coming up, and we have tended to do the smaller shows.

Interestingly, I think 85% of the shows we work on in Toronto are for export, so it's substantial—to comment on the problems that were raised earlier by both the Writers Guild and the Directors Guild.

In terms of our pension fund, we have a healthy fund, and I can certainly make inquiries as to investment. I'm critical of other pension funds. Maybe the CBC pension fund would also like to make the same kinds of investments. But the point is taken; I'll see what I can do about that.

Mr. Harvard, in terms of the horse being out of the barn, of course we've had the breakup of AT&T; we've had some challenges to Microsoft; we have seen even the Government of Canada here looking at.... What could be larger than addressing the questions of public health care? So the idea that it's a large undertaking is right: absolutely, it is. But I don't think it's one we could just throw our hands up at.

The other thing I want to say is that one of the things all those groups I mentioned, from concerned citizens to senators to journalism schools to former publishers, have all called for—including this union—is an inquiry. Let's begin there and see to what degree the problem exists. And what can we do? If we can't break it up, can we at least curb some outrageous behaviour? That might be a starting place.

[Translation]

**The Chair:** We would like to thank you for being here today and for raising a lot of questions.

[English]

Thank you very much, Mr. Murdoch and Mr. Sullivan. We appreciate your—

[Translation]

**Mr. Armand Dubois:** I would like to make a comment. It was not my intention to prejudge your report. I just wanted to call attention to the media coverage you are getting. A committee examining the Canadian broadcasting system should have significant coverage, but does not. Why? Perhaps this points to the issue about concentration of the press. That is where I was coming from when I made my earlier comment.

Thank you very much.

**The Chair:** Mr. Dubois, sometimes it is better to work in obscurity. I think the report will be the better for it.

**Mr. Armand Dubois:** Victor Hugo said that God gave men two gifts: knowledge and ignorance. The latter is clearly winning out over the former.

**The Chair:** I hope that does not apply to us. Thank you for coming.

• (1235)

[English]

**Mr. Peter Murdoch:** Thank you very much for your time.

[Translation]

**The Chair:** We will now hear from representatives of SOCAN, the Society of composers, authors and music publishers of Canada. We have Mr. Valiquette,

[English]

Mr. Spurgeon, Mrs. Alexina Louie, the Canadian Independent Record Production Association, the Canadian Recording Industry Association—Mr. Mair, Mr. Robertson, and Mr. Thompson—we are terribly sorry; we're perhaps trying to crowd in too much. We have so many witnesses and we're trying to be as equitable as possible, but unfortunately it means cutting off witnesses' answers. We have tried to be as liberal as possible.

So if there's not enough time today and you're not given enough attention, we'll try to reschedule you, if it's possible for you to come back. I appreciate that you've been left very late and it's to your prejudice, so we'll do our very best to listen to you as much as we can today. If we don't finish, maybe you'll agree to come back another day, if possible. I'm terribly sorry.

We'll start with you, Mr. Valiquette.

[Translation]

**Mr. Gilles Valiquette (President, Society of Composers, Authors and Music Publishers of Canada):** Mr. Chairman, members of the committee, *bonjour*.

My name is Gilles Valiquette, and I am an author, songwriter and President of the Society of Composers, Authors and Publishers of Canada, better known as SOCAN.

With me today is my colleague Alexina Louie, who is a classical music composer, and Mr. Paul Spurgeon, Vice-President, Legal Services and General Counsel of SOCAN.

Before sharing SOCAN's position on the Canadian broadcasting system with you, allow me to say a few words about the organization we represent. SOCAN is a not-for-profit Canadian organization that represents composers, lyricists, songwriters, and publishers of musical works from Canada and around the world. We manage the performance rights related to the music and lyrics of our 20,000 Canadian members in good standing, and the members of our international affiliates.

Under copyright provisions, performance rights grant the music copyright owners the exclusive right to perform these works in public and to authorize the telecommunication of these works to the public in exchange for royalties. My colleagues and I like to say that copyright is our bread and butter.

Our members create what are called works of the imagination. These reflect the makeup of our society and are generally included in what is called "Canadian content". We firmly believe that international trade agreements should not violate Canadian sovereign rights to strengthen and enforce Canadian content rules. You will find more details on who we are and what we do by reading the 10 first pages of the brief we tabled with your committee.

We would like to take the rest of the time available to us today to stress the most important points in our brief and we would be pleased to answer your questions afterwards.

I would like to say at the outset that SOCAN fears that the Canadian government's policies and programs have not really been successful in managing the relationship between cultural and commercial policies. From pages 11 through to 23 in our brief we describe the way in which Canadian culture has been treated up to now under the North American Free Trade Agreement, NAFTA, and the World Trade Organization, the WTO.

SOCAN is not alone in having concluded that the status quo no longer works. As you know, the Sectoral Advisory Group on International Trade, or SAGIT if you prefer, came to the same conclusion more than three years ago. In February 1999, after having studied several different options, the group recommended that Canada negotiate a new international instrument on cultural diversity. SAGIT also recommended that this new instrument define the rules concerning the kinds of national measures that countries could take or not in order to promote their cultural diversity and their language.



SOCAN submits that the Canadian content rules should be included in any list of legitimate cultural measures because they respect the international trade principles of transparency and national treatment.

• (1240)

We heartily support the negotiations dealing with the international instrument on cultural diversity. We are working with the government of Canada and other organizations that support this idea, such as the Coalition for Cultural Diversity, in order that it become a reality.

In conclusion, I would like to say that SOCAN is afraid that if the Canadian government does not manage to settle the issue of the international instrument on cultural diversity as quickly as possible, the decisions that will be made by the WTO in the interval will seriously limit our options. We are all aware that the negotiations on services have been underway for more than two years at the WTO, and they should wind up before January 2005.

For their part, the United States have clearly indicated their intention to aggressively pursue their own commercial interests in the audiovisual services negotiations. Mr. Chairman, the main point of our message is simple: we haven't a moment to lose on this issue. We therefore urge the government of Canada to consider this issue as a national priority. We must conclude an agreement on the international instrument on cultural diversity as soon as possible.

I will now give the floor to my colleague Alexina Louie, who will speak to SOCAN's position on Canadian content.

[English]

**Ms. Alexina Louie (Classical Music Composer, Society of Composers, Authors and Music Publishers of Canada):** Good morning, Mr. Chairman and members of the committee.

As Gilles mentioned, my name is Alexina Louie. I'm a SOCAN director and a classical music composer.

I would like to continue where Gilles left off, on the issue of Canadian content. One of the questions your committee is considering is whether the method of determining Canadian content is still appropriate in relation to new media. We have dealt with this question on pages 21 to 23 of our submission.

I would like to summarize by clearly stating that SOCAN believes that the method of determining Canadian content is still appropriate whenever audio programming is broadcast over the air, or carried on the Internet. Based on my experience as a Canadian classical composer, I believe that Canadian content rules are more important today than they have ever been, because they provide for and encourage choice, domestic exposure, and international success.

Last month the Minister of Canadian Heritage launched a review of the Canadian content rules in the film and television sectors. This review is not considering the Canadian content rules that apply to the radio broadcasting sector, the so-called MAPL rules, which we have reproduced on page 23 of our submission. We submit that the MAPL definition should not be changed, and they should continue to focus on who creates the content, so Canadians can develop a better understanding and appreciation of our unique culture.

On pages 23 to 28 of our submission we have addressed the question of what costs are borne by broadcasters because of the Canadian content regulations. CRTC data demonstrates that Canadian content rules have not prevented radio broadcasters from achieving growing revenues and rising profitability.

Likewise, the CRTC data shows the Canadian conventional television broadcasting industry's earnings continue to grow, because the benefits they reap from using public airwaves exceeds their costs, including any costs associated with Canadian content regulations.

I will conclude my remarks by addressing another key question this committee is considering. How effective is the current Canadian content quota system in promoting distinctively Canadian programming in an era of digital channels and Internet-based programming?

On pages 36 to 40 of our submission, we have responded to this question by expressing our concern over the CRTC's May 1999 decision not to regulate new media services on the Internet. SOCAN is concerned that the current lack of regulation of new media is diluting the CRTC's effectiveness and creating two classes of broadcasters: those who are subject to Parliament's policies, and those who are not.

To ensure that the CRTC's Canadian content rules continue to be relative and effective, on page 37 of our submission we have requested that this committee contact the Minister of Canadian Heritage to request that the government issue a policy direction to the CRTC, pursuant to subsection 7(1) of the Broadcasting Act.

Thank you, Mr. Chairman.

Paul Spurgeon will now conclude SOCAN's presentation with a discussion of some key international trade issues.

• (1245)

**Mr. Paul Spurgeon (Vice-President, Legal Services and General Counsel, Society of Composers, Authors and Music Publishers of Canada):** Good morning, Mr. Chairman and members of the committee.

I would like to finish SOCAN's presentation by addressing one of the critical issues identified in your terms of reference, namely the question posed whether present policies or programs are sufficient and appropriate to deal with the relationship between cultural policies and trade policies. Pages 10 to 21 and 45 to 46 of our submission deal with this important question. I know that you and your staff will read our submission, so I do not intend to repeat it today. However, I would like to highlight a couple of key points that your report should consider. In the limited time we have together today, I would like to focus on pages 19 to 21 of our submission, where we discuss the World Trade Organization negotiations regarding services and the WTO General Agreement on Trade in Services, the GATS.

Canada's negotiating position in the WTO GATS negotiations was announced by the Minister for International Trade, the Honourable Pierre Pettigrew, on March 14, 2001. At that time the minister stated, and I quote:

"...Canada reiterates its position with respect to cultural diversity—that is, that Canada will make no new commitments that would restrict our ability to achieve our cultural policy objectives or to pursue the establishment of a new international instrument to protect the rights of all countries to take measures to preserve their cultural diversity.

Finally, with respect to the structure of the negotiations, Canada's position is that the 'bottom-up' structure of the GATS should be maintained."

To determine whether Canada's current WTO position fully protects Canadian culture, SOCAN submits that the committee must consider the following three issues:

First, it is important to note that the minister's statement is confined to new commitments only and does not address the concerns we have discussed regarding existing commitments under the free trade agreement, NAFTA, the GATT, etc.

Second, the minister's commitment is based on Canada's position that the bottom-up structure of the GATS should be maintained. Under a bottom-up structure Canada can pick and choose the sectors in which it wishes to take on market access or national treatment obligations. Although this strategy may be helpful in the GATS negotiations, we believe that it does not eliminate Canada's exposure.

The reason we remain exposed is because there is no guarantee that every international trade negotiation will adopt the so-called bottom-up structure. For example, on pages 15 and 16 of our submission we discuss the European Union's attack on Canada's film distribution policies. This WTO dispute arose under the GATS because the GATS adopted a top-down approach regarding the most favoured nation obligation. In other words, the GATS is not based solely on a bottom-up structure.

It should also be noted that the NAFTA services chapter adopted a top-down approach where national treatment obligations applied to everything unless a party exempts a specific existing legislative measure by grandfathering it under annex I or exempts both present and future measures under annex II. That was mentioned earlier. There are no broad sectoral exemptions.

In addition, it must be recognized that the GATS negotiations are not the only international trade negotiations that could impact on Canada's cultural sovereignty. For example, it has not been decided whether the free trade area of the Americas, or the FTAA, negotiations will be bottom-up or top-down. It is therefore important that the committee recognize that there is no guarantee that the WTO and FTAA international trade negotiations will not adopt a top-down approach. SOCAN is concerned that a top-down approach could further limit Canada's ability to pursue its cultural policies.

The third potential problem regarding Canada's current WTO position arises from the fact that the WTO negotiations are not confined to the GATS negotiations. Other key sectors, including investment, may become the subject of negotiations following the fifth WTO ministerial conference scheduled to take place next year in Mexico. One of the questions this committee is considering is whether globalization will undermine current ownership restrictions in broadcasting.

●(1250)

As we discussed on pages 33 and 34 of our submission, SOCAN believes that international trade treaties could limit Canada's future ability to maintain ownership restrictions in broadcasting.

As the recent multilateral agreement on investment—the MAI, referred to earlier by Ms. Bulte—negotiations demonstrated, there is no guarantee these WTO negotiations will be bottom-up. A top-down investment agreement could limit Canada's ability to apply performance requirements, including Canadian content rules. For example, NAFTA's article 1106 creates obligations regarding performance requirements. SOCAN opposes article 1106, because it limits Canada's ability to develop our domestic economy by using performance requirements, such as Canadian content rules that require foreign investors to use Canadian labour, goods, or services.

In the absence of the NAFTA's cultural exemption, which in practice has not provided absolute protection, article 1106 would prohibit the application of Canadian content regulations to American investors. This would adversely affect SOCAN's members.

So far, article 1106 has not been an issue, because foreign investment is currently restricted in the broadcasting sector. The committee must therefore carefully consider the Canadian content consequences that surely would result if Canada opens the broadcasting sector up to foreign investors. It is also important to stress that investor-state dispute provisions could expose our cultural measures to attack by foreign corporations.

As a result of the above concerns regarding the Government of Canada's current WTO position, we believe the proposed international instrument on cultural diversity referred to earlier must be concluded as quickly as possible.

Mr. Chairman, SOCAN would like to thank you again for this opportunity to appear before the committee. We would now be pleased to respond to your questions.

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

Mr. Mair.

**Mr. Alexander Mair (Board Member, Canadian Independent Record Production Association):** Thank you, Mr. Chairman. With your permission, although our presentation is only two pages long, I'll shorten it drastically.

Our view of the current Broadcasting Act is that it works well, has done so for the past decade, and needs only minor adjustments to continue to work for the next decade. To quote our brief, "If it ain't broke, don't fix it."

The three issues from our brief we wish to highlight are, one, the CRTC and Canadian content regulations; two, ownership issues; and three, copyright and technology issues.

First, CIRPA sees the CRTC continuing to play a key role in the next decade in representing the interests of the Canadian public in the licensing process—those same Canadians who, after all, actually own the airwaves—and in overseeing the many changes that will occur, so as to ensure that Canadians continue to have access to Canadian works. We see the role of the CRTC as continuing to ensure that subparagraph (d)(i) of subsection 3(1) of the act—aiming to “safeguard” and “strengthen” Canadian culture—is upheld and advanced.

CIRPA also favours retention of current ownership restrictions on foreign ownership in broadcasting. In the radio field, the concentration of ownership in major markets, and therefore of listenership, is very high, which leads to a variety of problems, such as lack of musical diversity, lack of exposure for new artists, etc. The concentration in Canada we think is already higher per capita than in the U.S., where, as the committee is aware, questions are currently being asked in this regard by the FCC.

The third point CIRPA would like to highlight is the need for appropriate and realistic payments for intellectual property that are backed by effective, modern, and regularly updated legislation, and systems of enforcement that allow for copyright owners to receive a proper return for use of the works they own.

Clearly, Canadian radio reaps substantial benefits from its heavy reliance on recorded music as the source of content. For the payment of very little money, it receives a very substantial benefit from the expensive production and marketing campaigns undertaken by record companies and music publishers to promote and develop artists and songwriters. In this regard, CIRPA has noted and fully supports the position of CRIA respecting the \$1.25 million exemption issue in the 1997 legislation governing neighbouring rights.

Thank you.

• (1255)

**The Chair:** Mr. Robertson.

**Mr. Brian Robertson (President, Canadian Recording Industry Association):** Mr. Chairman, thank you. I am joined this afternoon by my colleague, Ken Thompson.

The 32 members of the Recording Industry Association comprise the major record companies, all of the leading independent labels, and all of the manufacturers of CDs, tapes, and—for those of us who can remember—even vinyl. In all, they represent in excess of 95% of the sound recordings manufactured and sold in Canada and an investment in the careers and recordings of Canadian artists in music of more than \$60 million annually.

Our earlier written submission will have provided a somewhat more detailed overview, but we will summarize some of the pertinent issues here.

The first would embrace new technologies, and Internet and digital issues in particular. From a content-creative perspective there is perhaps no industry that has to date been more affected by technological changes than the recording industry. It has been said that music is intellectual property's canary in the coal mine. The influences of advances in compression developments and file-sharing services such as Napster, coupled with Canada's reputation

as having the highest per capita level of high-speed Internet penetration in the world, have resulted in a generation of young people growing up with a view that recorded music is free.

The inevitable fallout has been a 16% decline in the retail sales of sound recordings in Canada in the last two years. The sales of legitimate CDs have fallen from 58 million in 1999 to an estimated 51 million this year. Conversely, the sales of blank CD-Rs have risen from 45 million in 1999 to an estimated 155 million this year.

With music lovers and consumers obviously embracing the technology, the recording industry has moved as quickly as it practically could in developing new business models that will offer innovative and legitimate online services. It is here, however, where we might possibly cross the line between commerce and broadcasting policy.

Obviously technology and innovation offer great promise to the development of the broadcasting industry, but in our view these advancements must remain within the mandate of the Broadcasting Act. We submit that the international copyright principles established in the two WIPO treaties, as well as domestic reports and inquiries such as the CRTC new media study in 1999, show that in respect of the law underlying both copyright and broadcasting the trend is not to merge broadcasting with new uses for commercial content in the online digital environment. Although time has passed since the new media hearings, the decision that broadcasting regulation not be extended to the Internet is now more relevant than ever.

In its decision the CRTC stated:

“Material transmitted over the Internet, which is significantly ‘customizable’ or capable of being uniquely tailored by the individual user, does not involve the transmission of programs for reception by the public and is, therefore, not broadcasting.”

On the issue of Canadian content, we believe the present radio content rate requirements serve the Canadian broadcasting policy and should be continued. As we noted in our written submission, obligations by the radio broadcasters to pay royalties such as neighbouring rights and the issue of Canadian content regulations are entirely unrelated. The Copyright Board noted in its decision in the NRCC commercial radio tariff that observing Canadian content regulations is not a quid pro quo to reduced royalties for the use of sound recordings in radio broadcasts.

Finally, on the area of production, distribution, and copyright, we have noted the strategy by the Canadian Association of Broadcasters to extend the special royalty threshold for neighbouring rights. The special royalty that the CAB refers to is from the Copyright Act. It represents a legislative attempt dating back to Bill C-32 to relieve small radio stations of tariff-based neighbouring rights payments and instead permits the payment of only \$100 per year on the first \$1.25 million of revenue.

We certainly concur with the intent of the concession to benefit small radio stations. But unfortunately the special royalty reduction also benefits large and profitable stations that do not have to pay royalties on the first \$1.25 million of their revenue.

●(1300)

The Copyright Board noted in its decision that the \$1.25 million concession was not necessary when it stated:

"The evidence provided by NRCC, and especially Exhibit NRCC-29, clearly establishes that the industry could have absorbed the full tariff, absent any special statutory provisions. Indeed, neither CAB nor its witnesses took issue with the validity or quality of NRCC's evidence on this point."

It is clear that neighbouring rights royalties have not affected the profitability of commercial radio, and there will be no valid reason to maintain such an unnecessary and unfair royalty reduction. In our view, the committee should recommend that this section of the Copyright Act be repealed, or in the alternative amended, as it is not valid as drafted.

That concludes our comments today, Mr. Chairman. Thank you very much.

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

Madam Gagnon.

[Translation]

**Ms. Christiane Gagnon:** Thank you for your presentation. I didn't hear it in its entirety because I was having a discussion with the witnesses who appeared before you. I would like to hear your opinion on the following subject.

We visited an English radio station in Montreal, CHED, where we were given an example of a cassette whose content was transferred directly onto the random access memory for broadcast purposes. We were told that there were royalties to be paid if, for example, the cassette had been broadcast and that there were further costs if it were transferred onto the system's RAM for broadcasting. According to them, this cost was unjustified given that they had already paid for the cassette. Why should they pay again for the transfer of the tape into the RAM of their computer system? In any case, this is only done for a single broadcast. Whether it's on a cassette or in the RAM, the result is the same.

I know you said that their staffing costs would be reduced. They don't share your opinion, and say that their staffing costs would not be less because the same person would be doing the same job. Therefore, whether they use the RAM or a cassette, they're doing the same thing. Do you agree with that?

[English]

**Mr. Paul Spurgeon:** On that particular issue, it's a matter that's currently before the Copyright Board of Canada. It is what they call the broadcast mechanical or reproduction right. It is a right that the Copyright Act provides to music publishers and authors, and the value of that right is set by the Copyright Board to compensate copyright collectives that act for these copyright owners—in other words, the authors and the publishers—for this right.

It only applies if there is a collective. If there is no collective, stations can copy. However, if there's a collective in place, a royalty and a rate need to be set for that use. How much? I don't know yet. I

don't know how much the Copyright Board will fix the value at, because they have to look at the evidence of both sides to determine what value that reproduction has for the station and for the copyright owner, in this case. It'll probably be several months before we hear from the board on that issue, but it is certainly before the board. I can't comment any more than that.

●(1305)

**The Chair:** Ms. Bulte.

**Ms. Sarmite Bulte:** Thank you, Mr. Chairman.

On Canadian content, the MAPL content, it's refreshing to hear your point of view, as opposed to that of the Canadian Association of Broadcasters. They feel it needs to be changed right away because it's unfair that Céline Dion is not considered to be Canadian content, notwithstanding she doesn't live here, pay taxes here, produce here, or write here.

So I'm going to ask you something else. Do you think it should be taken even further? Your recommendation is to keep it within the radio requirements. The other night, after the hockey game, I happened to see a CBC production on Céline Dion. CBC was profiling her, because I don't believe ABC, NBC, or any of the American networks gave her that opportunity to be profiled.

During the show *Destiny's Child*, which I believe—correct me if I'm wrong—is American.... You're talking about radio, but should we not be looking at also expanding this to variety series? Is this just one of those loopholes, where someone who is a Canadian citizen or Canadian-born can take advantage of the benefits of the MAPL designation in the first place, to make her an international star, and can use that venue to showcase...? How do you feel about that?

**Mr. Alexander Mair:** I'll lead off with that. First off, Ms. Bulte, I'm not sure that show was Canadian-produced. I believe it was shot in the States and was broadcast simultaneously on one of the American networks, which would be one of the reasons to have *Destiny's Child* on the show. There will also be a Céline Dion special later this year from the new theatre in Las Vegas, which again will probably be simulcast. It will be offered to the Canadian networks, probably to the highest bidder.

You do raise a very interesting point about the lack of variety programming, particularly music, on Canadian television. It's been left to the MuchMore Bravo group basically, and MusiMax in Quebec. In English Canada we have the Mike Bullard show, which doesn't pay performers to perform. They must waive any right to payment in order to appear on that show.

If you look at the bottom line of the Comedy Network, it's pretty embarrassing. It's a very profitable network, with a multi-million-dollar profit, but they won't pay a penny for the musicians who guest on the show, who draw the viewers. CIRPA would be very pleased if there were a requirement for more musical programming and variety programming on the Canadian television networks.

**Ms. Sarmite Bulte:** If I may just follow up, would the Céline Dion show that was shown on CBC—I watched it on CBC—have counted as Canadian content?

**Mr. Alexander Mair:** I couldn't comment on it definitively. It may have been produced by her production company. She has one in Canada and probably one in the United States as well. You'd have to look at the copyright notice at the end of the show to see where the actual ownership of that show rests. But I suspect she owns the show through one of her companies.

**Mr. Brian Robertson:** I don't think you should assume there's no Canadian content at all with her. She does have a home here in Quebec. The first single she released was written by Canadian songwriters, and it may have had a Canadian producer too. So there's still a high level of Canadian content. That special, as Al said, was produced in the States. It was produced for international release, not just domestic. CBC bought the rights for the Canadian telecast.

It's an international business, and I think they are trying to get as much worldwide exposure for her and for her music as possible. That's why that special was taped in Los Angeles at the new Kodak Theatre. She may have a home in the States, but she's still Canadian and she still has a lot of Canadian content in her production.

● (1310)

**Mr. Dennis Mills:** Mr. Chairman, I have a few questions, but I'm going to address them individually through e-mail or by phone with the members, and I will pass today.

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

Mr. Mills will e-mail his questions, and you can do likewise.

Mr. Cuzner.

**Mr. Rodger Cuzner (Bras d'Or—Cape Breton, Lib.):** This would be more for SOCAN. The Canadian Association of Broadcasters is advocating an incentive schedule to further allow new Canadian artists more opportunity to have their music played, where releases by new artists would be given additional weight. First, I would imagine SOCAN is familiar with what the association is trying to bring forward, and I'm wondering what your position is on it.

**Mr. Paul Spurgeon:** I am familiar with the notion or the principle. I haven't studied the details, and obviously the devil is in the details. I think it's laudable that the broadcasters want to encourage exposure of new talent. That's key. In fact, that's the *raison d'être* of the Canadian content. That's why we have the people we have now in the music business, because they were given that springboard. It allowed them to first of all achieve the domestic success they needed, which allowed them to further their careers internationally.

As far as that particular initiative, again, I'd like to see it to see how it would work. We obviously wouldn't want to give up anything that might in any way upset the balance for the current process of recognizing all the elements of Canadian content on radio, which

include the composer, the lyricist, and the artist performing, as well as the production and the place where it's produced. So these are all very important elements.

**Mr. Brian Robertson:** Mr. Cuzner, if I could just jump in quickly, there's really nothing stopping the broadcasters from playing new music and new artists now, in terms of embracing the level they have. There's nothing stopping them from playing more than the level they have. Obviously we're all going to take a look at the proposal, but there are absolutely no constraints now for what they're proposing.

**Mr. Rodger Cuzner:** Yes, and I don't think they see constraints. What they are looking for is an enticement. I guess there is some risk in playing new artists.

**Mr. Alexander Mair:** If I could answer on behalf of CIRPA, our members produce almost exclusively Canadian content.

I have two quick comments. One is that there are between 10 and 20 albums a week issued that are Canadian content. That's between 120 and 250 songs each and every week. Radio will normally add two. They add two out of the 120 to 250 this week, and next week they'll add two more from the new 250 songs. There is no shortage of Canadian content. To me, any attempt to lower the actual level of Canadian content would be totally ridiculous.

At a recent conference in Toronto—Canadian Music Week—I asked a major broadcast consultant on a panel of broadcasters why they weren't playing Diana Krall. His comment was it's not Canadian content, and therefore it doesn't fit into our computers.

She has now sold something like 500,000 records in this country. At the Juno Awards she was named artist of the year, and Canadian radio is still not playing her because it doesn't work on their computers. She is in this never-never land. It's not a top-ten record in the States, although I think it's number three this week in Canada six months after release. They don't seem to think that they can reprogram their computer to put her in as a non-Canadian-content record because the track doesn't qualify as Canadian content.

Chrysler is paying her a fortune to do those commercials, which are having a major impact on record sales. She's the hottest artist in the world in her genre yet is getting no Canadian air play. As to the idea of the broadcaster saying give us a little extra to expose new artists, well, they're not even exposing the artists who are there now having phenomenal success.

● (1315)

**The Chair:** Thank you very much for appearing before us. I think we'll see some of you during the hearings for Bill C-48, the Copyright Act amendments. Thank you again.

The meeting is adjourned.

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