



House of Commons  
CANADA

## Standing Committee on Canadian Heritage

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CHPC



NUMBER 023



1st SESSION



38th PARLIAMENT

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EVIDENCE

**Tuesday, March 22, 2005**

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**Chair**

**Ms. Marlene Catterall**

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Tuesday, March 22, 2005

• (0910)

[English]

**The Chair (Ms. Marlene Catterall (Ottawa West—Nepean, Lib.)):** I would like to call the meeting to order.

Welcome to our witnesses.

Welcome back, Mr. Frith, to a place you're very familiar with. What do you want to tell us?

**Mr. Douglas Frith (President, Canadian Motion Picture Distributors Association):** Well, Madam Chair, thank you very much for allowing us to participate in your deliberations as a committee, and welcome to all of the other members of your committee.

My name is Douglas Frith. I'm president of the Canadian Motion Picture Distributors Association. With me this morning is Susan Peacock, vice-president of the organization. We represent the seven major Hollywood studios, from Disney through to Warner Brothers. I say seven, but it's about to become six, because I understand Sony is in the process of purchasing MGM.

I'm going to allow Susan to begin the comments on the paper we submitted. I want to specifically refer to the financing of film, when we come to that area of it, just to give the committee a feeling for what's happening internationally as well as in Canada with respect to all the tax credit programs and how it's affecting the level of production in the country.

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

Ms. Peacock.

**Ms. Susan Peacock (Vice-President, Canadian Motion Picture Distributors Association):** Thank you.

As Doug said, our members are the seven major studios and they are international companies. None of them is a Canadian company, at least not these days, so they don't benefit from most of the incentive programs for film. We're very glad that you invited us to speak to you nevertheless and hope to bring perhaps a different perspective from what you might hear from others.

In 2000, at the end of the film policy review at that time, the government identified four objectives and in our written submissions we considered three of them: develop and retain talented creators, foster quality and diversity of Canadian film, and build larger audiences at home and abroad. Of these three goals, building audiences is the most important. Whether there is quality and diversity of Canadian films and whether they are made by talented

creators is a matter of subjective judgment, which in our opinion is best determined by audiences.

Some statistical indicators do show progress, particularly in the case of the domestic theatrical market. The number of Canadian films released in Canadian cinemas, the number of dollars generated by Canadian films at the Canadian box office, and the share of Canadian box office generated by Canadian films have all increased since 2000. The goal of 5% of Canadian box office appears to be attainable, as it was at 4.6% at the end of 2004.

However, 74% of the increase in box office share was generated by Quebec films. I hasten to add that they are not necessarily French-language films—certainly most, but not all are—but Quebec filmmakers seem to have a special ability.

Theatrical distribution, though, is only one way for films to find their audience. Feature films are also available through home video, the sale and the rental of videocassettes and DVDs, and through the various television windows: video on demand, pay per view, pay-TV, speciality channels, free TV. They are ways for a film to find its audience in Canada that are less expensive, more convenient. And it's probable that most of the audience for Canadian films is on some kind of home viewing, but there's little or no data available about consumption of Canadian films in these markets, nor could we find any data about the size of audiences for Canadian films abroad.

I'd like to spend the rest of our time today talking about the recommendations that we made in our written submission, and the first of those has to do with piracy.

Organized crime is the biggest threat to the film industry—the Canadian film industry, every film industry in the world. The counterfeit film business is more profitable than heroin trafficking, and conviction carries trivial penalties. It's a global business that is not only a threat to the film industry; it's a low-risk way of laundering money and raising funds for other criminal activities.

A film pirate used to be some scruffy guy making copies, bad copies, one at a time from a videocassette in his garage or his basement, but modern pirates are big international businesses. They use state-of-the-art digital technology and make copies that are as good as the best copy they can get their hands on.

Counterfeiting starts in movie theatres on an opening night or at an advance screening, and often one of those theatres is in Montreal. That's because Montreal is often the first place where a French-language version of that film is available in the world.

A team of four people buy tickets to the movie, and that's nice of them; we're very glad to get that money from those four tickets. But from there on the story gets quite sad. One of these people sits on each side of the third person, who has a video camera. The people are sitting beside him to make it more difficult to detect him. They don't want somebody like me, for instance, coming and sitting beside him. The fourth person sits in front of him to avoid another patron standing up and ruining his shot.

Cinemas equipped with audio feeds for the hearing impaired are especially attractive because the guy with the camcorder can plug his jack into the audio feed and get a perfect copy of the soundtrack.

Within days, that first copy is being duplicated, usually in Asia, and within a week or so of the film's premiere, counterfeit copies are sent to a central distribution point, often in England, where they're disseminated all over the world.

Creators and investors, both private and public, see no revenue from piratical activity, which also reduces their likelihood of seeing legitimate revenue.

Our recommendation is that the government legislate and enforce appropriate protection from piracy for the film industry by ratifying the WIPO Copyright Treaty, including prohibiting trafficking in devices and information used to circumvent technological protection measures; and by amending the Copyright Act to address ISP liability, including peer-to-peer file sharing. Ironically, the counterfeiters I just referred to are very troubled by peer-to-peer file sharing as well, as even they have a hard time competing with free. We're recommending amending the Criminal Code to make unauthorized camcording in theatres a crime, and finally, enforcing legislation intended to combat piracy. It's very difficult to get the attention of law enforcement officials for this kind of activity.

• (0915)

**Mr. Douglas Frith:** Thank you, Susan.

We would welcome any questions on this whole area of piracy. It's a problem that did not exist a year ago. Out of the top ten pirated movies in North America, seven are camcordered in New York and three are camcordered in Montreal. A year ago, this was not even on our radar screen. It's just mushrooming as a problem on the piracy side.

In terms of the financing of film, I want to preface my remarks by saying that the finance department, in particular Len Farber, has been very supportive of maintaining a talent pool in this country with respect to the talent pool that is involved in feature film in particular, but also in all areas of television and film product.

Years ago, the government had at that time what they called a tax shelter financing mechanism, which was shut down in 1997. In 1997, as they shut down the tax shelter financing, which really created an incentive for not only foreign production but Canadian production, that tax shelter financing was worth roughly 8% to 9% straight to the bottom line of producing the film. When they took

away the tax shelter financing, they created that tax credit system, which has been a measurable success, frankly, since 1997. When we originally negotiated the tax credit program in 1997, the value of the Canadian dollar was roughly 72¢ to 73¢. Then, as the dollar went down to—I think we hit roughly a 62¢ or 63¢ dollar in 1999 or 2000—you can imagine the incentive. The tax credit was designed at 72¢ to 73¢, so there was really a big incentive for foreign producers to come to Canada to shoot their films, because it was worth even more than 8% to 9% straight to the bottom line.

In the graph Susan produced for the purposes of the paper, you'll notice that production in Canada basically plateaued around 2000 and it remained flat. Then it went down because of SARS. As the dollar went back up in value to the 83¢ or 84¢ range, that had a tremendous impact on the amount of foreign production undertaken in Canada. I have to say that the talent pool in this country is fabulous. With the exception of the director, the producer, and the main actor, there isn't any need to import any other crew to produce, whether it's an indigenous film or a foreign film, in this country.

As the dollar went up...as you know, two years ago in the federal budget the federal government enhanced the federal tax credit by 50%. That was a tremendous stabilizer in terms of the amount of production being undertaken in Canada. Secondly, just in the last three to four months, the provinces of Ontario, Quebec, British Columbia—and now in the last two weeks, Manitoba and Nova Scotia—have come around to matching, if not in some ways enhancing, beyond the federal tax credit in order to bolster production in Canada. That I think augurs well for the production levels in 2005. Since the Ontario government initiated it, everybody else matched it.

One area where I think the federal government could, if they wished to, do more is what I call the time value of money. When you apply for the tax credit, often it takes about 18 months for you to be able to get your money back. There would be some merit, if the committee desired, to enter some negotiations with not only the foreign production community, but also the indigenous production community, to see if we cannot fast-track either the implementation of the tax credit or look at putting up some upfront money, because you're going to pay it in the long run anyway. It's what the Hollywood producers call the time value of money. That's a tremendous incentive in other jurisdictions south of the border, where they give cash up front to the producer. It's really a cashflow problem that I think we could probably look at to see if we could make it even more amenable to having foreign production and indigenous production in this country. If there was one area I thought the committee might want to delve into, it would be this time value of money concept.

I would welcome any other questions you have on the financing of films, because it's the most important area, Madam Chair, as to whether or not a company locates here.

One other thing to remember when you're looking at production is that in this business it's done by a computer, it's done by accountants. They just push a button to determine where they want to locate the film, assuming that the talent pool exists and it's not a problem in Canada... But that's what they do. They look at other jurisdictions—New York State, Louisiana—which is what led Ontario and the other provinces to enhance their credit. Believe it or not, Canada was the first one to go to a tax credit program, and it's now being copied in hundreds of other jurisdictions in the world.

● (0920)

Thank you.

**The Chair:** Thank you.

**Ms. Susan Peacock:** Our third recommendation also has to do with financing, financing of not only production but distribution of feature films, and removing what may be a barrier to getting that money from private sources. That has to do with the role of film distributors.

Distributors don't just knock on doors and try to sell the film. They buy rights from the producer in the first instance, and when they do that, they routinely pay in advance or give a guarantee. They also cover the costs of film prints and advertising and use their expertise to market a film to its best advantage. So in that sense, distributors are important in fostering the quality and diversity of Canadian films and in building larger audiences.

I hope you've seen the CFTPA's annual report, which was released in February. It's a terrific service they're providing, with lots of interesting statistical facts and analysis concerning the film and television industry. According to that report, the percentage of funding for CAVCO-certified theatrical films from Canadian and non-Canadian distributors has declined over the past five years from 40% to 20%, and at the same time the percentage of funding from public sources has increased from 30% to 60%.

This may be at least partly explained by a policy that states that an otherwise Canadian feature film is not eligible for most Canadian

incentives if the distribution rights are held by a non-Canadian company. The result is that producers of Canadian films have to choose between government incentives and a broader choice of distributors. We recommend that government review these policies that discourage access to funding from non-Canadian-controlled distributors.

And our final recommendation, one close to my heart and perhaps the least glamorous, is on data collection and publication. In our research we were unable to find any data that would have been useful in assessing many of the government's goals, including data on average production cost, average marketing expenditure, the number of jobs created by feature film production, the size of audiences abroad, and the size of Canadian audiences for feature films available through home video or broadcast. So our final recommendation is that funding agencies and perhaps Statistics Canada be required to publish current annual data directly related to policy objectives. It's difficult to assess the effectiveness of programs when the information needed to do that job is difficult or impossible to obtain.

Those are our remarks, and we're happy to answer any questions you might have for us.

**The Chair:** Thank you very much, Ms. Peacock.

I want to thank both of you for raising some issues with us that are, I think, brand new in the work we've done so far. I'm particularly interested, as I know Ms. Oda is, in the last point you made, and I'm sure we'll want to probe further into what kind of data is available.

Ms. Oda, you have preferential treatment because you have to leave us at 10.

● (0925)

**Ms. Bev Oda (Durham, CPC):** I always appreciate your consideration, Madam Chair.

Thank you very much for coming. I know your organization—and not only your organization but you yourselves—have had a lot of experience over a long time in tracking this industry, so we're privileged to have you here to help us out.

Just on the matter of measurement, I want to relate it to the piracy issue. In your brief you had mentioned there was an inability to track it exactly, and I want to know, are you aware of a company called BigChampagne Online Media Measurement?

**Ms. Susan Peacock:** I think I've heard the name, but I can't really say I know much about them.

**Ms. Bev Oda:** I'll just refer to an article about piracy. In this article it says Eric Garland of BigChampagne actually has a means of measuring piracy, and he does give warning that the film industry is going to face the same challenge the music industry does.

**Ms. Susan Peacock:** Does this have to do with peer-to-peer files?

**Ms. Bev Oda:** Yes, it does.

My question is, is what he's doing realistic? He seems to be able to measure. He's indicated here—this article was on the 18th of this month—that worldwide the *The Aviator* was downloaded over 523,000 times on a peer-to-peer network, so there seems to be some measurement he can do.

**Ms. Susan Peacock:** Yes. As you know, we're the Canadian regional office of the Motion Picture Association, and they have some technical people, mostly in the United States but also various places in the world, monitoring peer-to-peer traffic. That one is measurable. With counterfeiting, all we know is what we've prevented. We know how many copies we've seized, how many raids we've had, and how many search warrants were executed. We don't know what got away. But with peer-to-peer, yes, it can be tracked, and the numbers are just staggering.

BitTorrent is one of these software outfits facilitating peer-to-peer file sharing. In the United Kingdom, they account for 60% of all Internet traffic—that's *all* Internet traffic—which is just incredible. Of course, it isn't only movies; it's music, business software, games, all kinds of things—anything that can be digitized.

**Mr. Douglas Frith:** The other thing to recognize about peer-to-peer is that 80% of that volume is illegal. It is criminal. That's why we're saying that Canada has to come to grips with implementation of the WIPO treaty. Because on peer-to-peer, we need notice and takedown—not notice and notice, notice and takedown. We're the only country of the OECD that doesn't have that law in effect. The European Union has it, as does Japan, Australia, and New Zealand. Canada sticks out like a sore thumb.

So our hands are tied. We have hired ex-RCMP officers, who still work for us day by day, and we're hiring ex-RCMP officers on the Internet. It's to try get the community to come in and help that—

**Ms. Bev Oda:** I understand that. I just want you to be aware that my time is limited here, and I have a number of areas I want to cover. And I totally agree with you that WIPO should have been ratified expeditiously. Hopefully it will happen very soon.

I just want to make sure that I understand the scope of this. I've read articles indicating that we're now reaching over \$3 billion U.S. as far as...and this is getting very near to the music industry impact. Can you tell me if there's any move in your industry to use some kind of technology here? The music industry has had to move forward, to move into such new systems as iTunes, etc. Is your industry working on anything like that?

**Mr. Douglas Frith:** I can partially answer you here: yes, we are. We're working with the manufacturers. I mean, the technology exists to be able to help fight the battle on piracy. Getting everybody to come to the table and agree to it is the difficult part.

That said, I think pricing is an issue that our industry is going to have to address. The music industry got out to lunch with the consumer, and their pricing was off. Now that they've lowered the

price, it's stabilized the music industry. There's no reason to believe our industry will be any different from music on an impact basis. I hope we learn from the experience with the music industry and get the pricing right. I think it will help.

• (0930)

**Ms. Bev Oda:** I would suggest that a key motivator in trying to act would be the cost of the impact on the industry.

**Ms. Susan Peacock:** One thing that's possible for rights owners—technology is not all bad news—is that it will facilitate just buying what you want. If you want to listen to the music once, watch the movie once, read the book once, you'll be able to pay a very low price for that. When I buy a book at the airport to read on the airplane, I'm paying \$15, and I really only want to read it once. But to facilitate that, you need technological protection measures and rights management information, all of which can be hacked. It's a lucrative business to be in the business of hacking. That's part of WIPO implementation, to protect those technologies.

**Ms. Bev Oda:** Quick question, short answer—but which one will it be? That's my problem here.

In terms of your suggestion that there would be greater support if there was not limitation on the support given here to non-Canadian distributors, you provide a very interesting chart. It would concern me that we seem to be going in opposite directions as far as support is concerned. The public support is increasing and yet the private support seems to be decreasing. You've suggested that foreign or non-Canadian distributors not be excluded, or not to eliminate projects, because of that qualification.

What assurances or what kind of information can you give us that if this qualification were changed, we would in fact see investment, or the ability to increase the support given to Canadian film, through the impact of changing that one qualifier?

**Ms. Susan Peacock:** Absolutely none. There would be business decisions film by film, with no suggestion that there's going to be a commitment for this many dollars or this many films, but we don't know what difference it could make. It costs nothing to try it and see what the result would be.

I don't think of it so much as doing something for non-Canadian distributors. I see it as doing something for Canadian producers by letting them have a broader choice, without penalizing them by taking away the government incentive accessibility.

**Ms. Bev Oda:** Wouldn't it give the distributors access to an area where they never had access or an ability prior to change that would support the Canadian distributing industry? Would it not have an impact on the Canadian distribution industry?

**Ms. Susan Peacock:** It would create competition for them, yes.

**Ms. Bev Oda:** It would be for the key projects.

**Ms. Susan Peacock:** It would be for whatever the individual company is going to find attractive.

**Mr. Douglas Frith:** Ms. Oda, you really have to query this. These companies that we represent are probably the best marketers and distributors in the world. They could probably do a better job. On *My Big Fat Greek Wedding*, if it wasn't for Tom Hanks, we wonder where it would be.

**Ms. Bev Oda:** Thank you.

**The Chair:** Thank you.

Mr. Kotto.

[*Translation*]

**Mr. Maka Kotto (Saint-Lambert, BQ):** Thank you, Madam Chair.

Good morning, Ms. Peacock. Good morning, Mr. Frith. Thank you for coming.

I'd like to carry the discussion into a somewhat different area, with a view to clarifying the objectives pursued by the companies that you represent. Are those objectives based essentially on a profit motive, or do they also reflect a concern for culture, since in terms of distribution, we are really talking about people? That's my first question.

• (0935)

[*English*]

**Ms. Susan Peacock:** Our organization is a trade association representing those seven major studios, and our objective is to provide a service to our members.

I suppose that we're here in part because Doug and I personally have an interest in these questions. Our members are not afraid of competition with respect to the production or distribution of film. There is really not much on the table for our members directly in this process that's going on, but if I understand your question, culture takes second place to commerce with respect to our members and our trade association.

[*Translation*]

**Mr. Maka Kotto:** I see. But I suppose you can still appreciate the cultural and identity issues involved.

I'm playing the devil's advocate here. I know that there is a lot of money involved in production and distribution. But I guess you can still appreciate the underlying cultural and identity issues, given that these two parameters form the collective psyche of every society.

For example, we know that Hollywood controls 96 per cent of the theatres. That leaves little room for authentically French Canadian films. Is this kind of concern often on the table or is it systematically ignored?

[*English*]

**Ms. Susan Peacock:** No, it's not.

But I would say that every single Canadian feature film certified by CAVCO or financed by Telefilm gets into Canadian theatres—every single one—especially in the last decade or so. One in a hundred American films gets into theatres. It's much more competitive there. Of the films that our members make, one in ten makes its money back from theatrical release in North America; four in ten make their money back from all forms of distribution throughout the world.

I think the image sometimes is that Canadian producers have a more difficult job because they are being squeezed out of the theatres. I don't think you hear so much of that recently from Canadian producers and distributors; I think they will acknowledge that every one of their films is getting time in Canadian theatres.

As a consumer, I would like to see more of these French Canadian films, which seem to be very popular in Quebec, being made available—perhaps with subtitles—in Toronto, where I go to the movies. I think that would be an interesting idea that might be a way to encourage the Canadian film industry, in light of the relatively great success of Quebec filmmakers.

[*Translation*]

**Mr. Maka Kotto:** I have two brief questions.

First, could you give us an idea of what the percentage of art films would be, as opposed to films meant to entertain?

Second, the Canadian feature film policy reflects many different important roles for the Canadian public, because there is a desire there to provide protection. However, there is little room within the distribution network. I know the word “protection” makes some people's hair stand on end, but in England, for example, the government is using public funds to invest in a new digital network.

Are you aware of that? And if so, what are your views? Is this an example Canada should consider following?

[*English*]

**Ms. Susan Peacock:** I'm not familiar enough with this English model to comment on it.

But I think there are many questions in your question. You started out by talking about independent films. Do you mean independent Canadian films?

• (0940)

[*Translation*]

**Mr. Maka Kotto:** Yes, I'm talking about highly personal films that are not necessarily meant to be entertainment, but aim instead to be thought-provoking or help people discover their “identity”, if you will.

[English]

**Ms. Susan Peacock:** Art films, perhaps?

[Translation]

**M. Maka Kotto:** Yes, I suppose so.

[English]

**Ms. Susan Peacock:** I think there's a market for them.

It was interesting to see in the Academy Award nominations this year that there was no big epic, apart from *The Passion of the Christ* perhaps, or more of what I call films about grown-ups, where a character and dialogue are important rather than special effects. These films with special effects and action films have a commercial business model that travels very well internationally. You don't have to be American or to speak English to appreciate or enjoy that kind of film, especially if you're a 21-year-old boy. Films with a lot of dialogue tend to be more culturally specific. There are exceptions. *My Big Fat Greek Wedding* was perhaps an excellent one; it was about a cultural minority, but spoke to all cultural minorities by talking about the universal truths of being part of a cultural minority—in that case, claiming it to be Chicago when in fact it was Toronto.

You asked whether the policy was perhaps too ambitious in Canada. I think it's not too ambitious. It's sometimes difficult to know what the benchmarks are; 5% of box office is not too ambitious. It's almost there.

I think sometimes it's contradictory. I think that film policy in Canada wants to be all things all of the time, and perhaps wants elitist views of high culture looking down their noses at something more popular. *Les Boys* is a wonderful example in French Canada; it's not high art, but it spoke to people and did better at the box office than *Titanic* in Quebec City.

**Mr. Douglas Frith:** If I could add, Madam Chair, when you look at the film industry—and Susan gave you the statistics—most of the films lose money in the theatrical window. There's no cookie cutter to this; if you knew what makes a successful film, you wouldn't have all these dogs, but you always have to start with a good script. If you don't have a good script, the movie isn't going to do anything. So you need a good script; then you need risk capital. Then you make the film, and you still don't know what you have until that product collides with an audience in the darkness of a theatre. That's when you determine whether or not you have a hit.

If I were the committee, the one area where I think we could do a lot more in Canada is developing the scriptwriting. We always look at directors, producers, and the financing of film. Not as much attention goes to fostering scriptwriting, and I think we have to start there. If you look at New Zealand and Australia, with a lot of their successful movies there's been a very determined effort on the part of both governments to really develop scriptwriters.

**Ms. Susan Peacock:** A few years ago we went with two senior officials from the Department of Canadian Heritage to Los Angeles. We had separate meetings with each of the studios and asked their advice. At that time there was going to be this extra \$50 million a year, and the question was how it should be spent in order to foster the Canadian film industry. Without any preparation of them by us, they all said to put it into script development.

**The Chair:** Mr. Angus and then Mr. Silva.

**Mr. Charlie Angus (Timmins—James Bay, NDP):** Thank you very much.

I was interested in your recommendations this morning. They were very muscular recommendations in terms of going after bootlegs of Tom Cruise and piracy, but I didn't really hear anything muscular in terms of supporting the Canadian film industry. To me this is the fundamental issue. I know there's the issue of piracy, but my concern is what we are doing to get our films into theatres. I'd like to concentrate on English Canada right now, because I think what's happening—and it's no detriment to the Quebec film industry—is we continue saying Quebec is very successful and overlook the fact that we're not getting Canadian films into theatres. I didn't hear any clear recommendations.

**Ms. Susan Peacock:** Mr. Angus, with the greatest respect, they're all in theatres.

● (0945)

**Mr. Charlie Angus:** Okay, yes. I heard that. You said every film is shown in a theatre. What about a percentage of how many of these are shown in more than 10 theatres?

**Ms. Susan Peacock:** I don't know the number of theatres. I wouldn't say every single one of them is in every single city, but every single one of them is in Vancouver, Montreal, and Toronto.

**Mr. Douglas Frith:** They have the film circuit now, developed by the Toronto International Film Festival Group, and it's in every small community across the country.

**Mr. Charlie Angus:** We're looking at recommendations for film. Clearly you would look to the federal government in terms of fighting video piracy and bootlegging, but would you support the federal government if we asked for, say, a 7% or 10% guarantee of advertising space in movie theatres for Canadian productions, and trailers on DVDs and so on, as a way of being able to get attention? Sure, Canadian movies are being made, but most Canadians don't know they're there. Would you think a recommendation like that would help build the DVD market?

**Ms. Susan Peacock:** I don't know whether it would be attractive to have a special marketing program for Canadian films. I know a few years ago one of the big video stores had a similar idea, and they devoted a section of the store to Canadian feature films. They didn't find it was particularly attractive. People aren't looking for a Canadian film, an American film, or an Italian film—they're looking for a good film.

I mean, there would be no harm; if your question is would we object to a higher profile for Canadian films, of course not.

**Mr. Charlie Angus:** I'm talking about in the trailers. I mean... definitely, if you go to Jumbo Film and you see a Canadian section, most Canadians will avoid it.

**Ms. Susan Peacock:** Why do you think that?

**Mr. Douglas Frith:** Why is that?

**Mr. Charlie Angus:** Because they don't know what's in a Canadian film. They're not seeing Canadian films. I go to Jumbo Video; Canadian films are in foreign films, actually. When I go to a movie theatre and see a trailer for a Canadian movie, I think I want to go to see that movie, because I've been seeing the advertising. Advertising... I mean, we're not talking about space in theatres for the actual film so much, but when Canadians see the advertisement of any trailer, they're going to pick up that film, so I'm wondering what you would think of a certain percentage of space on DVD trailers, video trailers, and movie theatre trailers for Canadian productions.

**Ms. Susan Peacock:** The trailer time on a DVD or a video cassette is used by the owner of the feature to promote the films of that distributor. I think that it might be controversial, not to mention difficult administratively, to organize it where you would say that to pick somebody who is not related to Alliance Releasing, you have to give this much space for a competitor's film and you have to advertise a competitor's film on the next release of a Miramax film.

**Mr. Charlie Angus:** To be released in Canada, do you think it would be problematic?

**Mr. Douglas Frith:** Madam Chair, it raises an issue, and this comes down to the British North America Act. The last time the committee looked at film review, we were looking at mandating a certain quota on screens. The reality is that distribution is the right of the provinces under the British North America Act. I remember mentioning that to the Minister of Heritage at the time. You can have a discussion on this issue until the cows come home, but you don't have the legal rights to be able to even mandate it.

But having said that—

**The Chair:** Would that be the right class?

**Mr. Charlie Angus:** Yes. Getting back to that, I don't have much time left, but I come from music. If this were 1970 and you were a radio producer, and I asked about Cancon, you would say, well, people love to hear little Canadian records when they buy them, but I think it would be really bad to push radio producers to have to actually mandate it.

We mandated it. We have a phenomenal recording industry and we have a phenomenal music industry that we export all over the world.

I would ask this. Could we not work together to do this for film in Canada?

**Mr. Douglas Frith:** I'm only saying, Madam Chair, that if you read the report that was drafted and given to the committee, when you look at how the majors are prohibited from assisting the Canadian film industry...and I think this comes out of a time warp of about 25 or 30 years ago. Everybody has matured since then. Alliance Atlantis is the largest single distributor of film in this country, and they're Canadian.

I think we really have to look at the whole issue of ownership, foreign ownership, and foreign participation. Nobody prohibited Warner Bros. or EMI from developing Canadian talent in the music industry, but you do it in movies...and I don't understand why. If there's a business case, we'll be there.

● (0950)

**Ms. Susan Peacock:** There are some good lessons from the music industry. If you compare the qualifications for Canadian content for music recordings to the requirements for film, it's very different.

I'm going to take an example of a film called *Four Weddings and a Funeral*. Most people who saw the film, based on how it looked, smelled, felt, and tasted, would say that it was an English movie. It wasn't an English movie to me. It was made with Dutch money by a company called Polygram.

But you're worried, and this goes back to Mr. Kotto's question earlier on worrying about culture. When a company is motivated by profit gain, it doesn't mean they're going to run roughshod over culture. It would be dumb to offer Canadians, Australians, or Japanese people something other than what they want.

I think a lesson can be taken from the music industry, and removing this barrier to more private funding in Canada is a good example of it. A lot of the success in the Canadian music industry was done through international record labels.

**Mr. Charlie Angus:** If we remove that barrier, would we be able to get—

**The Chair:** Mr. Angus, I'm sorry. Your time is up.

I would like to give Mr. Silva a chance, and we have another witnesses beginning at 10.

**Mr. Mario Silva (Davenport, Lib.):** Thank you very much.

I'm like all of us. Obviously we're interested in and concerned about the film industry and we want to develop the industry as much as possible. You mentioned that in the U.S. there were tax credits for cash up front. Is cash up front something that you're also asking the federal government to do? How does it work in the U.S.? I'm not clear.

**Mr. Douglas Frith:** Actually, there's one Canadian province that does it as well. Alberta doesn't have a tax credit, but they have a very healthy incentive for movie producers to locate in Alberta. They give cash up front, and it's called time value of money. Some jurisdictions do that in the U.S. as well.

When you had tax shelter financing, you didn't have to wait 18 months to get your money. That's what really made the Canadian industry boom.

I only want to make one comment. If it weren't for foreign production in this country, you wouldn't have the talent pool, which is why the federal government has been so supportive in making sure foreign production does locate here. We basically represent 55% of all the production in Canada; that's for film crews in Toronto, Vancouver, and Montreal. Without the incentives, we wouldn't have that kind of infrastructure. We do a lot in terms of developing that talent pool.

**Ms. Susan Peacock:** To give you an illustration, if a producer knows he is going to get  $x$  dollars ultimately from the credit but has to borrow the money in the meantime, he's going to calculate how much interest he's going to have to pay to the bank, and the net value of the credit is therefore less. If he could start getting it...we're not saying all up front, but a system of advances throughout the time of production when he needs it, then the government would be getting a bigger bang for their buck because the producer would have more money to spend on production and require less money to pay in financing fees.

One of the criticisms of the tax shelter program was that too much of the money was going to intermediaries and hangers-on. And not to characterize the banks in that way, but one reason for the tax credit is that it is supposed to put more money into the production budget, and if the payments came sooner and interest went down, it would have the same effect.

**Mr. Douglas Frith:** Mr. Silva, if I had a wish list, and I'm not sure of the finance department...because they have been consistent in terms of shutting down all tax shelter financing. But when they finally shut it down, I think in the year 2000, there were a lot of films caught at midnight on this ways and means motion, and we had to make sure that all of the films were left harmless.

If I had a dream list, I would have a hybrid program. I'd have 25% of a film production in a tax shelter with tightened up rules so there's no abuse, and you could limit the amount of money the middlemen would get—I'm talking about the accountants and the lawyers—and 75% would be tax credit. That would put Canada at the forefront in terms of an attractive place to put production.

That's if I had my dream. I'm not so sure Mr. Farber would share it.

● (0955)

**The Chair:** Would that still be necessary or even desirable if the tax credit were available as the money was spent?

**Mr. Douglas Frith:** It would certainly be very attractive, Madam Chair. The time value of money is huge, particularly for the foreign production community. It's true also of Canadian producers. They're as frustrated.

There has been improvement. I'm not suggesting as we sit here today that there has not been improvement in terms of the turnaround time, but it could be better.

**The Chair:** Thank you.

Mr. Silva, you have a couple of minutes left.

**Mr. Mario Silva:** Yes, Chairman, I wanted to speak on the last questions. Actually, I had a question about trailers, but Charlie actually asked that question, so I had to go on to my next other question, which was on scriptwriting.

You mentioned the need to foster this. How does that work? You mentioned New Zealand. How did they manage to develop that industry?

**Mr. Douglas Frith:** We have the embryo of it here. I'm on the board of directors of the Canadian Film Centre. That's Norm Jewison's school, really. It's known as the Norm Jewison school rather than the Canadian Film Centre, and we do have resident programs for scriptwriting. But it's one area, I know, being a board member, that we want to expand and we're going to a couple of levels of government.

At the moment the Canadian Film Centre raises 80% of its budget from private sources and only 20% from government. We've just finished a capital campaign, but that's an area where... You already have the genesis for scriptwriting, and there are equivalents in Quebec with INIS and then in western Canada with the screen institute. I would foster using some funds really from the federal government in terms of education and teaching.

But scriptwriting is an area in which I think we could emulate New Zealand. They put a lot of money into developing their scriptwriting.

**The Chair:** Mr. Silva, are you finished?

**Mr. Mario Silva:** I'm finished, but I'd like to have more time to ask more questions.

**The Chair:** I would like—and I've been very generous—to go to this side of the table and give Ms. Bulte a couple of minutes. She has something she really wants to ask.

**Hon. Sarmite Bulte (Parkdale—High Park, Lib.):** Thank you very much, Madam Chair. I apologize for coming in late, but I was at the Genies last night and I actually sat next to the lady, a big fan of both of yours, from Warner Brothers. We were speaking about the film study and she said something interesting, and I hope you can expand on it.

Whenever we talk about the film industry, we tend to talk about the fact that 95% of the theatres—and I'm sorry again if I'm asking you to repeat what you've already talked about—are controlled by your clients or foreign distributors. That's 95%, and you know we only control 5% of our theatres. And this is something I've seen in Canadian Heritage documentation over the years; it's one of the stats we always use.

She said something very interesting last night, that Warner Brothers cannot distribute Canadian films in Canada; they can only distribute them outside of Canada. Why is that?

**Mr. Douglas Frith:** It's the law. That's what we were saying in our brief, that this is a barrier we really should revisit. It stems from, I think, 30 years ago.

If you look at the distribution in the theatres now, it's over 50% Canadian owned. It's Gerry Schwartz; it's Cineplex Odeon. That's Canadian owned. I'm talking about the theatres. The theatres are now majority owned by a Canadian, Gerry Schwartz. As far as I understand, Paramount has put up for sale Famous Players, and I understand that the most interested party is a Canadian as well. So it goes beyond who owns the theatre; it's still a business decision as to how they locate.

Trust me, they're no more generous to American films than they are to Canadian. If an American film doesn't sell enough popcorn on the opening weekend, it's gone by the Tuesday of the following week. It doesn't matter whether it's Canadian, Dutch, German, or American. It's a business decision.

**Hon. Sarmite Bulte:** But, Mr. Frith, then help me with these figures that we're constantly quoting.

I always assumed, and obviously incorrectly.... I've never asked the question. It wasn't until last night that I was told that Warner Bros. cannot distribute our Canadian films. You say it's the law. Well, which particular law is it?

• (1000)

**Ms. Susan Peacock:** It's the law. It's policy at CAVCO. It's in the regulations—"regulations" may not be technically the right word—at CAVCO, and I believe Telefilm. I'm not certain about CTF, but I think so. It goes back to a time when, to be blunt, it was to protect Canadian distributors. It was cloaked in rhetoric that suggested that Canadian distributors, of course, would always be motivated first by patriotism and secondly by filthy lucre. That of course is not true. They're in business too.

The 95% is a number that has been making me crazy for about 20 years. First of all, the number floats. It floats from 3% to 5%, depending, and it's often given as the percentage of screen time. I think you said percentage of theatres, but it's a made-up number. Nobody is collecting that data. Nobody has ever collected that data. It's one of the founding myths that informs all discussion of Canadian film policy, and it keeps getting repeated. The Minister of

Heritage from time to time puts it in a speech, the *Globe and Mail* publishes it, the staff of the Minister of Heritage reads it in the *Globe and Mail*, puts it in a speech, and it just keeps going.

**Hon. Sarmite Bulte:** I know. I've had it in my speeches.

**Ms. Susan Peacock:** But for good statistics, the Motion Picture Theatre Associations, which you're going to hear from next, has been doing a wonderful job for the last couple of years—more than a couple—of providing reliable current annual statistics. By January you can get figures for the previous year. They'll slice and dice it at a reasonable price, any information you want to know. I think you said 95% of the theatres or screen time is controlled by our members. Have a look at the figures for Alliance Releasing. They are as big as the top three of our members in terms of number of films, box office—

**Mr. Douglas Frith:** In the mists of time, this has all changed, and Alliance Atlantis is doing exactly what the big, bad, ugly American studios do. They're vertically integrated, and they're there to make money—*quelle surprise!*

**Ms. Susan Peacock:** And they're distributing foreign films. They're not—

**Mr. Douglas Frith:** Most of their money is from our films.

**Ms. Susan Peacock:** —self-imposing a quota of Canadian films because it's the patriotic thing to do.

**Hon. Sarmite Bulte:** It came as an incredible revelation to me last night.

I have one other quick question. You spoke about the Canadian Film Centre, and I saw Tina VanderHeyden last night, who is the director of development. You were saying 20% of their moneys come from...is it federal programs?

**Mr. Douglas Frith:** No, but it's mainly federal.

**Hon. Sarmite Bulte:** Specifically which program would that be?

**Mr. Douglas Frith:** It's the national training program, but it's a tremendous school.

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

I'm kind of sitting here wondering, why does Flora MacDonald and the fact that I sat with her at a table last week keep running through my mind?

I want to thank you very much. I guess if we had more time I would ask you to put your thinking caps on and say, what would it take to get us from 5% to 10%?

**Mr. Douglas Frith:** On that distribution, and if we could leave you with just one thought, we seriously need this country to come up to speed on WIPO implementation. We're just sticking out like a sore thumb amongst the OECD or the developed countries.

**The Chair:** Thank you.

•(1005)

**Mr. Douglas Frith:** Thank you.

**The Chair:** We expect to have the minister's response to this committee's report within a week. That might tell you something.

Thank you both very much.

I now welcome the Motion Picture Theatre Associations of Canada. Adina Leboe is the executive director.

Thank you very much for being with us this morning. Our time is somewhat limited, as you can see, and we have a lot of questions.

**Ms. Adina Leboe (Executive Director, Motion Picture Theatre Associations of Canada):** *Bonjour à tout le monde.* Good morning, everybody, and thank you for hearing us this morning.

The Motion Picture Theatre Associations of Canada is the association that represents Canadian theatrical exhibition. This is the owners and operators of cinemas, including the national chains, Famous Players, Cineplex Galaxy, AMC; regional chains, including Landmark Cinemas of Canada in the west, Empire Theatres in the east, and Alliance Atlantis Cinemas; as well as regional circuits such as Ciné Enterprise, May Cinemas, Rainbow Cinemas and Magic Lantern Cinemas, Criterion, Harris Road, Ontario Theatres Inc.; and independent theatre owners such as Cinema Pine, Stinson Theatres, and many others.

We are the retailers of this industry. In economic terms the feature film industry consists of manufacturers, the producers, wholesalers, the distributors, and exhibitors. We are the sector that is closest to the paying customers and intimately familiar with the market realities of theatrical release and what customers are looking for and what they will buy or what they will not buy. We are not part of the government-subsidized sectors, and my members are not looking for subsidies. My members are businessmen and businesswomen and they see things with a view to economics. Otherwise my members would not continue to be in business and would not be able to help support Canadian film. We hope that this unique perspective and our insights will be of value to the committee as it fulfills its purpose.

We would like to start by saying that exhibition fully supports the government's initiatives to build an audience for Canadian films, to reach 5% of Canadian box offices by the end of 2006, and to continue this growth in succeeding years. We applaud the government's initiatives via Telefilm and other agencies to reward producers financially for making films that audiences want to see and will pay to see. Equally, we applaud the objectives of developing talented creators, improving the quality of Canadian films, and disseminating and preserving Canadian feature films.

We believe that audiences will be built if films are developed, produced, and marketed with an audience in mind.

Going forward, exhibition would like to encourage more emphasis on stories that will attract an audience. It all starts with great stories and writing, and one of the things we're looking at is widening the product line in English Canada. What this means is that eight to ten years ago, believe it or not, the Quebec film industry garnered only 1% of its home market, as the English do now. An opening of spirit, an opening towards the life, the values, and the times of the Quebec population then occurred. Scripts started being written reflecting life and cultural values of Quebec audiences, with films like *Les Boys 1*, *Les Boys 2*, and *Les Boys 3*, the stories about men getting up at 3 a. m. to play hockey with their friends, as this was the only time they could get rink time, and talk about their love and their lives. There were films like *Laura Cadieux*, a story about real everyday women meeting at the diet doctor every Friday morning and talking about their loves and lives. There was *Elvis Gratton*. More recently there has been *Séraphin*, from a favourite television series in Quebec in the late fifties; *La grande séduction*, a small town's unique comedic search for a new doctor; and *Camping sauvage*.

Quebec creators came into their own identity and found the pulse of their audience, creating all kinds of film products for different audience demographics. This is what we're talking about here. Family viewing is one audience demographic. The 18- to 25-year-old group who go to the cinema frequently, that's another; and the baby boomers, who are more art film oriented. They broadened the range of their film product. Not only were there film d'auteur genres, but as well, comedies, romantic comedies, science fiction, mysteries, thrillers, and period pieces were all created in this new aura.

By looking at our brief, you can see that Quebec films are now regularly taking 18% to 20% of their home market in 2003 and 2004. Because of this widened product line, which reflects the lives and the values, these products have become very attractive to the audience where they are created.

●(1010)

If you look at our brief, again you will see that this trend is just beginning to happen in English Canada as well. On page 5, you'll see the list of the top 10 and this kind of widening product genre. We're just at the beginning of it in English Canada. It's a trend that we would like to encourage and see more of.

The art film market, as one gentleman was saying, is a very small niche market, with 3% of the film-going population going to see art films. Broadening the market, opening it up, and having different products for different sectors is the way to get more people, more Canadians, involved in Canadian film.

On my second point, it all starts with great stories. As Doug and Susan said, script development is the R and D of the entire film-making process. We are not spending enough time and money on this part of the process. It is the backbone of our industry. A more thorough and rationalized approach and an emphasis on this particular part of the process are needed to achieve successes and weed out those scripts that are good ideas but do not translate well into film products designated for theatres.

Canadians have great stories and are unique storytellers. Stories are life. We read them in newspapers. We hear them from families and friends. We experience them in our day-to-day lives. All these sources provide fodder for the mill. Script development, rewrites, market research, and more market research are the keys to success in finding a market for a particular film product.

In the United States, for instance, over 500 films are produced yearly, while only 200 ever see their way to a theatre. Those that get to Canada number approximately 125 per year. It's the same thing with the drug companies, where not every drug created finds its way to a market. Our industry is not any different.

Another key issue we would like to emphasize here is marketing promotion, with advertising budgets of sufficient scale to effectively reach the target markets. It's no good to have a great product that nobody knows is there. It is necessary to understand that marketplace demand for a specific film is driven by the level of advertising, positive word-of-mouth, and the resulting positive awareness that the film has among the public before they make the decision to go to the theatre. It is not the ability to manufacture prints or put them on the screen that will ultimately determine the number of screens a film can be seen on.

The film experience today is a pre-marketed and pre-sold experience. People have chosen what they want to see before they arrive at the theatre. Individuals have many other alternatives, including other out-of-home activities. Instead of watching a film they can go to a concert, the theatre, a baseball game, or a basketball game. They can do lots of things at home, ranging from watching a movie on television, to playing games on their computers, to gardening or doing nothing at all. Consumers choose how they spend their time and also how they spend their money, based on what interests them.

People no longer leave their houses to get to the theatre and then choose what they want to see. While the decision to go to a movie may be planned or a last-minute decision, consumers choose what they're going to put their money down to see based on information,

awareness, and word of mouth. This was not always the case. In the forties before television, and in the early fifties, people's living rooms were the corner movie theatres. They left their houses after dinner to congregate at the theatres to see daily news and whatever was playing in terms of films and cartoons. Make no mistake, this is not the case today. If we act like it is, we do our industry a major disservice. Times have changed.

As we mentioned earlier, rewarding producers and creators who succeed in making and marketing films that find a paying audience is crucial to long-term success. We congratulate Telefilm and the Canadian Feature Film Fund for doing so. We would also like to see writers rewarded for writing films that succeed in finding audiences.

●(1015)

Creating initiatives, whether by tax credits or by other means, to incur an investment in Canadian films may also be worthwhile exploring. We are not in favour of abuses to the tax system; however, we do believe that tax mechanisms that encourage market-oriented behaviour to reward those who make films with an audience in mind and succeed in attracting paying audiences may be worth considering in the future.

As for the future, digital technologies will soon be transforming the film-going experience. The transition to digital technology at the theatre level on an economically viable basis will ultimately require compatibility of competing software programs, interoperability of competing equipment and software, and upgradeability of both equipment and software. Otherwise, an exhibitor might need different equipment and software to play each individual studio's product. This already happened in the change to digital audio in the 1990s, when exhibition and theatre owners had to buy three different audio systems in order to play the studios' different movies.

As you can well understand, with digital equipment running at \$125,000 U.S. per theatre, this is not a possibility. Everything has to work together, depending on the manufacturer and the system, in terms of software, interoperability, and things like that. Otherwise, exhibitors may find themselves in a position where every time there's a new development in technology, some of the expensive digital equipment already purchased will again become redundant.

Piracy also makes it clear that digital technology is a double-edged sword—and you heard Doug and Susan talk about it. Thanks to digital imaging and the Internet, piracy is rampant. Solving the piracy problem requires immediate changes to the Criminal Code of Canada and the Copyright Act to protect the rights of owners of intellectual property. This is essential to the economic health of the Canadian film industry and its creators. My office gets phone calls at least two or three times a week from Canadians who say, “You’re the only person I can phone. I’ve just been to a flea market, and I’ve seen my film. It’s being sold. They’ve taken it”.

It’s not happening just to the Americans; it’s happening to Canadian creators as well, and it’s syphoning money out of the Canadian industry as well.

Absence of such laws, hard laws, laws with teeth, making this a crime and making it illegal, results in economic harm. And this is also a major delay in the transition to digital cinema. They can’t control it now, and we’re still in film. We’re very reluctant to go forward and open a caveat that could be a Pandora’s box.

In ending, I would just like to add that you may be hearing about screen quotas and screen time for Canadian film in other presentations. Please see our brief for a more detailed explanation, but we would like to reiterate here that you cannot legislate people to go see a film. Consumers choose to see what they want to see and what interests them based on their awareness of different products in the marketplace at any one time.

Before closing, I would like to take this opportunity to extend to all of you an invitation to join the feature film industry at ShowCanada this year.

ShowCanada is the annual film industry convention. This year it will be April 27 and 28 in Halifax. This is an annual convention for exhibition, distribution, and production. The government agencies from both the federal and provincial levels are in attendance. It is a showcase for film product wanting to find a place in theatres as well as a *lieu* for discussion of industry issues, both in public and through closed-door settings. We hope that you will be able to join us and see the industry in action.

Thank you very much for hearing us today. I would like to answer any questions that you may have at this time.

• (1020)

**The Chair:** Thank you very much, Ms. Leboe.

We’ll start with Mr. Schellenberger.

**Mr. Gary Schellenberger (Perth—Wellington, CPC):** Thank you very much.

I have just one question. ShowCanada is going to be in Halifax. What date?

**Ms. Adina Leboe:** April 27 and 28. I’ve sent brochures to the headquarters of this committee. I can send them again.

We will be at the World Trade and Convention Centre. We’re at the Delta Halifax and the casino, and this is a regrouping. We’re about 600 strong, so you can see the industry in action. I know some of you are unfamiliar with it, but this is an opportunity to see the ongoing workings.

**Mr. Gary Schellenberger:** Thank you.

Again, it has been very obvious this morning that piracy is very prevalent. I must say that we just did some copyright stuff last session to try to alleviate some of the piracy and to try to bring our copyright in line with WIPO. I think we have definitely dragged our feet as a government. We signed the WIPO treaty in 1996 or 1997, and here we are in 2005 and we’ve still not ratified it. I think that’s shameful. As our chair has said, we’re expecting a report from the ministry on our report that we sent in. Hopefully it will be successful that way so that we can make some progress and can get WIPO ratified.

We talk about movies. Since television came in and since I’ve been very involved in sport, I have gotten away from going to movie theatres. My wife watches a lot of movies on television. I know it seems that every time I turn on a movie, it’s violent or some coroner is doing work, and I don’t like looking at that kind of stuff. I like humour shows and movies that have some good family value. Maybe some of the film we see is exciting. I wonder why we drive so fast. Some of the real thrillers show cars jumping over railroad tracks and going a hundred feet down the road.

I would hope there could be some more direction. I’d love to see some more comedy. I was an old Red Skelton fan as far as television was concerned. When I grew up, I grew up with Abbott and Costello and those kinds of things. I know I’m dating myself here, but those are what I look for.

On the movie industry, I know one thing. My office in Stratford, Ontario, is right across from the cinema. I think there are five screens there. They used to have two-dollar Tuesdays. Whenever they had two-dollar Tuesdays, you could never find a parking spot around the place. You can pretty well any other day, so I think pricing is very important.

Maybe I’m just making a couple of statements here this morning, but I know the one question I wanted to ask the previous witnesses was on tax shelters. I know the tax shelter system that we had before was abused, so I’m wondering if there is a way we can reintroduce something like those tax shelters, but with safeguards. We could do it this way to try to get more private money than public money into the projects, and this again would help producers.

What would you think of trying to reintroduce the tax shelters that used to be there in order to get some of that money more quickly, and what might some of the safeguards be?

•(1025)

**Ms. Adina Leboe:** I agree, the government can't do everything, because there is not enough money there. And the government shouldn't be doing everything. Canadian citizens who want to invest should be putting their money in different projects.

I know the CCA was abused, but with safeguards there is nothing wrong with making a *Meatballs*. There would have been nothing wrong with making *My Big Fat Greek Wedding*. That's a quintessential Canadian story. It's multicultural, with a girl from Manitoba. It is our story. We missed seeing it as our story. It grossed half a billion dollars. What could we have done with half a billion dollars in our pockets to fund Canadian film? We have to have another mechanism whereby we can funnel money into Canadian film, coming from successes in highly commercial Canadian films. So I agree with you.

I'm sure Doug wants to—

**Mr. Douglas Frith:** I just want to add that you're quite correct; this area of the tax shelter financing was abused, and to some extent the government had a good reason for shutting them down. A lot of the moneys went to the middlemen, the accountants and the lawyers. When you look at what your objective is, which is to have an industrial program, you'll see the tax credit is a better way; you get more bang for your dollar.

That being said, when we had the ways and means motion...and at midnight, Madam Chair. Do you know how this works? Nobody knows about it beforehand, but it caught every production, whether it had been green-lit, hadn't started principal photography, was in the middle of principal photography, or was in post-production; they all got caught at midnight. So we had to make sure every one of those different kinds of products was left unharmed, so we tightened up the rules and allowed all of those that were caught at midnight to finish with the tightened-up rules.

The tightened-up rules can come back. I would look at this hybrid where 25% would be tax shelter financing and 75% would be the tax credit. You solve the time value of money issue, you have the tightened-up rules, and you make sure the middleman is limited in the amount of money he can take. That would be a huge boon to both the Canadian production sector and foreign production in this country.

**The Chair:** Thank you.

Now we'll move on to Monsieur Lemay.

**Ms. Adina Leboe:** Can I just say one thing with respect to piracy? I know the CMPDA is working on copyright. For us at the theatre level it's more about the Canadian Criminal Code. In the theatre people come with equipment; it's not illegal. The only law we have—and it has no teeth—is trespass. In a certain spot an activity is illegal if there's a sign and a red circle. Then you have to say, sir, this is an illegal activity. Even at that point you can't take the camera; all you can do is usher them out. It's hard to get the police there. Without a law, something in the Criminal Code saying this is theft, we at the theatre level can't carry out the actions we have to.

As for getting the police to the theatre for copyright violation, it's laughable. They won't come. They won't come for fraud and they

won't come for copyright. We're busy, they say; we have other things to do.

Trespass is a weak law, but at least with the possibility of some violent action you get a little action out of the police. But it's not good enough, so for us it's the Criminal Code. We'd like to see a law passed against theft of audiovisual images, and it's not just us. In the future this is going to be prevalent for all holders of intellectual property.

•(1030)

[*Translation*]

**The Chair:** Thank you.

Mr. Lemay.

**Mr. Marc Lemay (Abitibi—Témiscamingue, BQ):** I have a few comments to make. I am still a lawyer in my free time, and I have gone to a theatre on many occasions. I am not so sure you would let me enter a movie theatre with a big bag of popcorn, a large Pepsi and a few chocolate bars. At the same time, you let someone enter your theatre when you know he is going to engage in piracy. I have a problem with that.

Although I'm a member of this Committee and agree with the need for legislation, I think you would admit that you do have control over what gets drunk and what gets sold in your theatres, and thus it's hard to believe that you cannot stop someone who comes to your theatre to steal.

**Ms. Adina Leboe:** We don't see it. This equipment is very small nowadays. It can be hidden in a car in a lot. They don't use large videocams that are visible. If we see someone with one of those, we tell him they are not allowed, but these are very small pieces of equipment about the size of a cell phone. So, we are not aware when people come into our theatres with these devices.

**Mr. Marc Lemay:** We can make a recommendation regarding the Criminal Code. That is important, indeed essential.

I have been listening to the discussion for the past hour and a half, and I have some questions. First of all, is it your sense, as it is mine, that English Canada is still finding its way in the film industry, whereas French Canada or Quebec—because it's Quebec I'm interested in—has already done that? Why is it that English Canada is still finding its way, when in fact it has everything it needs to succeed?

If the story or script is no good, the film will be a dud, whether Julia Roberts, Tom Hanks or anyone else has the lead role. So my second question is: why isn't an association like yours, as well as the other ones we met with previously, applying pressure to ensure that the creation of a screenwriting school is deemed a priority? It is urgently needed in English Canada. In Quebec, as well as France, Italy and many other parts of the world, they already have screenwriting schools.

Third, what kind of relationship, if any, exists between distributors and theatre owners? Let me give you a very specific example. The film *Mémoires affectives* only played for a week because it did not achieve a specific sales target. But I don't need to tell you that since last evening—indeed, for several weeks now in Quebec—it has been coming back into the theatres. Wouldn't it be possible to assess the situation and keep that type of film in the theatres a little longer, to leave time for some promotion? I'm asking you this question because I have no answer.

**Ms. Adina Leboe:** The answer to your first question is yes, but it took Quebec some time to find its way. Ten years ago, Quebec was no further ahead than English Canada is now. It was a long process, but because Quebec has a different language and culture, it filters its consumption of American culture. Quebecers maintain a certain distance from American culture and see themselves more clearly. That's the reason why Quebec was able to do this first. It's also important to remember that Quebecers found a way to develop scripts for their own audience. They were not only producing art films; they were also producing films for the family, for 18- to 25-year olds, and they began to write for the entire market and the entire audience, as opposed to a small market segment representing only 3 per cent of the population.

English Canada is now trying to catch up, and if you look at page 5 of my brief, you will see the list of the top 10 films in the English-language market. So, this is starting to happen. English Canadians are on the right track, and if Telefilm Canada and the government maintain their current policy, 10 years from now, they will be just as successful. It's important to understand that they have to develop products for all of their audiences, and not just for moviegoers who like art films, for example. That was the approach in the past, but now we have to broaden our vision to develop other ideas and the scripts to go along with them.

To answer your second question, I would say that we do not have enough schools teaching people how to write good scripts. We do have schools where the emphasis is on art films, but there is a whole other type of script that is needed, as well as specific techniques and writers out there who write for television, as opposed to developing scripts for art films. The Writers Guild will tell you the same thing. We have to teach the next generation not to limit itself to art films, because there are all sorts of other acceptable, and even necessary products, that need to be made for the film market.

•(1035)

**Mr. Marc Lemay:** My third question had to do with the relationship between distributors and...

**Ms. Adina Leboe:** We work very closely with distributors. You will hear some of my colleagues talk about that.

[English]

My colleagues and my members will be presenting in Toronto. You are going to have the opportunity to hear Cineplex Galaxie. You're going to hear Famous Players. In the east you're going to hear Empire and in the west you're going to hear Landmark. These are all Canadian-owned chains. In Quebec you're going to hear the Quebec association. We work very closely with distribution.

It probably came back on the screen because of the increased publicity. Again, going to the movies is a pre-made decision. The

more awareness you have before the act, the more attendance you're going to generate coming to the screen. If not enough money has been put in up front, then any kind of publicity will serve. If the Genies and the newspapers and the television and all the preamble and promotion that goes with something like that raises the awareness, it goes back into the theatre and has a built-in audience that it didn't have before.

[Translation]

**Mr. Marc Lemay:** On page 13 of your brief, you make reference to a March 20, 1998 submission. Could we get a copy of that?

**Ms. Adina Leboe:** Yes, certainly. That was with respect to the first film industry policy. I believe the submissions of all the associations and all the participants are available.

**Mr. Marc Lemay:** Could we have that sent to us? It would be useful for the purposes of our current study.

**Ms. Adina Leboe:** Yes, absolutely. No problem.

**Mr. Marc Lemay:** Thank you.

[English]

**The Chair:** Mr. Simms.

**Mr. Scott Simms (Bonavista—Gander—Grand Falls—Windsor, Lib.):** Thank you, Ms. Leboe. This is very good, very informative.

I want to go back to questions that were asked of the earlier guests. That concerns movie trailers and that sort of thing. I take my 10-year-old son to movies quite often. The only time I really go is when I take him. I find that the biggest selling point for him are these trailers, these sneak previews. If you have, say, on average, six or seven trailers, and a mandatory one or two are Canadian, I think that would go a long way, granted that the script and the story is a good one, because obviously that creates the buzz around it and it gets people in to buy the popcorn and what not to support it.

How do you feel about that? How do you feel about the marketing on scene, within the theatre? The marketing campaign within the theatre itself is massive compared to what it used to be. I'm not a big fan of labelling something as Canadian. If I go to a movie store and I see the Canadian section, I find it ineffective. I want to be entertained for my \$5. I don't really want to be patriotic at that point—no offence—but I do want to see a good story. I do want to see *Les Boys*. I was always of the opinion that movies based on our standing around either with a Labatt's Blue and a toque and playing hockey was going to sell, when it doesn't. But sometimes it does, and *Les Boys* proved that.

But I guess going back to my original point, would it be mandatory to feature a movie like *Les Boys* as sneak previews in English theatre?

•(1040)

**Ms. Adina Leboe:** Let's put it this way: you don't have to be mandatory about it. This comes back to the marketing and promotion. Most trailers that are made for Canadian films do find a home.

But they're not made; they're not made, because the distributors have not put in sufficient money to do it.

One of the first things the Americans do is get the trailer out. Marketing funds and promotion have not been a priority in Canadian filmmaking. Getting the film finished and getting the film done has been a priority. Marketing, promotion, and awareness have always taken a secondary place—if there's time, if there's money.

Part of the challenge is getting trailers made to be put in the cinema. This is not something that is legislated. Famous Players did a trailer for *Red Green* with its booker, Michael Kennedy, who's an actor-comedian himself, and it was put on.

These don't exist. These materials do not exist, because the emphasis has not traditionally been put on marketing, advertising, and promotion. With the big companies like Alliance Atlantis it is, but when you get down the chain...

A lot of the Quebec industry understands now and has taken a look at the successes of Alliance Atlantis and the Americans and said, okay, we understand it, we get it. Do you know what I mean? For instance, *Daniel and the Superdogs* had a trailer out. It premiered at ShowCanada last year. Smart! It's how to get the word out, how to get it promoted, how to get awareness out, where to put your money.

As for Canadian movie theatre owners, as you go around the country you're going to hear from them what they do. You're going to be surprised to hear what trailers are out. You're also going to be surprised to hear that the materials don't exist. They're not there for us to help them. For instance, you always have to have on a shoot a press person to take publicity stills. You have to have it. If you have no stills, then you can't get front coverage. The number of Canadian films that... When you talk with the press people, they say, "We would have given them the front page of *Star Week*, but there was no picture".

It was hundreds of thousands of dollars worth of promotion and publicity that was missing, because there wasn't enough emphasis or money put on advertising and promotion and the marketing of this script, which has to start way back at the same time as you're doing the script. It starts at home. It starts when you're shooting. That's when you start building through extras, when you are in a certain place when people have ownership of it. You need the press. It has to be built.

They could have put out *My Big Fat Greek Wedding* in major cities. They chose not to. It went out Greek community by Greek community for two years in North America. These are strategic marketing and distribution decisions that must be made, and they will guarantee a success or a failure of awareness in the market.

•(1045)

**Mr. Scott Simms:** If they were available, then obviously your association would have no problem in looking at—

**Ms. Adina Leboe:** If they were available and they were cut with impact and they were following the marketing, my theatres—and you'll hear about it—would put all kinds of trailers on.

**Mr. Scott Simms:** Regulations, as Mr. Silva and Mr. Angus—

**Ms. Adina Leboe:** Regulations are not necessary. My God, we have so many screens. We need bums in chairs. There's room for all good product that attracts an audience.

**Mr. Scott Simms:** In the time remaining, I'd like to pass it to Mr. Smith.

**The Chair:** Okay, and that's about two minutes.

**Mr. David Smith (Pontiac, Lib.):** Two minutes, that's perfect.

I regularly go to the theatre with my wife and children. We regularly rent videos and DVDs. When we're sitting at home we see Tim Horton announcements, Subway, things like that. When I speak about the promotional side of a film, something that I believe is very important...and I'm not an individual for putting in rules and regulations. When I go to the theatre, the first five minutes that I sit there tell me which film I'm going to see the next time. It's not very hard. I see all the previews. After that I decide, okay, that's a film I want to see. So that first five or ten minutes of sales there—and it is sales; it's a sales pitch, but they may also be showing me Toyotas, one car or another. But as an organization, don't you believe we could maybe encourage people more?

We see a lot of French films, Quebec productions, because we believe they're interesting, and there are some nice stories. Sometimes it's just my wife and I going; sometimes we go with the children.

Don't you believe we could maybe structure it and encourage people who do develop these films, give them the opportunity to pass on their message within that timeframe?

**Ms. Adina Leboe:** I think if the trailers are made, they're played. We're getting ready for ShowCanada now. We're going to all the Canadian distributors to try to get upcoming snippets and snippets of film, because all the exhibitors are going to be there and they're going to be looking. It's hard. The distributors don't normally do this. This is not the business practice. What you're talking about is better business practices.

As a distributor, you're coming to a convention where all the exhibitors are going to be, and you're putting your best foot forward. We want to see your films. We want to see your shots. We want to see the trailers. It's coming together now, but it's not a usual first step here.

It's a usual first step in the United States, in a country whose film industry has more emphasis on marketing, advertising, and promotion. Even before they get editing, they take shots out and make that trailer to get it out as soon as possible. It seems sometimes in Canada as if they say, if there's money left over, then we'll get there.

There is marketing money available through Telefilm, and the distributors do make use of it. Doug Frith was talking about the Toronto International Film Festival's Film Circuit. The distributors are short on staff, too. These are not big companies with lots of financial backing. So a film goes in and out of the theatres, and then they work on the successive windows.

The Canadian film product then falls to the Film Circuit, which has the time to take it through, across Canada to small communities where there is demand, where people want to see the art film and want to see the Canadian films. This is like a secondary distribution arm that has been created here in Canada. It's doing a wonderful job of taking our films out to the rest of the country, not just the major cities. More of this should be encouraged and supported.

• (1050)

**The Chair:** Thank you very much, Ms. Leboe. You were asked by Monsieur Lemay for some additional information; I wonder if you could provide it to the clerk so it can be distributed to all of us.

**Ms. Adina Leboe:** Absolutely. Thank you.

**The Chair:** We have about five or six minutes for a little bit of business.

As Ms. Oda isn't here, we will wait to deal with the Auditor General's motion on Thursday, if that's all right with everybody. Our two witnesses on Thursday are ACTRA and the Canadian Conference of the Arts.

Just quickly, our clerk has brought to my attention that when we are in Montreal in a few weeks, there will be a major conference on film that focuses a lot on some of the new technology, which we'll also be seeing through the assistance of the National Film Board.

I would like to distribute this material to you. Have a look at whether we would like to have some of our time in Montreal spent... It's a few weeks away, so we do have time to reorganize that. But it certainly does look like some of those sessions would be well worthwhile for us to be at, as well as for making contacts with the people directly involved with some of these issues. I'll have that distributed to you, and we can talk about it on Thursday perhaps.

Do we wish to study the reappointment of Mr. Rabinovitch? No. We shall inform those who need to know.

Unless anybody has any other business, I will see you all on Thursday. Thank you.

I adjourn the meeting.

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