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## Standing Committee on Canadian Heritage

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EVIDENCE

**Tuesday, February 27, 2007**

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**Chair**

**Mr. Gary Schellenberger**

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• (0905)

[English]

**The Chair (Mr. Gary Schellenberger (Perth—Wellington, CPC)):** Good morning, everyone. I call this meeting to order. This is the 38th meeting—we're almost getting up to 40—of the Standing Committee on Canadian Heritage. This morning, pursuant to Standing Order 108(2), we are continuing the study on the future of the Canadian Television Fund, with consideration of the draft report.

I think everyone has probably perused the report, and that's about all I have done so far. When our task was set to look into the Canadian Television Fund, it was the problem that Shaw and Vidéotron had stopped their monthly payments. That being resolved, I think we may want to make sure that something like it doesn't happen again.

I'm open to suggestions on how we should go about this. Mr. Angus has, just previously, given me a few things here. I know our experts have given it a quick going-over. We have one recommendation here, and I see Mr. Angus has quite a number of recommendations.

**Mr. Charlie Angus (Timmins—James Bay, NDP):** I stay up all night thinking about these things.

**The Chair:** There you are.

We can go into some of these as we go through this. I think the preamble, or the first part of this, is just an account of the witnesses who were here and some of their statements, to give us a background on where we are coming from.

Does anyone have any problem with the preamble as we have it?

Yes, Mr. Kotto.

[Translation]

**Mr. Maka Kotto (Saint-Lambert, BQ):** My comment may not seem particularly relevant to some. However, as I read it, I really had the feeling I was reading a report from the Minister, rather than a Committee report. Indeed, despite some criticism here and there, there is no mention of the inertia and hesitation that has characterized her approach to this issue. At the same time, mention is made of actions she took that led to a situational and fragile resolution to this problem. That is the only criticism I would make in that regard.

I have looked at Mr. Angus's proposal. I believe my position is closer to what is expressed in this proposal. Indeed, if we are going to talk about what the Minister did in relation to this issue, I think it is only fair to talk about what the Opposition did. Without pressure

from the Opposition in the House and Mr. Angus's motion, I very much doubt that a positive outcome would have emerged so quickly.

Thank you.

• (0910)

[English]

**The Chair:** Just to explain one thing—again I relate back to the preamble here, or the first part of our report—I'm not taking any position on the minister, other than that the minister was here as a witness and the statements that are in the report were made at this committee. Had the minister not been here as a witness and these particular statements had been made, then it might reflect that. But I would suggest that what we have here is a report of what went on at our committee meetings, some of the questions that were asked, some of the statements that were made. But I will take that into account.

Mr. Abbott.

**Mr. Jim Abbott (Kootenay—Columbia, CPC):** I know Mr. Kotto has no intention of making this any more political a report than it obviously will be.

I would point out that some of the praise the minister had from the witnesses is also absent from the report, so it's a tit-for-tat kind of idea. I suggest that the approach, as you said, Mr. Chair, is to reflect on the testimony and the sequence of events that occurred.

Obviously I'm unaware of all the things that were happening in the background, although certainly I was aware of some that would counterbalance what Mr. Kotto is saying. But I don't see any value in getting into that. I think the approach of this report, which is reflective of the testimony at the committee and the public events in a chronological order, is probably a preferable way to go rather than getting down into the nitty-gritty that Mr. Kotto is suggesting.

**The Chair:** Mr. Scott.

**Hon. Andy Scott (Fredericton, Lib.):** By way of process, perhaps it's difficult to judge the narrative absent the possibility that there could be more recommendations. I, for one, am supportive of Mr. Angus' recommendations. Therefore, the narrative might be tweaked to make the recommendations fit. I think we might want to test the support for the recommendations first. The debate around the narrative might be redundant if we all support those recommendations.

Secondly, Mr. Chair, there are a number of footnote references in the narrative. I would suggest that perhaps the documents associated with those footnotes might be an appendix to the report, for ease of reference and to put quotes in context and so on.

**The Chair:** Mr. Angus.

**Mr. Charlie Angus:** Thank you.

The narrative I thought spoke well in terms of the various issues we heard. I didn't feel it covered where we go from here, and perhaps it was not the role of the clerk to take us in that direction.

I'm sorry I didn't get it to everyone sooner, but I spent much of the weekend going over the evidence. That's why I've come forward with eight recommendations, which I would suggest is a way of moving us forward from what we've heard to amalgamating them into the report—parts or the whole thing, depending on the will of the committee.

• (0915)

**The Chair:** Mr. Fast.

**Mr. Ed Fast (Abbotsford, CPC):** Mr. Chair, I find myself in a very difficult position. We have eight recommendations here, some of which are fairly comprehensive. It would have been nice to have them ahead of time. This allows us no opportunity to discuss that amongst ourselves, as caucus. There is no opportunity to discuss these with the minister or even to place them in the context of the report itself. We could spend this whole meeting debating these recommendations. The report itself has one recommendation, which is very easy for us to take a position on because we've had a chance to review it.

This is pretty comprehensive. I'm not sure we're going to be in a position to vote on this today, quite frankly. And maybe that's not the intention.

**The Chair:** Ms. Bourgeois.

[*Translation*]

**Ms. Diane Bourgeois (Terrebonne—Blainville, BQ):** Mr. Chairman, I simply want to suggest a change.

In my opinion, the report is well written and appropriately covers the events that occurred. However, on page 2, in the paragraph dealing with recent developments, it says:

In a letter sent to the CTF on December 20, 2006, Jim Shaw, CEO of Shaw Communications, called for major changes to the CTF's mandate and governance structure.

Then, a little further on, it says:

The company announced that it was withdrawing its financial support.

I would prefer that we say: "At the same time, the company announced that it was withdrawing its financial support", or "On that occasion, the company announced that it was withdrawing its financial support." It seems to me that without those link words, the sentence does not flow well.

[*English*]

**The Chair:** Mr. Angus, and then we'll go to Mr. Abbott.

**Mr. Charlie Angus:** I understand Mr. Fast's comments. My concern is that I didn't get the report until Friday afternoon. None of us have been in a position to give each other much lead time. We

spent the weekend going over it and getting recommendations because we had to be here for Tuesday. Between Friday afternoon at 3:30, when I saw it, and Monday, when we started to finalize the report, we were all in a position where it was a little more difficult than it would have been had we had a fair amount of time.

But I would suggest that the one way through this that's fairly straightforward is that we go recommendation by recommendation. My understanding was that we were going to be looking at the report and voting on its recommendations. We can discuss it recommendation by recommendation or we can look at it in the whole; it doesn't matter to me. I think we're all well enough aware of the evidence to be able to make informed decisions.

**The Chair:** Mr. Abbott.

**Mr. Jim Abbott:** I believe it comes down to a question that we should be determining as a committee right from the beginning. The existing situation where we are, as of this minute today, is that we have gone through a crisis that was created in no small part by the withdrawal of the funding by Shaw, then by Vidéotron, their deciding to reverse their position. The issue is now before the CRTC, who effectively have taken the reins of control out of the hands of the CTF. I think Commissioner von Finckenstein certainly gave me a lot of confidence that he's going to be able to make this happen.

Now, we ask the question, what is the purpose of this report? If the purpose of our report to the House is to say this is what we did and this is where it was, then the report as drafted does that. If the purpose of this committee, and it's a perfectly valid choice on the part of the opposition.... If the choice of the opposition is to get into these recommendations and create an extra element for consideration of the public at large and for the consideration of Mr. von Finckenstein and the CRTC, then that's it.

The fact of the matter is to crank it up a notch and to put these recommendations, should they pass, with the wisdom of the collective committee.... Certainly most of them I would be very strongly opposed to, but nonetheless, should they pass, then we've created another point of conflict. It strikes me that we don't need another point of conflict for the CTF and for the producers in Canada. What we need for them is some kind of security of knowing that they have the CRTC with the CTF issues under control so they can go ahead and start producing their shows rather than our creating an extra point of conflict.

I say quite bluntly, that's exactly what these recommendations, should they be included in this report, will do.

• (0920)

**The Chair:** Mr. Scott.

**Hon. Andy Scott:** That's a valid point, but I don't agree. I think it's our job to learn lessons and make recommendations around those lessons learned.

The reality is that this has been a painful experience for a whole bunch of people. I would argue the industry.... There's a lot of responsibility. There are some good things that have happened that need to be identified. I think it's important, from my perspective as a member of the committee, to support the good work that has been done by the Canadian Television Fund. That's reflected here. I don't find it strongly enough reflected in the narrative in terms of the people who have appeared.

I think there are lessons learned. We heard witnesses from across the country. I think we owe it to them not to take the position that somehow for us to exercise our right as parliamentarians runs the risk of adding fuel to the fire. I think that's unlikely. Quite the contrary, I think we should inform the debate—the public, the government, our committee—of what we've heard. Otherwise, they've come here for a lot of time and given us a lot of advice that we simply have not acted on.

This is not a criticism of the report. I think the report basically does frame the discussion appropriately. Now, as parliamentarians, I think we need to offer advice. This is advice that I support.

**The Chair:** Mr. Kotto.

[Translation]

**Mr. Maka Kotto:** I simply want to support what Mr. Scott has just suggested. I am in full agreement with that.

[English]

**The Chair:** Mr. Angus, we have Ms. Fry first.

**Hon. Hedy Fry (Vancouver Centre, Lib.):** There are some things about the narrative that make me agree with everyone else that it's not strong enough. What we have in terms of the one recommendation in the report is that it's really just a band-aid.

It says that we urge the CRTC to amend the Broadcasting Act to stipulate that they must make monthly.... That doesn't stop Vidéotron and Shaw from going against the regulations again if they choose. Then we're back to square one, we're constantly sort of arguing, and calling them frauds, etc. We need to look at how something becomes sustainable in terms of the fund and deal with it once and for all. I think that to fix it for a temporary period of time until the next crisis really has us reacting to crisis after crisis. That isn't strong enough in the one recommendation.

The second thing I believe is this. I tend to agree in principle with a lot of the things Mr. Angus said, but I have this ongoing concern about the CRTC, which has set up a task force to also look at the Cable Television Fund. I am very disturbed that they're not holding public hearings.

**Hon. Maria Minna (Beaches—East York, Lib.):** That's right.

**Hon. Hedy Fry:** The bottom line is that courts hold public hearings. The CRTC is not a court; it's a quasi-judicial body, so it isn't even a judicial body. The argument that there are people who may not want to testify because of conflicts, whistle-blowing, or whatever, is a valid one. There are ways to deal with that; there always have been. But if we get a report coming out of hearings, and no one knows what went on in those hearings, that report could reflect whatever the report chooses to reflect and not what that group heard.

I think we should—and we have the power in this committee—require them to hold public hearings. I have a recommendation to that extent that is a little stronger than the last recommendation, which Mr. Angus made, requiring that they hold public hearings, and at their discretion, when necessary, they can have in camera hearings on special occasions to facilitate special witnesses.

We need to be able to talk about this in public. We need to be able to know what witnesses were called, what the witnesses said, and whether the report reflects what was heard. We can't have quiet hearings. In this day and age, it's not even accountable.

So I would like to be stronger than what this report has basically said.

• (0925)

**The Chair:** Mr. Angus.

**Mr. Charlie Angus:** As a clarification, the recommendations coming forth now are not an afterthought or an attempt to take over Mr. von Finckenstein's work. For the record, we were the first point of contact on this issue. It was the heritage committee that stepped in, called for witnesses, said that we would study this, and issued a report. This is something that we must complete.

Part of issuing a report is coming forward with recommendations, regardless of whether Mr. von Finckenstein has his own process in place. I don't believe you can usurp the work that we began here, because people are looking to us to come forward with clear recommendations.

What I suggest is that we seem to have a general sense of the narrative, and the question is on the recommendations. Should we vote to go forward and look at the recommendations, yes or no? If we vote to go forward with the recommendations, we can start to go through them point by point and find out whether or not there's agreement or changes. Perhaps that's a better way to spend the other hour and a half of our time this morning.

**The Chair:** Thank you.

Mr. Fast, and then Mr. Kotto.

**Mr. Ed Fast:** I have two points, Mr. Chair.

First of all, to address Ms. Fry's point, she refers to the fact that judicial proceedings typically are in public, and that's true. In fact, the reason they're in public is that judicial proceedings are perhaps the most penal in nature, usually, and in fact the higher you go in terms of something being of a quasi-judicial or strictly judicial process, you're going to make that public.

But I remind her that even within judicial processes there is such a thing as a *voir dire*, which is closed to the public, which is done privately. And the lower on the scale you go, right down to a task force, it's less serious in the sense that because the decisions aren't of a penal nature typically, you wouldn't require that it necessarily be a public hearing.

Let me finish. You had your say.

I'm suggesting to you that the task force that Mr. von Finckenstein is going to be undertaking is something where he can informally discuss the concerns of the industry, including those of Quebecor and Shaw, to determine what the real issues are here. We never had an opportunity at this table to actually go into the underlying issues and the details of those issues that were causing Shaw and Quebecor to take the action they did.

My suggestion is this. We already have a commitment from Mr. von Finckenstein to undertake a review by way of a task force where there are going to be broad consultations within the industry. He's committed that he will be making that report public and will submit that to this committee, so we will have an opportunity to have additional information upon which to make recommendations.

The process we've completed has simply addressed a crisis of funding that took place—which has resolved itself, at least on a temporary basis. But at the same time, the reasons that gave rise to that problem of funding haven't been dealt with exhaustively at this table, and presumably that's the whole purpose of Mr. von Finckenstein's task force.

I find it amazing that we would even suggest moving forward with far-reaching recommendations when we don't have that basic information available. Why would we not wait until Mr. von Finckenstein reports? That is the appropriate process. If the intention of this whole process that we've completed was to make recommendations as to the various issues underlying the funding crisis, then we would have had to have a much broader consultation. We would have had to spend much more time on the issue.

Again, I go back. The task force is charged with doing that. I'm absolutely confident that Mr. von Finckenstein is going to come forward with a task force report that's going to provide us with the kind of information, statistics, data that we require to make recommendations that are actually going to be effective.

I've just had a quick look at the various recommendations Mr. Angus has made, and I'm looking forward to receiving those from the other opposition parties, but it's highly unlikely that the government side is going to support most of these, simply because they're of a political nature. They're highly charged. They appear to make recommendations in the absence of supporting evidence. So that's my concern.

I want to make sure that if we're going to make recommendations as a committee, those recommendations are based on fact, that they're based on solid data, that they're actually going to move the industry forward, that they will inform the minister appropriately.

• (0930)

First of all, I have an opportunity here. I'm not going to vote against it just for the sake of voting against it. I want to justify why I

believe the process that's being suggested here is inappropriate. We'll have a chance to debate the recommendations, I'm sure, given the fact that the government is a minority at this table. But at the same time, if we believe that the purpose of this committee is to be constructive, to move forward in a constructive manner, to work collaboratively, I'm not sure we're equipped yet to make the kinds of recommendations that I see Mr. Angus bringing forward here.

**The Chair:** Thank you.

I'm going to take about three more responses here, because we're in debate right now and we're going nowhere. We will then take a vote on Mr. Angus's motions.

One thing that I, as the chair, have noticed throughout the consultations is that we haven't had all the parties that contribute to the Canadian Television Fund before us. Are we going to make those same mistakes that have been made before? We haven't had any satellite people here as witnesses. Have we had a full contingent of witnesses? I'd just put that to people's minds, just to think. It's as the cable people said when they were here. There were a lot of recommendations made ten years ago or so, and they weren't even at the table. So are we going to do that same thing again? Let's just think a bit about that.

Mr. Kotto.

[*Translation*]

**Mr. Maka Kotto:** I understand what you are saying, Mr. Chairman, but I do want to clarify a couple of things.

Mr. Abbott was critical of the fact that this issue is being politicized. But I would remind people that we are not the ones who politicized things here in committee. However, I do not intend to impute motives; we'll have plenty of time outside these walls to elaborate on matters.

Also, I think that, as members of this Committee, we should be taking a holistic approach to all the issues we examine. In that sense, you were right to mention that we have not heard from all the industry players. I should also point out that since March 1, 2006, Telefilm Canada has been in charge of managing applications to the Canadian Television Fund, although we have not had them appear before the Committee.

That brings me back to what Ms. Fry said about public hearings. Because it is removed from politics, the CRTC may feel it has every right to hold hearings behind closed doors. However, if Telefilm were to take part, given that it is responsible for processing applications, it would be more inclined to be accountable to us, or ensure the exercise is somewhat more transparent.

I, too, am having a lot of trouble understanding why this work has to be carried out behind closed doors. We have been following this issue very closely and we know that all the details with respect to Shaw's and Videotron's actions are public. Those details have already come out. So, what is going to be resolved in private meetings? Unless the idea is to develop a new configuration or paradigm for the Canadian Television Fund.

In that regard, my concern is that we will lose control and that when this exercise is over and done with, we won't know much more than we did before. So, I share Ms. Fry's concerns in that respect.

Thank you.

• (0935)

[English]

**The Chair:** Ms. Bourgeois.

[Translation]

**Ms. Diane Bourgeois:** Thank you, Mr. Chairman.

To come back to what I was saying earlier, the report is well prepared in terms of format, because it has an introduction, a development, a conclusion, and the correct terms have been used. But that doesn't mean that I necessarily agree with the substance. I believe the CRTC's decision to set up a task force that will be meeting with witnesses behind closed doors upstages us as a Committee.

We mustn't forget that Mr. Shaw came before this Committee and said that when he sat down over there, he has already received assurances that his comments had been heard. He went back to making his annual payments. He considered the idea of continuing to pay because he had received assurances that things would change. Those were his own words. That means that Mr. Finckenstein had already met with him, as he told us, and that there may have been an agreement between Shaw Communications and the CRTC.

Personally, I am very embarrassed at the idea of holding meetings behind closed doors. I actually came back to that point when I questioned Mr. Finckenstein, saying that I felt uncomfortable with the idea of these private meetings. If the Committee had held hearings, they would have been public. If only for that reason, we should continue to hear from witnesses and discuss this issue.

Finally, I received Mr. Angus's recommendations this morning. I have not read them. It isn't his fault, but they had to be translated. However, I do think that we should come back to the recommendations later, so that we have an opportunity to read them and look over them properly beforehand.

[English]

**The Chair:** Thank you.

Ms. Fry.

**Hon. Hedy Fry:** Thank you very much.

I wanted to thank Mr. Fast for explaining to me so clearly the difference between a judicial and quasi-judicial body and parliamentary committees. I had no idea.

I want to say, Mr. Chair, that page 7 of the report relates to what I'm speaking to. We have listened to witnesses, we have come up with this report, and extending on that, obviously the CRTC has launched the task force. A task force by nature, generally speaking, is a public body with public hearings. The argument that I continue to make is that when you have hearings in private and then a public report, no one knows whether that report reflects what was heard at the hearings. We are trusting completely that the body would do exactly that.

I confess to being skeptical. I read clearly here about Vidéotron on page 6, and we heard what Vidéotron said when they were present here at the last meeting of this committee, that no matter what they do right now—which for me is “let's keep everybody happy”, let's tread water, let's just put the band-aid on—their ultimate goal is to create a \$109 million fund over three years for Canadian production as a replacement for its contribution to the CTF. The witness from Vidéotron was very clear that this was his ultimate goal. Over three years: that buys them three years to keep everybody happy and keep this quiet.

If this report speaks to issues relating to the Canadian Television Fund, it is completely within the jurisdiction of the report to speak to not only the short-term but the long-term stability of this fund. I think both of those things and the recommendation that I made relate directly to this report and to the CRTC task force that follows and builds on it. I believe it is important for accountability reasons.

The CRTC exists because Parliament has written it into existence; therefore, it has a duty to report to Parliament and to listen to what Parliament asks it to do. I am saying that we are speaking today about accountability. Accountability is not only whether you spend money; accountability is whether in fact you are doing the job you are supposed to do in an appropriate manner. I think it is entirely within our right to suggest that the CRTC should be accountable to Canadians at the end of the day, so that its work is clearly and openly done.

Where there are problems, the CRTC will have the ability to make decisions about listening to in camera hearings, but there must be public hearings. This is important to all Canadians. This is a public issue. It has to do with the future of Canadian production and Canadian programming, and I think it requires that we do what we must do now: we set in place the structures now that will require that we have a sustainable and permanent way of continuing with Canadian programming in this country. I think it's even more important now, when we know about new media and all of the other challenges that are facing Canadian production.

So I repeat that the recommendation I made will be brought forward on Thursday to be discussed and voted on. You have to give 48 hours' notice, and I did this yesterday.

Mr. Chair, I reiterate what I said notwithstanding Mr. Fast's detailed explanation about how things work around here.

• (0940)

**The Chair:** I'll go to Mr. Abbott and then Mr. Angus.

Then I'm going to read exactly what the motion was that came down before, and then we can go on. We're spinning our wheels here. Don't get me wrong; there have been a lot of good things said. But if we're going to make progress on this, we have to go forward.

Mr. Abbott.

**Mr. Jim Abbott:** Part of the problem we have here is the fact that we are having a discussion in a vacuum of fact. What I'm thinking of, for example, on recommendation 1 is that I believe there was testimony both by Vidéotron and by Shaw Communications. The testimony verbatim would be of value to me, and perhaps even to the opposition, to be able to read into the record, because without having come prepared with the testimony of all the people who came before us, we are all, every one of us, working in a vacuum of being able to put it on the table.

I completely accept the assertions that have been made by my friends on the other side of the table when they said Mr. Shaw said this, or Mr. Péladeau said that, or whatever the case may be. I accept that you did that in absolute good faith. You did not in any way, and certainly without any intention, torque it. But I don't know if your recitation of what they said was actually precise, and without that precision, how can we have a discussion?

The second part of the problem is that I'm really wondering why, because it appears as though we are choosing to go down this particular road to do something different with the report than that which was presented to us on Friday.... I don't know really why we're in camera at this particular point. What is the value of our being in camera? All of us are restricted to come out of this meeting and say—and in good faith I will tell you what I will say—that unfortunately the committee at this point has been unable to come to a consensus on a report and the discussions are continuing, period, full stop, end of statement. That's all that we can say.

The fact is that there are some other things that I would like to be able to say, which I am constrained from saying as a result of this being in camera. What is the value of our continuing with this meeting in camera? I understand that it is in camera and it will remain in camera. That's fine, until we decide otherwise. I'm just saying, what is the value of us continuing in camera?

● (0945)

**The Chair:** Mr. Angus.

**Mr. Charlie Angus:** Thank you. To clarify, because I am feeling that we are starting to walk the clock down here, the issue that was brought before us was the crisis precipitated by Shaw and Vidéotron. At that time, when we stepped in, there was no discussion about our looking at the governance structure of the CTF, the role of the CTF, Telefilm, and so on. There are a lot of aspects to this file, but we focused on the crisis that was at hand.

So you will see out of these recommendations that they're strictly focused on the evidence we heard. There are no recommendations on changing the governance structure. Mr. Shaw raised questions about who sat around the board. I don't feel myself in any position to make recommendations on that, because we didn't hear enough evidence. If at the end of the day the CRTC comes forward with recommendations on changing the governance structure and the composition of the table, well, they will have perhaps a greater degree of expertise if they were choosing to study that. What we studied was the issue of the suspension of payments and what happened, and how that should not happen again. What we studied was the issue of whether Vidéotron or Shaw can change the funding arrangement so that they might want to move their funding elsewhere. We had heard clearly that this was problematic, so for

the CTF, as it stands now, this is coming forward as a recommendation.

Then the final area of recommendations is the role of a closed-door process at the CRTC, which I think is highly unusual. I don't feel that it's my job to condemn the CRTC for that, but to remind—and this is in the recommendation—that the CTF remains a child of the heritage department and so it has to somehow come back for public hearings, and we want to make sure that happens.

So that's strictly the focus of the recommendations. There's no vacuum here. This is based on the exact issues that we were faced with, and so now it is incumbent upon us to come forward with this.

So I would suggest we look at the recommendations. We have all studied, we have all listened to the evidence, and we are in a position to decide whether these recommendations are what the committee wants or what the majority of the committee would like to come forward with.

**The Chair:** First I will read the motion that was put forward by Mr. Angus on February 1. It is moved:

That due to the ongoing uncertainty of the future of the Canadian Television Fund (CTF) as precipitated by recent announcements from Shaw Communications Inc. and Vidéotron Ltée that they will no longer live up to the terms of their licence by withholding contributions to the fund, this committee will investigate the impacts of the CTF's potential elimination on the health of Canada's domestic television production and make recommendations to the House of Commons based on our findings.

That's the motion. Maybe sometimes I don't look into things quite as deeply as everyone else, but when I look at this, I think the main thrust is the withholding of funds by Shaw and Vidéotron. I thought it was the task of this committee at that time to make sure they were restored to their monthly payments.

When I looked at all the extra recommendations here, I thought we had a simple task and that our experts had come across with a good response. I think there was only one recommendation from this committee, to make sure the monthly payments continued, that they were put into legislation. That's what I understood our committee was looking into.

Maybe we should have put off our study on public broadcasting until the next session and continued with CTF. If we're going to come out with a whole list of suggestions...we did not have enough witnesses here. Everyone has not been looked at to do that.

I just look at the recommendation that was put forward. It seems to answer the question we were given. The more recommendations you make, the more.... You might think that it corners people or stops them from doing things, but it gives them more of an out.

It goes back to where all our laws came from. There were 10 of them. Now we have so many it doesn't matter what those 10 laws might have been way back when. You can get around the situation by looking at 10(a), (b), (c), (d), (e). It will get you around number 10.

I don't know why we have to make this so complicated, but that's fine. I have spoken as chair and we will now go forward.

Do we want to look at Mr. Angus' motions?

**Some hon. members:** Agreed.

● (0950)

**The Chair:** We can look at them one by one. I don't think we've had enough time to study them all. We can decide on how we can do that. Maybe this will be all the study we're going to put into them.

The first recommendation is:

The Standing Committee on Canadian Heritage strongly condemns the actions taken by Shaw Communications Inc. and Vidéotron Ltée to withhold their monthly payments to the CTF, which precipitated a crisis in the television industry and took unnecessary time and effort from all parties involved, including the industry, the CRTC, the Department of Heritage, the CTF, and this committee; and further that it urges the Minister of Heritage to do the same.

Do you want to speak on the motion, Mr. Angus?

**Mr. Charlie Angus:** I think it's fairly straightforward. In their public actions they have insulted the public of Canadian television. After coming out of the minister's meeting when the minister hadn't spoken, they said it was dead, done, and gone. The actions of both Vidéotron and Shaw were outrageous and they should be condemned. It's simple.

**The Chair:** Go ahead, Chris.

**Mr. Chris Warkentin (Peace River, CPC):** This recommendation, for the most part, is commentary. The only recommendation is that the minister condemn Vidéotron and Shaw. I think we had the opportunity to question the minister. If the minister, number one, wanted to condemn them, she would have had the opportunity to do that any number of times. She actually made it very clear that she was going to speak with them with an intention to be conciliatory, so I think she's passed judgment on this. It's in the testimony. I don't think making the recommendation at this point is beneficial, because the only recommendation here is that we urge the minister to condemn Vidéotron and Shaw, and she's made it clear that she's not going to do that because she thinks it's important that we work together with them rather than condemn them.

So I think we're counterproductive in doing this. I think we're getting into the political on this recommendation.

I know, Charlie, that what you're hoping to do is to make a strong statement, and I think we can do that maybe in the commentary. We can say that witnesses had issues. Obviously they felt that it was a crisis situation. I don't think we need to put it into a recommendation. I think we can put it in the commentary. And as far as telling the minister to condemn these companies goes, I think it's irresponsible of this committee. I'll assure you of what her response will be, because she testified as to what her response would be.

**The Chair:** Mr. Fast.

**Mr. Ed Fast:** I concur with my colleague Mr. Warkentin. Typically condemnation takes place when there has been an action of moral reprehensibility. We do that in the criminal law, in our sentencing structures. It's not something we do when someone has stayed completely within the law.

The testimony is clear. From all the witnesses we've heard from, there's a general consensus that the circulars that were issued, which supposedly required monthly payments by Shaw and Vidéotron, were not legally binding. They were imposed on those parties without a legal force behind them. It's quite another issue to discuss the annual payments, because those are required by regulation. But to suggest that we're now going to condemn these two entities... because they have stayed completely within the law, they've brought an issue forward that apparently hasn't been addressed for anywhere from five to ten years, testimony showed. This problem has been percolating for a long time. You can't blame these two entities for having now been forced into the position where they have to get a little tougher to make sure that we, as a committee, and the minister understand that there was a problem.

● (0955)

**Mr. Chris Warkentin:** It's like going on strike.

**Mr. Ed Fast:** It's a long-standing problem.

Secondly, I also want us to focus in on what we are trying to achieve here. We've all paid lip service to the fact that we want to solve this problem. We want to solve the underlying problems of the CTF: how it's funded, how the money is allocated, what technologies might be served through this funding. This is all evidence that came out during these hearings.

We want to bring Vidéotron and Shaw to the table. We want to bring the industry to the table. Mr. Finckenstein wants to now work through a task force to bring resolution to all these issues. Not only are we, in this recommendation, as a committee, making a statement of condemnation, we're asking the minister now to go public and say she condemns these two companies for having stayed within the law.

What are we going to achieve by doing that? We're simply going to alienate the members of the industry who have raised concerns but who have actually come back to the table, have restored their monthly funding—which they weren't required to do legally—and now we're going to stick a stick in their eye and say we're condemning them publicly just to embarrass them even more, to shame them into doing this.

Do you think that's going to be conducive to moving forward and trying to resolve these issues? I think not.

**Hon. Andy Scott:** Question.

**The Chair:** Mr. Abbott.

**Mr. Jim Abbott:** Coming from the perspective that Mr. Fast just outlined, I have managed to retrieve the precise words used by Mr. Shaw in his testimony. In part, he said, "Prior to our announcement to withhold CTF funding, few decision-makers cared to hear our views." In the next paragraph, he said, "We are here because the issue is important to us and we want to participate in the process of finding a better way to bring more quality to Canadian television in the future. You may disagree with the methods we used to get attention, but I hope you won't disagree with our goal."

If we were to proceed with recommendation 1, that would be to call him a liar. It basically is to say that we not only aggressively disagree with the method he undertook—albeit a totally legal method, albeit completely within the law—but that we also don't believe his goal is to make a better system.

At the conclusion of his testimony, he said, "The sincere and cooperative consultations that we have had over the last few weeks and months have reassured us that our message has been heard." That, of course, is in reference to the meetings that he would have had both with the minister, other people in the ministry, and Mr. von Finckenstein.

The fact is that it took ten years of a constant slow boil on the part of Shaw, and to a lesser degree Vidéotron, to actually get some decision-makers and the minister to finally listen. I should also say, without condemnation of prior committees, that the heritage committee never took this on either until they actually precipitated a crisis.

The most important thing to bear in mind is that they precipitated the crisis within the law. They were fully within the law. They were completely within even the regulations. They did not break any regulations, rules, or law. For this committee to come forward and say we condemn them for doing all of this bad stuff within the law is, I think, really quite immense. I just can't imagine it.

**Hon. Hedy Fry:** The question, please.

**The Chair:** You have asked for the question, which is on recommendation 1?

(Motion agreed to)

**The Chair:** Moving on to recommendation 2, it reads:

The Standing Committee on Canadian Heritage praises the work of the Canadian Television Fund for reasons outlined by all witnesses appearing before the committee on this matter—with the exception of Shaw Communications Inc. and Vidéotron Ltée—including, but not limited to:

- a) success in generating more than 23,000 hours of new Canadian television productions in English, French and aboriginal languages, which are crucial to the television industry and to the fostering of Canadian culture;
- b) helping foster a Canadian television production industry that creates tens-of-thousands of jobs, both directly and indirectly, in the audio-visual industry and other spinoff industries;
- c) leveraging addition investment in Canadian television production at a rate of between \$2-\$3.30 for every CTF dollar allocated.

You've heard the recommendation. Would anyone like to speak on the recommendation?

Mr. Warkentin.

●(1000)

**Mr. Chris Warkentin:** Again, I fail to see what the recommendation is in this commentary. For the most part, I see this as maybe a recapping of some of the testimony from certain individuals, but I really don't see a recommendation here.

We're recapping the amount of television that's produced and the number of hours. I see that we're talking about the industry, about the jobs that are created, and the dollars that are leveraged with the fund. But quite frankly, I don't see any recommendation in this entire sum of words. I don't know if I'm missing something, but I don't see any recommendation.

Do you see a recommendation, Mr. Scott?

**Hon. Andy Scott:** I'm ready for the question.

**Mr. Ed Fast:** Hold on.

**The Chair:** Mr. Fast.

**Mr. Ed Fast:** I have a similar concern, Mr. Chair.

It's certainly apparent, from the first vote that we took, that this has become entirely political and that no constructive work is going to take place here. What we had hoped, as a party, was that through collaborative work at this table, perhaps we could move forward and actually get something done, as we get things done at some other committees I'm involved in.

I sense that there was reticence across the table from maybe one or two members even on the last motion. Now we have a motion that has no recommendations—

**Mr. Charlie Angus:** On a point of order, is this speaking to the question or is this—

**Mr. Ed Fast:** Hold it.

**Mr. Charlie Angus:** We're not talking about this recommendation.

**Mr. Ed Fast:** Please, Mr. Angus.

**Mr. Charlie Angus:** We're not speaking to it. That's my point of order.

**Mr. Ed Fast:** Mr. Angus, you don't have the floor.

**Mr. Charlie Angus:** I have a point of order.

**Mr. Ed Fast:** Mr. Angus, I am speaking. Thank you. I've been acknowledged by the chair.

This recommendation isn't a recommendation at all. How can we vote on something that is declared to be recommendation 2? It has no recommendation, it's simply a statement. Where you can include that is in the body of the report, presumably. Obviously this committee is forcing the government side to issue a dissenting report, which we presumably will, because we can't allow these kinds of unsubstantiated recommendations to move forward.

I'm looking at a statement in this so-called recommendation right at the end that says, "But this committee heard no reason to believe the allegations of Shaw and Vidéotron that CTF is poorly structured or operated".

Essentially, we're calling Shaw and Vidéotron liars; they're the bad guys. Again, we're doing the same thing as we did in the first recommendation. We're trying to do a public shaming of the two parties we need at the table, who at all times stayed within the law, who actually raised an issue that was important to be raised, an issue that had been neglected for far too long, and now we're blaming them for doing that. If there's any shame, it should be on this committee for having suggested this kind of a recommendation.

Mr. Chair, on a point of order, I ask you to rule on whether this is a recommendation.

**The Chair:** Mr. Angus.

**Mr. Charlie Angus:** Thank you, Mr. Chair. I will allow five minutes after each recommendation to have the same repeated attack and assault on what we're doing here at committee.

**Mr. Ed Fast:** Mr. Chair, on a point of order—

**Mr. Charlie Angus:** No, sorry, I have the floor here.

**Mr. Ed Fast:** I've raised a point of order.

**Mr. Charlie Angus:** Mr. Chair, I would like to speak to the recommendation that was just insulted and attacked by—

**Mr. Ed Fast:** Mr. Chair, I have asked for a point of order. I've asked the chair to rule on that.

**Mr. Charlie Angus:** No. I have not had a chance to speak to this recommendation, and I will speak to that recommendation.

**Mr. Ed Fast:** Mr. Chair, I'm entitled to raise—

**The Chair:** There was a point of order raised. Do you want to speak on this point of order?

**Mr. Charlie Angus:** Yes, certainly.

Why is it a recommendation? It says very clearly, “The Standing Committee on Canadian Heritage praises the work of the Canadian Television Fund...”. It's very simple, very straightforward, because what was underlying a lot of this crisis that was precipitated were the attacks and the insults that were launched by Shaw and Vidéotron against the industry.

I think it's incumbent upon the heritage committee to say, based on the testimony we heard, that we actually learned that this fund has created a fair amount of jobs, that it has leveraged a number of dollars, as was pointed out. This is the evidence we heard. The recommendation is that we praise the work that's been done. It's very simple and straightforward.

I mean, he might call it a “so-called recommendation”. He might think it's an attack on the Conservative Party. He can think whatever he wants, but it is a recommendation, and I'd like to bring it forward.

●(1005)

**The Chair:** Mr. Kotto, first.

[*Translation*]

**Mr. Maka Kotto:** I just want to point out that, as far as this recommendation is concerned, we in the Bloc, whether it be in the House of Commons or to the media, have already noted the relevance of some of the criticisms made by Videotron, particularly with respect to the CTF's reluctance to acknowledge the need to adapt to new platforms which, from Videotron's perspective—I'm talking about Videotron because we've been following this issue very

closely from the beginning—were arguments that had been made verbally, in writing and substantially for two years. So, we have a bit of a problem with that. I suppose we could “note” the work of the CTF, but to use the term “praise” is really a bit much, as far as we are concerned.

[*English*]

**The Chair:** Thank you.

Did you have one short response?

**Mr. Chris Warkentin:** It may be short, it may not be.

In the text that follows recommendation 2, Mr. Angus has said “this committee heard no reason to believe the allegations of Shaw and Vidéotron that the CTF is poorly structured or operated.” That may be what Mr. Angus heard, but we heard from the Canadian Association of Broadcasters, which stressed that there were some complaints about the CTF and that they had been expressed for a number of years. In fact, on page 6 of our report there is some talk of that.

**Mr. Ed Fast:** We can read it into the record.

**Mr. Chris Warkentin:** We have to remember what we heard as testimony in this committee. I'm just seeing all kinds of contradictions developing here. On page 6 of our report, it says, “The Canadian Broadcasting Association stressed that the CTF and indeed, all television production funding mechanisms, must keep pace with the challenging realities of the broadcasting environment. To this end, the association recommends that the CRTC be directed to hold a review of matters related to the production funding mechanisms and the first principle of such a review, according to the association, must be the creation of great Canadian programming that attracts audiences from all available platforms.”

All of a sudden our report is saying yes, there needs to be a review, and then following recommendation 2, we're saying that there was no other testimony showing that the complaints of Vidéotron and Shaw were valid. There are already contradictions developing, and I think we have to look at this in the context of what we have in the first part of the report.

I'll just point out, since I noticed it, what looks like a spelling mistake in that paragraph. It should be “a” rather than “as”. It's purely technical.

**The Chair:** I'll call the question on the recommendation.

**Mr. Charlie Angus:** Mr. Chair, I'll make an amendment.

**Mr. Ed Fast:** Are you ruling on that prior—

**The Chair:** Just one second.

**Mr. Charlie Angus:** In response to an issue raised by my colleague from the Bloc about appraising the work of the CTF, certainly it's not our job to give a blank rubber stamp to the CTF. I would put forward as a possible amendment that the standing committee “acknowledges the work of the Canadian Television Fund”. The facts are that it does leverage this money, and it has created the amount of television it has. It is something we can recommend. If there are other issues, those are apart from what we're coming forward with now.

I would say, “The Standing Committee on Canadian Heritage acknowledges the work of the Canadian Television Fund”. Let's see if my colleagues would support that.

I would call the vote.

●(1010)

**The Chair:** Just before that, I've had a little talk with my clerk on this particular issue. Is it a recommendation? The clerk feels it's a weak recommendation, but it is a recommendation.

**Mr. Jim Abbott:** Just for my information and perhaps the committee's, as I indicated previously, I don't really understand the value of this political discussion that we're having right at this moment. That's what we devolved into in camera, and I was wondering what would be involved...

I would like to put forward a motion that we no longer be in camera. That has to be the choice of the members of this committee. I don't know what the procedure is. I wonder if the clerk might be able to advise me of that.

**The Chair:** The motion that we move from in camera to public has been put forward by Mr. Abbott. Do we have a consensus around the table that we do that?

**Mr. Jim Abbott:** Do we need a consensus or do we need a vote?

**The Chair:** Do we need a vote?

**An hon. member:** It would be hypocritical if we didn't.

**Mr. Jim Abbott:** It strikes me, Mr. Chair, if I may say so, as being in keeping with the discussion we've had to this point that these kinds of things to do with the CTF at the CRTC should not be in camera. It strikes me that this kind of discussion we're having here right now falls completely within the characterization that has been made by my colleagues on the other side of the table.

**Mr. Ed Fast:** Mr. Chair, just to clarify that issue, are we talking, then, about also moving the discussion we've already had? To move it from in camera to public session now, without allowing the discussion that's already taken place, in isolation, would be difficult. Are we talking about moving the whole meeting into the public sphere?

**Mr. Jim Abbott:** Absolutely.

**The Chair:** Whichever works.

**Mr. Ed Fast:** I would prefer that.

**The Chair:** Mr. Angus first.

**Mr. Charlie Angus:** I have nothing against doing anything in public. My concern is that this is just another attempt by our colleagues here to spin the tires, walk down the clock, and turn this into a circus.

I feel that we've started on a process. We have 45 minutes left, and we're making no progress. Every time we start, we get attacked. I feel that we should continue this process and be done with it by 11 o'clock.

**Mr. Ed Fast:** In camera?

**Mr. Charlie Angus:** In terms of the recommendation of Mr. Kotto, I had said “acknowledge”. I would make another change, which would be “support”. That way, we're not overly praising and we're not overly neutral. We would support the work of the Canadian

Television Fund, which it seemed to me until this morning that all members did, but perhaps that's not the case.

**The Chair:** First of all, I'd like to take the motion put forward by Mr. Abbott. It has been put forward that we move this meeting from in camera to public. I can take a vote around the table.

All those in favour?

**Hon. Andy Scott:** No, this would have to be unanimous consent.

**Mr. Ed Fast:** That's okay. Let's have a vote.

**Hon. Andy Scott:** I want to ask a question, because this is a larger issue than this committee. I want a commitment from the government that any time the opposition asks for the writing of a report to be done in public, the government would be prepared to accept the same arguments. You cannot have it both ways, my friends. The reality is, has the writing of a draft report ever been done in public, to the knowledge of our clerk?

I've been here for 13 years, chaired justice—

**Mr. Chris Warkentin:** We've done it in other committees.

**Hon. Andy Scott:** The writing of a report in public?

**Hon. Maria Minna:** We're talking about history here. Have we voted on the point of order?

**The Chair:** I'm asking now on Mr. Abbott's motion.

**Hon. Hedy Fry:** So let's call the question.

[Translation]

**Mr. Maka Kotto:** Mr. Chairman, I would just like to get some clarification with respect to future discussions. I gather that even when we initially decide to meet *in camera*, as soon as the rules no longer suit them, they simply move a motion to change them. So, if the government makes the same request in future, will we, in the Opposition, be able to repay them in kind?

●(1015)

[English]

**The Chair:** We already had a meeting not too long ago, and I think it was Mr. Scarpaleggia who asked to move that meeting from in camera to public for his part of the meeting. We were in camera and carrying on, and then he wanted it moved to public.

Right now, the request has been to move this meeting from in camera to public. The clerk has said these things have been done before. It's my understanding that it takes a majority vote.

So all those in favour of moving from in camera—

**Mr. Jim Abbott:** Mr. Chair, I'm not challenging you directly on that, but I am curious.

I understand the points that the opposition have been bringing up. I lived in opposition for 13 years, so I know what the opposition is bringing up. The point is that I thought, along the lines of what Mr. Scott was saying, it would have to be unanimous, and the reason it would have to be unanimous is that all of us, at some point, have taken part in this discussion and all of us should have the option of saying yes or no to our testimony, our comments, moving from in camera to public. I don't think going to a simple majority vote would really be appropriate.

**The Chair:** Mr. Kotto.

[Translation]

**Mr. Maka Kotto:** Mr. Chairman, if the exercise we are undertaking now doesn't suit our government friends, might they want to consider a supplementary or minority report?

[English]

**Mr. Ed Fast:** We certainly intend to do so. The question right now is, should these proceedings, today's meeting, be either public or in camera?

**The Chair:** That's what we're on right now.

**Mr. Ed Fast:** There's a motion on the table to move the whole thing, from beginning to end, into public.

**The Chair:** I'm taking that vote right now, to move this meeting from in camera to public.

**Hon. Andy Scott:** Is it retroactive?

**The Chair:** Yes, it would be retroactive to the beginning of the meeting.

(Motion agreed to)

**The Chair:** It's unanimous.

Now we'll move to recommendation 2.

**Mr. Charlie Angus:** We have already had a discussion of it. I'm just putting the final wording that had been brought forward, which is that we support the work.

I'd like to call the question. Yes, we've just discussed it. We've been discussing it for the last 15 minutes.

**The Chair:** We have discussed recommendation 2. To my understanding, there's been a recommendation, a change of a word, that the Standing Committee on Canadian Heritage support the work of the Canadian Television Fund. That's what we have right now.

One short one, Mr. Warkentin.

**Mr. Chris Warkentin:** Can I get clarification as to how this is going to be written up? Are we just putting the highlighted portion into a report or are we including the text that follows it as well, where the last sentence includes "that the committee heard no reason to believe the allegations of Shaw and Vidéotron that the CTF is poorly structured or operated"? Are we including that? If so, I would implore the committee members to make some changes, because that's factually incorrect.

**The Chair:** It's just the recommendation.

**Mr. Chris Warkentin:** So no supplementary will be included in that.

**The Chair:** It's just the recommendation, which is a non-recommendation.

**Hon. Hedy Fry:** Question.

**The Chair:** I call the question.

(Motion agreed to)

**The Chair:** Next is recommendation 3, as recorded in the draft report: The Standing Committee on Canadian Heritage urges the CRTC to amend the Broadcasting Distribution Regulations to stipulate that BDUs must make monthly, rather than annual, contributions to the Canadian Television Fund.

• (1020)

**Mr. Jim Abbott:** I'm just curious. How is that different from what was in the...?

**The Chair:** It's not, it's the same. It's the same.

**Mr. Chris Warkentin:** Can we strike that, then, and just have the original report?

**Hon. Andy Scott:** We will consent to that.

**The Chair:** Should we strike that one? It's already there.

**Mr. Ed Fast:** Mr. Chair, are you striking it here because it's already in the report?

**The Chair:** It's already in the report.

**Mr. Ed Fast:** All right. Just for the record, Mr. von Finckenstein did say he intends to change the regulations. He was here at our last meeting. So I think that's good news. One little bit of good news here.

**The Chair:** Okay, next is recommendation 4: The Standing Committee on Canadian Heritage urges the CRTC to amend the Broadcasting Distribution Regulations to set out clear financial penalties to BDUs that fail to abide by the monthly payment schedule.

Mr. Warkentin.

**Mr. Chris Warkentin:** I don't know if somebody has the information that I'm going to need, but it wasn't testified to. Purely for clarification, my understanding was that if any of the BDUs don't fulfill what is regulated or what's in legislation, their licence gets pulled. Is that correct or is that not correct? If that is not correct, is it financial penalties first and then their licences being pulled? What are we suggesting here? Are we suggesting they only pay a penalty and never get their licence pulled?

**The Chair:** Mr. Angus.

**Mr. Charlie Angus:** Thank you.

This has come out with a few other issues with the CRTC, when they had the Shaw decision, and what steps you can take in terms of going against players who are not abiding by their licences. They don't have too many tools. At the end of the day, this recommendation will go to the CRTC, and they will decide what they are going to do with it.

Are we going to tell Shaw we're going to pull their licence when they have tens of thousands of cable viewers across Canada who are going to ask what's going on? This was to give the CRTC a suggestion for some more tools they could apply, because pulling a licence would be a substantial step to have to take. It's the same as pulling a licence of a radio station that's not playing ball. The question had been raised in the past: should the CRTC have a few more tools at its discretion, such as financial penalties and other penalties, to deal with players who are not living up to the terms of their licences? So this was a suggestion to give to the CRTC.

**The Chair:** Great.

Mr. Warkentin, please, and then Mr. Abbott.

**Mr. Chris Warkentin:** I would like additional clarification, if it is possible. I don't know if the analysts have any information with regard to the current penalties for not fulfilling the law. Do you have that?

**Mr. Marion Ménard (Committee Researcher):** No, we'd need to research it.

**Mr. Chris Warkentin:** I'm thinking we're micromanaging, if that's not what the current structure is set up to do. I'm sure there are penalties, but I think we're making this decision completely in the vacuum of actual information.

I don't know what the CRTC usually does when there's non-compliance, when somebody breaks the regulations. If we could get that, it would be beneficial to every committee member so we could better reflect the types of penalties there should be.

I believe there should be penalties, there's no question. I'm just not sure if it's financial or if it should be something more regulatory.

**The Chair:** Mr. Abbott, and then Mr. Kotto.

**Mr. Jim Abbott:** Mr. Chair, this goes back to the point I made at least half an hour ago, the fact that we received these in good faith, because there was the difficulty for Mr. Angus to be able to write them over the weekend, having only received the report on Friday. I understand all of that, but the fact is, particularly on recommendation 4, we are going to be voting on something about which we're working in an absolute vacuum of information. For example, the broadcasting distribution regulations will be an extension of the Broadcasting Act. That is the legislation that would permit financial penalties. I have absolutely no notion, and I would suspect even our experts have no notion, as to whether the Broadcasting Act would allow that to happen in the first place.

Secondly, if it would be allowed to happen, I don't have any idea what tools there are for them to be able to enforce that either. We're working on this, as with all these recommendations, without having had an opportunity for any of us, individually or collectively, to take advice, to prepare, to go to source, to come forward so that we can be making intelligent decisions in this particular case.

At the very least, recommendation 4 should be tabled. I did not mean to make a tabling motion. I'm not doing that. I'm just saying we really need to set this one aside because we don't know what the facts are, whether in fact this could actually happen under the Broadcasting Act.

• (1025)

**The Chair:** Mr. Angus.

**Mr. Charlie Angus:** Thank you.

Quite simply on this, Mr. Chair, I would recommend that we refer this to our researchers and have them come back. We can take this up at the end of our next meeting, or whatever, just as we would with a motion. I brought it forward because I wanted to deal with the issue that I think there is a major discrepancy in the powers of the CRTC and what they actually can do. Pulling a licence is certainly something you want to do in the last regard, because it creates ultimate chaos.

So I would suggest we refer this to our researchers. They can come back and say, these are the tools they already have, or there is a

vacuum here. We can then decide, out of that, whether or not to move forward with this recommendation.

**The Chair:** Mr. Kotto.

[*Translation*]

**Mr. Maka Kotto:** Mr. Chairman, I can confirm that the CRTC does not have the power to impose fines. The Broadcasting Act would have to be amended for that to be possible, although our researchers can always check that. I have done my own research in that area, and the CRTC does not have that power.

[*English*]

**The Chair:** Okay, thank you.

It has been suggested by Mr. Angus that we let the researchers look into recommendation 4 and come back at a later meeting to give us a ruling on that.

**Recommendation 5 reads:** The Standing Committee on Canadian Heritage urges the Minister of Heritage to enact provisions that the government will provide interest-free bridge financing for the CTF if contributors to the fund fail to meet their monthly funding obligations. Repayment of this loan would occur when the delinquent contributor's payments are back up to date. Repayment of this loan will include a reasonable interest rate in the form of the financial penalty set out in Recommendation 4.

Again, should this recommendation be set aside, to follow up after we have a response on recommendation 4?

**Mr. Jim Abbott:** For consideration, I don't really understand the reason for recommendation 5. If Shaw and Vidéotron have decided to recommence their monthly payments and get caught back up to date, I'm at a complete loss to understand why we would need this motion in any event.

The second part is that this interest-free bridge financing is a cost to the government that is under the purview of, obviously, the Treasury Board and the finance minister. Furthermore, any loans that are either made or guaranteed by the government are the same as having been made. As Mr. Scott will know—say, on \$100 million, to pick a number—if there was a guarantee or a loan put forward, that would go against the current spending of the government. So it's not just an incidental thing to say, gee, we need some kind of bridge here. It's not an incidental thing at all.

Secondly, I don't understand why we need it when Shaw and Vidéotron have already said they're going to recommence their payments.

**The Chair:** Mr. Scott.

**Hon. Andy Scott:** Charlie has already said it has been tabled or attached.

**The Chair:** It will be tabled along with number 4, until the recommendations come back for number 4.

**Mr. Marion Ménard:** I have a quote from the Broadcasting Act, subsection 32(1): Every person who, not being exempt from the requirement to hold a licence, carries on a broadcasting undertaking without a licence therefor is guilty of an offence punishable on summary conviction and is liable:

(a) in the case of an individual, to a fine not exceeding twenty thousand dollars for each day that the offence continues; or

(b) in the case of a corporation, to a fine not exceeding two hundred thousand dollars for each day that the offence continues.

• (1030)

**The Chair:** Mr. Warkentin.

**Mr. Chris Warkentin:** Is that just if they don't carry a licence when they're broadcasting? Did I hear that initial part correctly?

**Mr. Matthew Carnaghan (Committee Researcher):** It's broadcasting without or contrary to a licence.

**Mr. Chris Warkentin:** Or contrary to a licence.

**Mr. Matthew Carnaghan:** So both apply.

**Mr. Charlie Angus:** In terms of precision, I would suggest that you speak with the CRTC and then bring it back to us. We can then deal with it after having their expertise.

**Mr. Marion Ménard:** Okay.

**The Chair:** Recommendation 6 reads: The Standing Committee on Canadian Heritage recommends that the CTF maintains the following provisions:

(a) that a minimum of 5% of contributors gross revenues from broadcast operations go to Canadian programming.

(b) that 80% of the required contribution must go to the CTF.

(c) that the CTF must set aside the equivalent of 37% of its total revenues for programs destined for the CBC/SRC.

(d) that the CTF allocates funds exclusively to independent producers.

Mr. Abbott.

**Mr. Jim Abbott:** I wonder if Mr. Angus could help me understand paragraph (b), "that 80% of the required contributions must go to the CTF". Unless I'm mistaken, I believe they presently have to contribute 5%, but it is permitted for up to 2% of the 5% to go to local programming. Are you suggesting that it only be 1% of 5% that goes to local programming?

**Mr. Charlie Angus:** This is the standard as it is now. Again, they can take some of that 5% envelope and put it to local or regional television or other programming, but the issue of pulling all the money out and saying they're going to set up a separate fund is highly problematic. Based on what we've heard on the fundamental funding envelope as it is, if there are questions about governance structures, who sits at the table or how that funding is allocated, I don't really believe those are in our area of expertise. I'm just very concerned about the trial balloons that were floated about cutting the money that CBC is able to allocate.

The final issue, continuing to fund independent production, is a very important element in this piece. I therefore wanted to say that the overall funding envelope, as it stands now, should remain in place.

**The Chair:** We have Mr. Kotto, and then Ms. Fry.

[Translation]

**Mr. Maka Kotto:** Mr. Chairman, in the same vein, I would propose that paragraph (c) be dropped because we will need to have the findings of our study on the CBC's mandate before making such a suggestion. It's difficult to promote increased in-house productions.

That was the point I wanted to make. As long as we haven't studied...

[English]

**The Chair:** Ms. Fry.

**Hon. Hedy Fry:** Given the time and the fact that recommendation 6 is maintaining the status quo, unless we wish to change the status quo I think we should just support this recommendation, because it's really a motherhood one. It's saying, let's keep doing what we've been doing. I'd like to support it for that reason.

**The Chair:** Thank you.

Mr. Warkentin.

**Mr. Chris Warkentin:** Are you assuming that the envelope system would be maintained under this? You make no comment on that. Is that an omission?

**Mr. Charlie Angus:** It's sort of based on what Ms. Fry said. At this time this is our recommendation. Further, if CRTC brings something back, and Mr. von Finckenstein has another set of arrangements that industry thinks is a good idea, we can certainly look at those.

But I'm saying that at the present time this is what we have, so let's maintain it. There will be a CBC mandate review. There will be a CRTC review. These issues will come back to heritage, but this is what we have now, so let's support it.

• (1035)

**Mr. Chris Warkentin:** For the time being. Okay.

**The Chair:** Mr. Scott.

**Hon. Andy Scott:** I would appeal to Mr. Kotto that we're going to be doing the CBC review, hold the current position, and then that can be reviewed with the CBC review.

**The Chair:** Mr. Fast.

**Mr. Ed Fast:** My difficulty with this is that we're prejudging the work of the task force. We have a status quo that exists. Mr. von Finckenstein has agreed to start a task force to look into the very issues this recommendation seems to be pointed at.

Both 6(c) and 6(d) are issues that Shaw and Vidéotron raised. Paragraph 6(c) is the funding of CBC up to 37%. Both Shaw and Vidéotron have taken issue with that. Whether their concerns and complaints are justified is quite another matter. That's up to the task force to address. I assume Mr. von Finckenstein will eventually come back to us and submit his task force report. At that time we'll probably decide whether we want to hold further public hearings on it.

The same holds for paragraph 6(d), that the CTF allocates funds exclusively to independent producers. As you know, Vidéotron has asked to be given permission to do it in-house. All of us may disagree with that position, but it's an issue that the task force is now going to dig into. They're going to have broad consultations on the issue and bring it back to this table, and then we can decide whether we accept it or not.

But to now say we want to maintain the existing provisions is essentially a statement that we prefer the status quo to anything the task force is going to come up with, and that's unfair. There is a status quo already. There's no suggestion we're changing it until the task force has completed its work. But this statement is clearly prejudging what Mr. von Finckenstein is purportedly charged with doing.

**The Chair:** I call the question.

(Motion agreed to)

**The Chair:** Recommendation 7 is that: The Standing Committee on Canadian Heritage recommends that the government move the annual contribution to the CTF to A-base, permanent funding as a step toward true stability to the fund.

Mr. Angus.

**Mr. Charlie Angus:** Overall, this fund has been basically lumbering from mini-crisis to mini-crisis because there has never been guaranteed funding. Even before the Shaw-Vidéotron situation, a number of producers were worried about signing deals if they didn't know if the CTF would be in place from year to year. You can't run the kinds of production deals we have based on yearly funding.

Fortunately the minister has said it will be two-year funding, and that has given the industry a good sign. But the long-term goal should be A-base funding so we don't have to worry that with each budget deals might fall through. The way government finances and the way industry finances are clearly out of sync in their production cycles.

So I'm bringing forward the recommendation for A-base funding.

**The Chair:** Mr. Warkentin.

**Mr. Chris Warkentin:** I understand what Mr. Angus is saying. We heard that in testimony from the different people, especially the people who are in the creation end of the industry. They were thankful that the minister had stepped up to the plate with two-year funding, even making the announcement before the budget. In previous years, as they said, they'd been on tenterhooks up until the budget, not knowing if it would go forward or not.

I'm not sure if A-base permanent funding is something we should talk about today. I think there are going to be a number of recommendations that come down in the next little bit, and at that point maybe we can have that discussion, but right now there's a two-year commitment, and I hope that in the next number of months there'll be a long-term resolution to this issue. So I think we're prejudging and moving into areas that we don't need to move into today.

**The Chair:** Okay, I call the question.

[Translation]

**Mr. Maka Kotto:** I would suggest adding "indexed", because the Fund does not evolve at the same pace, depending on whether we're talking about the private or the public portion. There will be an imbalance.

I don't know whether Mr. Angus agrees with me on that.

•(1040)

[English]

**The Chair:** Mr. Angus, do we just put "with indexation" at the end, or where do we put it? Should it be "CTF to A-base...funding with a cost-of-living index", or "indexed"?

[Translation]

**Mr. Maka Kotto:** Yes.

[English]

**The Chair:** It's "to the CTF to indexed A-base funding".

**Mr. Ed Fast:** Mr. Chair, I find it surprising that the Liberal members of this committee are now supporting, first of all, a permanent commitment to this funding, basically indefinitely into the future, and secondly, our actually indexing it, something that they failed to do for some 10 years from the time the fund was established, when the government was actually contributing to it.

They never did that, and now suddenly, because they're on the other side of this table, this becomes an important issue. They would never have tied their hands as a government in the way this recommendation suggests.

You know, what's interesting, Mr. Chair, is that here we have a minister who pre-emptively already commits to two years forward, \$100 million per year, to continue to fund the CTF, which is a huge step forward, I believe, providing stability in the industry. But now we're going that extra step, suggesting we want to tie her hands and commit her indefinitely, in perpetuity, to keeping this funding in place—and on top of that, to indexing it, something that the previous government was never prepared to do but is now suggesting is a great idea.

It puzzles me.

**The Chair:** Thank you. I call the question.

(Motion agreed to)

**The Chair:** Recommendation 8:

The Standing Committee on Canadian Heritage finds that it is unusual that the CRTC would engage in closed door hearings on the future of the CTF. Nonetheless, as the CRTC mandate is limited to payment obligations, and as the CTF is under the mandate of the Heritage Ministry, we recommend that any CRTC findings be brought back for public hearings mandated through the Heritage Ministry.

All I'm saying on this one is that I'm confused. I wasn't reading it very well. It says: "...we recommend that any CRTC findings be brought back for public hearings mandated through the Heritage Ministry". There we are. Would that be to this committee?

**Mr. Charlie Angus:** My interest in this, Mr. Chair, is to clearly define the roles, because the CRTC has set up a task force, and it's not my position to tell the CRTC.... I find it unusual, and I've stated that, but they have the power to engage in this. But because this is a child of Heritage, it has to come back because there are other elements that the CRTC cannot rule on. It has to go through Heritage. So if the minister wants to set up a public task force, the minister can. I think it could come back through the heritage committee hearings, just to look at the recommendations of the CRTC and then hold public hearings and report back to the minister.

**The Chair:** Mr. Warkentin.

**Mr. Chris Warkentin:** There are a couple of things.

Obviously there are some people who find it strange that the CRTC would hold closed-door hearings. I think it was explained by Mr. von Finckenstein that the reason they're holding closed-door meetings is that what they'll be discussing is sensitive corporate documents. They'll be discussing the financial obligations and financial conditions of these corporations.

I don't know whether any of you have worked in the business world. From my previous experience, this happened often. Whenever you were working in cooperation with some type of person who is in the middle ground, you wouldn't share your corporate documents with other corporations that you're competing with. Some of these documents will be sensitive simply for competition reasons.

Mr. von Finckenstein was very clear that this was the reason these would be held in private. I don't find it unusual that they would be held behind closed doors. I have some reservation about passing something that says we find it strange that these corporations would be able to keep their documents secure and private.

But that's fine. I think Mr. von Finckenstein was very clear that the CRTC would be releasing their report and that they would bring it back to this committee. I think there will be full transparency of the CRTC's intentions going forward.

• (1045)

**The Chair:** Ms. Minna.

**Hon. Maria Minna:** I want to respond to what the honourable member just said.

I think most of us, if not all of us, have worked in private, semi-private, or public institutions. I can assure you that there are ways of keeping certain documents confidential. But this is not just a private company. This is a public institution, accountable to the people of Canada, and therefore it has a responsibility to be open and transparent. Therefore, while I'm sure it can hold public hearings in this country while at the same time dealing with the in camera problem or certain other aspects, there ought to be public hearings. This is not a private company; this is an organization responsible to the Canadian people.

**The Chair:** Thank you.

Mr. Angus.

**Mr. Charlie Angus:** To follow up on what has been discussed, the other day when we were with Mr. von Finckenstein I raised with him a number of times that it is highly unusual for the CRTC to announce

a task force of this nature and say it's going to be behind closed doors.

The CRTC deals with broad issues of commercial competition all the time, and it is done behind closed doors and is done protecting the various competing bids. This is what they do. What is concerning me, and I find it unusual, is that there are numerous elements of this piece of the pie. It's not just two companies competing for a licence; it's restructuring a public-private partnership that has numerous players who have to speak to it.

At the end of the day, it's not in the public interest for us as parliamentarians to give over what is a creation of Parliament to the CRTC to have closed-door hearings and come back and say, this is what we've decided, but we're not going to be able to tell you how we decided, because it was all behind closed doors. It has to come back to Parliament for the final say. Whether it comes back through the heritage committee or through another process, it has to come back to us, because this is our creation.

**The Chair:** Mr. Kotto, you're okay?

[*Translation*]

**Mr. Maka Kotto:** I would like to add something, Mr. Chairman.

I said at the beginning of the meeting that since March 1, 2006, Telefilm has been in charge of administering applications to the Canadian Television Fund. In my opinion, it should be part of the Task Force. I wanted to suggest to Mr. Angus that Telefilm be included in his recommendation 8.

I realize that it may be difficult for industry players to speak publicly about their financial circumstances. Perhaps we could set aside that part of it, but the rest of our discussions on the mandate of the Canadian Radio-Television and Telecommunications Commission, which is to facilitate the production of high-quality Canadian programming, should be public. So, I have great reservations in that regard.

[*English*]

**The Chair:** Mr. Fast.

**Mr. Ed Fast:** Well, Mr. Chair, I think it's unfortunate that we're using the words "closed-door hearings", because in fact the task force isn't really a hearing per se; it's a group of individuals who are tasked with doing fact-finding. How they do that, especially when it's on an informal basis, is up to the task force to decide. I've been involved in a number of task forces over the years. Those have never been public hearings per se; they have been fact-finding missions.

I just want to counter something Mr. Angus said. He suggested that the task force will then "decide". I didn't hear Mr. von Finckenstein say "decide". In fact, the role of a task force is to report.

As you know, Mr. Angus, Mr. von Finckenstein made a commitment that the report of the task force—not the decision, the report of the task force—will be made public. This committee will receive that report. At that point in time, we, as a committee, can determine whether we perhaps want to hold our own public hearings on that task force report. The minister can decide to hold her own hearings. But to suggest now that somehow this is a conspiracy of silence to try to hide information that the task force is going to ferret out is highly irresponsible.

Let's give Mr. von Finckenstein the benefit of the doubt and assume that he's moving forward in good faith. We have no evidence to the contrary. Let's give him an opportunity to do the fact-finding, to prepare his report, which will then be presented to this committee. At that point in time we will have an opportunity to hold public hearings if we believe that's necessary. At the same time, that report is going to the minister as well. The minister may take some action, the CRTC may take some action, based on that report, but the task force itself is not a body that will make the decision.

• (1050)

**The Chair:** Mr. Angus.

**Mr. Charlie Angus:** Thank you.

I can understand that Mr. Fast is very concerned about this. I don't think anybody ever said “conspiracy of silence” around this table, so I don't know, maybe his translation needs to be fixed. I think the recommendation is very clear—

**Mr. Ed Fast:** The recommendation suggested—

**Mr. Charlie Angus:** It is to lay out exactly, because we have a number of interests who've stepped up to the plate, that at the end of the day the Canadian Television Fund is a creature of Heritage. The CRTC has a role to play in terms of the financial payments that are due to the CTF through the CRTC, but it's not their creation. This is simply laying out the ground as we see it. We are not prejudging the work of the CRTC. We're not telling them to cease and desist. We're not telling them to do it our way. They can carry this out, but it has to come back to Heritage.

It's very simple and straightforward, so I'd like to call the question.

**The Chair:** Okay, I'll call the question on recommendation 8.

(Motion agreed to)

**The Chair:** We'll carry on, then. We can't vote on the interim report yet, so we'll set that aside.

When it comes to committee business, we have the order in council appointment of Mr. Konrad von Finckenstein as chair of the CRTC. The order in council appointment has been referred to the committee. We have a possibility for Thursday, March 1, 2007, to

interview Mr. von Finckenstein—and before him, the officials of the department on CBC's mandate review.

Would everyone be agreeable to that?

**Some hon. members:** Agreed.

**The Chair:** Mr. Scott.

**Hon. Andy Scott:** Mr. Chairman, just for clarification, on Thursday we have two hours?

**The Chair:** We have three hours on Thursday.

**Hon. Andy Scott:** Oh, good. Thanks.

**The Chair:** We meet on Thursday from nine o'clock in the morning until noon.

There is another note that's been put before me, on the CBC's local radio advertisement of the committee's public hearings in remote areas. Is it agreed that the committee ask CBC management to make public announcements on local radio in remote areas, for example Yellowknife, for the upcoming public hearings of the committee?

**Some hon. members:** Agreed.

**The Chair:** Great, thank you. It's carried.

**The Chair:** On televising committee meetings, is it agreed that in relation to the study on the role for a public broadcaster in the 21st century, the meetings of the committee in Ottawa be televised whenever possible?

**Some hon. members:** Agreed.

**The Chair:** We will move to Mr. Kotto's motion, which has been redrafted.

[*Translation*]

**Mr. Maka Kotto:** Mr. Chairman, with the Committee's agreement, I would like to withdraw the motion I tabled last Thursday and move the one you now have in front of you.

• (1055)

[*English*]

**Mr. Ed Fast:** It's a new motion.

**The Chair:** We just got it. It was circulated on February 22:

Pursuant to Standing Order 108(2), the Standing Committee on Canadian Heritage recommends to the government that any structural or core policy changes directly affecting Canada's telecommunications policy or Canada's broadcasting policy be subject to votes in the House of Commons before they can take effect, and that the Chair so report to the House.

(Motion agreed to)

**The Chair:** The meeting is adjourned.







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