



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

## Legislative Committee on Bill C-11

---

CC11 • NUMBER 006 • 1st SESSION • 41st PARLIAMENT

---

EVIDENCE

**Thursday, March 1, 2012**

—  
**Chair**

**Mr. Glenn Thibeault**



## Legislative Committee on Bill C-11

Thursday, March 1, 2012

• (0900)

[English]

**The Chair (Mr. Glenn Thibeault (Sudbury, NDP)):** Good morning, everyone.

I'd like to welcome our witnesses and guests to the sixth meeting of the Legislative Committee on Bill C-11.

Before we begin, I have a quick announcement that we have a minor technical glitch. Our proceedings and verification officer—who is fantastic, I might add—is very quick on making sure your microphone is on. Please make sure you do not touch your microphones today, especially numbers 17 and 18 and Mr. Lake, as it will cause a bit of a glitch.

With that, I'd just like to talk to our witnesses briefly. I know you have been briefed by our clerk. Each organization will have ten minutes to speak. After your ten-minute presentation, we'll get to questions and comments from the members, who will have five minutes each.

Introducing our guests, from CHUM Radio we have Richard Gray and Tanya Woods. From ole, we have Michael McCarty. From the Canadian Council of Archives, we have Nancy Marrelli.

Starting off our presentations for ten minutes will be CHUM Radio.

**Ms. Tanya Woods (Counsel, Regulatory Law, Bell, CHUM Radio):** Good morning, Mr. Chairman and members of the committee.

My name is Tanya Woods, and I am legal counsel for BCE, here today representing Bell Media. I'm joined by Richard Gray, who is the general manager of Magic 100, Bob FM, CFRA, and The Team 1200 in Ottawa.

Thank you for moving forward with the copyright reform package and providing Bell Media with the opportunity to present our perspective on Bill C-11. We applaud this government's copyright modernization efforts, which will continue to allow Canadian companies to innovate and maintain a competitive edge in an ever-growing international marketplace.

In the last year, Bell Media has grown and changed as a company. We have gone from being one of the largest ISPs and telephone service providers to also becoming one of the largest broadcasters and content producers in the country through the acquisition of CTV.

Today Bell Media is the proud owner and operator of 33 licensed radio stations, including the former CHUM radio stations, operating

in 14 markets across the country. We are uniquely positioned to provide perspective on copyright both as a copyright owner and distributor of content.

While Bell Media supports the goals of Bill C-11, as both a copyright owner and content distributor we would like to focus our discussion today on addressing two significant items of concern that, if addressed, we feel will ensure that this bill is both workable and balanced.

First we will address notice-and-notice; and second, we would like to spend some time discussing the exception for technical copies that are made by radio stations for the purpose of broadcasting.

We believe that the government got it right with notice-and-notice. We are pleased with the proposed regime, and with a few technical tweaks we hope it will prove to be a valuable tool in the fight against piracy.

What could not have been anticipated, but what must be considered, is that since the introduction of Bill C-32 and Bill C-11 technology and content consumption patterns have changed. This is evident when you sit in a coffee shop or airport lounge and read the news on your tablet or smartphone, possibly through the local WiFi connection.

We know from past Bill C-32 testimony that some of the bigger ISPs have been doing notice-and-notice for years. However, they are not the majority. In fact most ISPs are not yet doing notice-and-notice, and neither are most other network service providers, like wireless carriers.

As a copyright owner, we want to make sure that an effective notice-and-notice service is put in place so that we can better educate individuals suspected of piracy while protecting and preserving the neutrality of the messengers, like ISPs who pass along our message.

We know that it will take time for everyone to get their notice-and-notice service up and running at full capacity, including us, and we want to put on the record that we are supportive of granting the time needed to establish and implement an effective notice-and-notice service. We would like to see the bill explicitly provide that time so that we can build our systems to accommodate the new rules before any obligations come into force.

We also want to make clear that we view the notice-and-notice systems as a valuable service, and we are willing to pay reasonable fees to both facilitate network service providers building effective systems and to enable them to ensure that this service will keep up with technology.

We see that as drafted the bill contemplates the possibility that network service providers may not be able to charge any fees for the notice-and-notice service. As both sides of the coin, copyright owner and network service provider, we believe that network service providers need to do their part to enforce rules and pass on to their customers the notices of copyright violations they get from content owners, but also that content owners need to compensate network service providers for the cost of doing this. It is only fair.

For example, people using a courier service must pay a fee to deliver their messages. There is no exception for businesses in that case, and there is no reason for notice-and-notice to be any different. But of course we are just looking to cover our costs.

To conclude our comments on notice-and-notice, we ask that you provide the time needed to build an effective notice-and-notice service and ensure that network service providers can recover the costs to set up this service, which is to the content owners' benefit.

I will now ask Richard to speak to you about radio.

● (0905)

**Mr. Richard Gray (Vice-President and General Manager, CTV2 and Radio Ottawa, CHUM Radio):** While radio has equally been affected by technological change, as we will see, some things in the radio world have not. Local broadcasters continue to be an integral part of their communities by employing local people, contributing to local regions, creating local content, and investing in and promoting local artists.

To demonstrate Bell Media's role you might consider the following. We employ 723 staff dedicated to our radio operations. We have sponsored thousands of community events. At a more recent one, Ottawa's CFRA raised over \$2.4 million to fund care programs at the Elizabeth Bruyère Hospital.

We support and promote local talent through programs like the Bell Media emerging artist initiative, which features a new Canadian artist each month on our radio stations across the country. We invest in Canadian talent development by making substantial contributions to the Canadian content development initiatives. In 2011 Bell Media paid \$7.3 million to Canadian content development. We help Canadian artists achieve success in many ways, including airplay and concert sponsorship. In 2011 our radio station in Windsor—93.9 The River—was a big supporter of Canadian independent musicians, with more than 10,000 airplays.

In addition to all of this, we continue to support the music industry as a whole through the copyright royalties we pay. Last year, of the \$64 million radio broadcasters paid for the performance of the songs they broadcast, Bell Media's share was \$8.1 million. This is not at issue, and we will continue to pay these royalties. As a content owner ourselves we firmly believe that broadcasters should pay for the music they broadcast.

In addition to paying to broadcast the songs, radio broadcasters are also paying \$21 million to the same people for the technical copies made to get those same songs broadcast on air. Not only do two payments for one broadcast amount to double-dipping, but the \$21 million reproduction payment basically amounts to a digital tax or a penalty because of innovation. We did not pay it when we spun records, and we did not pay it when live DJs played CDs. But

because technology has advanced and the guy or gal that used to drop off CDs for the labels has been replaced by a digital delivery system that the labels created, we now have to pay them to receive their music and put it in a format we can use.

There is something wrong here. They gain huge efficiencies, and even though this may be helpful for us, we nevertheless aren't sharing that gain. We are paying for it, and paying a lot, despite the contributions we continue to make to support their business. Not only is this counter-intuitive, but it also fails to achieve the fundamental goals of Bill C-11, which we understood were also supportive of innovation and business efficiency.

Bill C-11 attempts to address this problem by saying we don't have to pay for these digital copies if we destroy them 30 days after they are made. Although the overall intent is good, this is an unreasonable and unworkable solution that demands that time-intensive processes be implemented at every radio station and that more copying be done. The drafting of proposed subsection 30.9(4) fails to reflect a clear intention, and instead maintains the status quo—a status that is not pro-innovation, and sends a message to the radio industry that it will pay more for innovative and technologically specific business solutions.

We have heard concerns that a meaningful exemption for broadcasters would have a big impact on Canadian artists. We know, as you heard on Tuesday morning from the Canadian Federation of Musicians, that it will not. Most of the money only goes to record labels and publishers, many of whom are not even in Canada.

In sum, we are asking the government to amend the broadcaster exception by creating a clear technical exemption for technical copies. That will acknowledge and encourage innovation, facilitate business efficiency, and more importantly it will put an end to double-dipping.

● (0910)

**Ms. Tanya Woods:** We appreciate the time each of you has spent addressing the issues that matter most to our industries. Thank you for inviting us to share our views with you regarding Bill C-11, and specifically those pertaining to the technical changes we are seeking for notice-and-notice and the broadcaster's technical copying exception.

We look forward to providing you with any information you need.

Thank you.

**The Chair:** Thank you, Ms. Woods and Mr. Gray.

Now we'll move to Mr. McCarty.

**Mr. Michael McCarty (President, ole):** Good morning, Mr. Chairman, members of the committee, and ladies and gentlemen.

I'm Michael McCarty, president of ole. We're Canada's largest music publisher. We have over \$115 million invested in music copyrights. With that kind of investment on the line, we have a keen interest in Bill C-11. Our catalogue of more than 45,000 songs generates significant royalty revenue around the world, which flows back into Canada, contributing to our GDP, employment, and tax base. Ole's songs and songwriters have received numerous Canadian awards, as well as a Grammy for *White Horse*, one of the many Taylor Swift compositions we own.

Bill C-11 may be a well-intentioned attempt to modernize Canada's Copyright Act, but the fact is that it will be destructive to music creators and rights holders, and it does not address the biggest piracy problem of all, corporate music piracy. That said, the bill's shortcomings can be overcome with relatively simple but vital changes to the legislation. We urge the committee to return the bill to Parliament incorporating these changes.

Our position is simple. Creators must be compensated for the use of their work throughout the entire digital value chain. This is perhaps an obvious statement, but one that needs to be made in the face of the anti-copyright forces so prevalent today. Here's the reality: it's been 18 years since the Internet was switched on and 13 years since Napster arrived. This powerful combination spawned a decade-long, money-drenched frat party, enjoyed by entrepreneurs, tech start-ups, venture capitalists, telecoms, Internet search engines, and hardware manufacturers. Creators and rights owners were not invited to the party but ended up footing the bill. Their financial hangover knows no end, and Bill C-11 is not the cure.

Copyright is a good thing. Copyright transactions transform art into dollars. Copyright transactions create vibrant markets that enable creators to monetize their work, leverage its value, fuel their careers, and protect their artistic integrity. This is the very currency of the value chain that enables the artists' work to reach the public and for them to be paid appropriately for it. In the digital age, ideas may be more valuable than tangible goods, and a country that fails to protect intellectual property fails to protect its economic future. This means preserving the creators' and rights holders' ability to profit from their creations, not just their right to profit.

To transform digital art into dollars, copyright laws must apply to those companies whose products and services facilitate access to the digital art. To paraphrase the infamous rock and roll pioneer Jerry Lee Lewis, there's a whole lot of monetization going on. But like much of Mr. Lewis's activity, it happens largely outside of the law.

This copyright monetization generates billions of dollars per year to the benefit of all concerned, except for the creators and copyright owners. Bill C-11 will not change this. The bill heavily favours those who are happy to benefit from music but who think it is someone else's responsibility to pay for it—the free riders. It favours the distribution industries over the creators and allows delivery systems to be built at their expense. Vast wealth has been diverted into the pockets of industries that enable and profit unjustly from infringement. ISPs, Internet search engines, advertisers, websites, and device manufacturers are all involved in monetizing music, often without paying any of the proceeds to those who created it. While severely undermining the value of recorded music, the free riders have built very lucrative businesses for themselves. Unfortunately, for the most part the system does not pay creators because the law does not

require it to. Under Bill C-11 these companies will continue to enjoy their free ride.

Under the banner of protecting innovation, the bill seeks to protect the innovation of the technology sector at the expense of those who create music. In fact, songwriters and musicians provide innovative cultural work that is just as valuable to society. Favouring one innovator over another is hardly serving the Canadian public.

The bill provides no new viable tools to help creators monetize their art and misguidedly places nearly all of its anti-piracy hopes on failed strategies such as digital locks and notice-and-notice. For music, techniques such as digital locks and suing music fans have failed to reduce piracy or build the marketplace. Notice-and-notice, heralded as targeting ISPs for the piracy activity on their networks, simply requires them to assist in redirecting blame to the consumer. This amounts to even greater protection for the ISPs as they profit from piracy. We don't need band-aids for copyright enforcement; we need a marketplace. As long as the primary enablers of piracy are shielded from liability, creators' works can be taken, sold, or consumed without their being paid.

One of the great ironies of the copyright monetization act is that not only does it not provide any modern tools for our belt, it will actually take two of them away: the broadcast mechanical and the private copying provisions. This is a backward step in our ability to turn digital art into dollars. The broadcast mechanical royalty is one of the most important ways songwriters get paid from radio stations that use their music. It licenses the digital reproduction process used by most modern stations to get music on the air. The broadcast mechanical is a clear example of the copyright system working.

● (0915)

The government uses legislation to create a right, which in turn creates a marketplace. This important revenue stream produces approximately \$20 million a year and will disappear under Bill C-11. I hope this is an unintended consequence that will be corrected.

In the late nineties Canada created an elegant, progressive response to the nearly identical problem we face today, the widespread, unstoppable copying of music. Our private copying system was an effective tool to let music fans copy music, while ensuring that creators got paid from the sale of blank CDs. Copying music onto CDs is all but obsolete, replaced by newer digital media and services.

As a result, this private copying revenue stream, which to date has paid our artists over \$180 million, is headed towards insignificance. Canada needs to catch up. There are over 40 countries around the world whose private copying system applies to most digital devices and media. Bill C-11 would permanently block our efforts to modernize our private copying system. We need to move forward, not backwards.

There are relatively simple amendments that can be made to make Bill C-11 work, and we have made detailed drafting suggestions in our written submission.

First, rein in the free riders by broadening the enabling provision. This was intended to make the enabling of online copyright infringement itself an infringement of copyright, but it is so narrowly written that it will only apply to the most egregious pirates. It should be broadened to include all of the industries that profit parasitically from piracy.

The result would be a law similar to the U.S. contributory infringement concept. Companies that contribute to copyright infringement can be as liable as those that actually commit the infringing act. It was this law that inspired the creation of the iTunes store. Apple needed a way to immunize the iPod from contributory infringement claims, so they created the iTunes store, which brought the labels onside, resulting in one of the most innovative digital services ever devised, and this delivered a new revenue stream for creators and rights holders.

An improved enabling provision would create a marketplace solution to the free-rider problem and would eliminate the need for extending the private copying levy. Companies that enable infringement would be liable for their actions. For instance, ISPs would have a simple decision to make: take the infringing material off their networks, or negotiate payment with the owners and suppliers of the content. This would jump-start a well-functioning marketplace and would enable ISPs to turn their underground piracy-facilitating business into a legitimate one.

Our second suggestion is to reverse the expropriation of current rights. If Bill C-11 goes ahead without revisions, millions of dollars of annual broadcast mechanical revenue will disappear. Because of a major loophole in the legislation, in order to avoid paying royalties broadcasters would simply have to refresh their hard drives every 30 days by copying one drive onto another. Ole supports the submission of the Canadian Music Publishers' Association and CSI on this subject.

Finally, while our position is that broadening the enabling provision would create a marketplace where an extended private copying levy would be unnecessary, in the absence of such a circumstance ole supports the specific recommendations made by the CPCC and the CMPA to extend private copying.

To conclude, if Bill C-11 is passed in its current form, the result will be to reduce the collective annual income of songwriters and artists by millions of dollars, to provide increased legal protection to the companies that facilitate and profit from piracy, and to support the philosophy of "steal the content to build a distribution business".

A fair marketplace exists when a willing seller and a willing buyer are free to negotiate the sale of goods or services. When the buyer can take the product without paying, there is a failed marketplace. For the creators of music, the failed digital marketplace has left them unable to effectively turn their digital art into dollars.

How long do our artists have to wait for the law to catch up so they can make a proper living? Bill C-11 will be the last opportunity to fix this for at least a decade. We must support all Canadian creators in every area of endeavour. We must not discourage our children's dreams of becoming artists who can also pay the rent. The time to get it right is now.

Thank you.

● (0920)

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

Now to Ms. Marrelli.

**Ms. Nancy Marrelli (Special Advisor, Copyright, Canadian Council of Archives):** Good morning.

I'm Nancy Marelli. I'm an archivist, and I'm from the Canadian Council of Archives, a national non-profit organization dedicated to nurturing and sustaining the nationwide efforts of over 800 Canadian archives. We are pleased to have this opportunity to present our views today.

The major concern for archivists with recent copyright reform bills has been those provisions dealing with photographs. Other matters of special concern for archivists in Bill C-11 include amendments dealing with copies of unpublished works and technological protection measures. A number of additional issues negatively affect archival researchers, and although many archivists are concerned about these issues, my remarks today focus on matters of direct concern to archival institutions.

Under the current law, archival institutions cannot provide researchers with a copy of a photograph or other types of unpublished works for research and private study purposes, especially for works whose term of protection and ownership cannot be determined. Archivists are delighted that Bill C-11 will solve this longstanding problem.

Once passed into law, this amendment will permit archival institutions to make a single copy of unpublished works in our holdings, for research or private study, under conditions that can be practically met. We heartily welcome and endorse this amendment.

One of the most important matters in Bill C-11 for archival institutions is the proposed amendments dealing with photographs. Many photographs in archival holdings are orphan works, works for which the copyright owners are unknown or cannot be located. The current copyright law relating to photographs is difficult, and even impossible in some cases, for archivists to apply when dealing with orphan works. This already difficult situation will be made even more complicated if the provisions of Bill C-11 are enacted.

Amending the law so the photographer is uniformly the copyright holder makes it even more difficult to determine the copyright owner of some photographs in our collections. Photographs by anyone other than professionals only rarely have an identifiable creator by the time they arrive at an archive many years after they were taken. Without this information, it is impossible to determine the term of protection of the photos, and they fall into limbo. It's not the works of professional photographers that are of concern to us here. Professional photographers usually clearly identify their work, and we can ascertain their date of death and their term of protection. But the law applies equally to all photos, professional or not.

Not all photos are created as commercial works. In fact, millions of the works in our institutions were not created for commercial purposes. They are the records that document the lives of ordinary Canadians, such as the photos your grandmother or your uncle took at the family cottage in the 1950s, photos taken by strangers your parents handed the camera to when they were on their honeymoon in Niagara Falls, or photos taken by a passerby of an entire East Asian immigrant family in front of their small family grocery business. This is our Canadian documentary heritage.

Archival holdings are accessible for research and private study on site in the archives, but in the digital environment, that is not where the vast majority of Canadians search for information about themselves, their families, their institutions, and their society. We seek information on the Internet, in multimedia works, and in specialized electronic and print publications. These essential modes of modern communication are not available for the dissemination of many of our archival holdings, especially photographs, because we do not know who took the photograph.

Archives expend scarce resources to acquire, preserve, and make our holdings accessible, but we often cannot use modern electronic communications means, such as web sites and the Internet, to make them available to the Canadian public because the copyright owners are unknown or cannot be located. They are orphan works. These orphan works fall by the wayside on the information highway of the 21st century. Important chunks of the Canadian experience fall into a black hole where access is severely limited. Researchers have to travel to an archival institution, often far way in another city or province, to use the material on site. Furthermore, without information about who the creator is and his or her date of death, the term of copyright protection is unknown, and the black hole extends into the future with no definite expiry date.

●(0925)

Let me give you a fictional example of the problem.

An archive has extensive materials from a variety of sources on residential schools in Canada and it wishes to share those precious resources with Canadians who are increasingly preoccupied by this difficult subject. The archival holdings include photos taken with a Brownie camera in the 1950s by an unknown person or persons. The amateur snapshots provide graphic documentation of the living conditions in an Ontario residential school. They also include ten minutes of 8-millimetre home movies of three brothers as they prepare to leave their reserve in Quebec in 1964 to attend a residential school. All three children subsequently die in the residential school. The parents are currently unlocatable and no one knows who filmed the event. The archive is at a dead end trying to identify and locate rights holders. It is not possible to create a website featuring these materials, because it is not possible to obtain permission from the copyright holders. The term of protection is unknown, since the date of death of the creator is unknown.

Access to the vast and rich legacy of Canadian documentary heritage provides a revealing window to the Canadian experience, past and present. Canadian archivists preserve and make accessible to all Canadians the diverse records of government, industry, and individuals. Canadian archives strive both to preserve and promote the essence of who Canadians are, and what we have done through the use of the rich documentary heritage that is the memory of the nation.

The changes in Bill C-11 regarding the term and ownership of copyright in photographs further complicate an already difficult situation and they highlight the urgent need to address the orphan works problem, which is not addressed in Bill C-11.

I will now deal with technological protection measures.

Bill C-11 prohibits the circumvention of TPMs for legal purposes, such as preservation activities used by archivists to protect the documentary heritage of Canada. This is completely unacceptable and is a matter of very grave concern to the Canadian archives community in the digital environment where obsolescence is both rapid and disastrous for long-term access.

The CCA recommends that Bill C-11 be amended to provide that circumvention of TPMs is prohibited only when the circumvention is for the purposes of infringing copyright, and that circumvention tools and services should be available for non-infringing uses.

Let me give you a fictional example of how Bill C-11 might affect archives.

An archives holds a copy of a CD on the history of a small Ontario company that built and sold distinctive cast-iron stoves throughout Canada over a period of 150 years. It was the main industry in the small town that grew up around the factory. The CD was created by a small communications group that came together briefly in 1985 as the company was closing its doors. The CD deposited by the family that owned the factory includes photographs, oral history interviews with the owners and several generations of workers and customers, company catalogues, and some film footage of the factory. Only one copy of the CD remains. The communications group disbanded when a fire destroyed its offices and all the original material it had collected for the project. As the lifespan of this important CD approaches obsolescence, the archives wishes to ensure the important documentary heritage it contains is preserved for posterity in a suitable format. But the CD is protected with a digital lock and the archives has not succeeded in locating the original creators. If the archives cannot circumvent the digital lock to preserve the unique historical material the CD contains, an important part of our documentary history will be lost as the CD becomes obsolete and the files become unreadable.

The CCA believes that Bill C-11 is drafted too narrowly in relation to TPMs. Its legislative intent should be extended to include activities related to preservation, management, and maintenance of archival holdings, activities that are currently permitted under the act. Archives should be able to harness the benefits of digital technology to fulfill our preservation mandate. If this requires circumvention of access control TPMs, then the interests of archival preservation for the public good should take precedence.

● (0930)

Copyright legislation has a very significant impact on making the documentary heritage of Canada available to Canadians and to researchers worldwide. The archival community welcomes the opportunity to present our concerns and discuss positive approaches to finding solutions that will ensure we are able to carry out our mandate as the enduring source of Canada's documentary heritage.

Thank you.

**The Chair:** Thank you, Ms. Marrelli.

We will now start our first round of questioning.

Mr. Del Mastro, you have five minutes.

**Mr. Dean Del Mastro (Peterborough, CPC):** Thank you, Mr. Chairman. You're doing a fine job this morning, if I might say so.

Thank you to our witnesses for attending this morning.

I'd like to start with you, Mr. Gray, and ask you to clarify something that you said earlier. You said that the radio broadcasters paid \$64 million for performance rights for songs, that Bell Media's share of that was \$8.1 million, but you were also asked to pay, in addition, a mechanical charge of \$21 million. Is that correct?

**Mr. Richard Gray:** That's correct.

**Mr. Dean Del Mastro:** So the Copyright Board established the value of the music that you would pay, as an industry, as being \$64 million, and your share of that was \$8.1 million.

**Mr. Richard Gray:** That's correct.

**Mr. Dean Del Mastro:** That's what was established through negotiation.

So what is the other fee for?

**Mr. Richard Gray:** The other fee is a duplicate fee that we're charged to make the mechanical copy.

**Mr. Dean Del Mastro:** When did this come about?

**Mr. Richard Gray:** I believe it's been in existence for about five years.

**Mr. Dean Del Mastro:** Five years. And can you confirm that it's roughly tripled over that period of time?

**Mr. Richard Gray:** I'm not certain, but that's something I can get back to you on. I know it has continued to grow.

**Mr. Dean Del Mastro:** Okay.

Ms. Woods, do you have...?

**Ms. Tanya Woods:** I can confirm that it has; it has almost doubled, actually, in the last two years, and tripled since it was introduced.

**Mr. Dean Del Mastro:** Thank you very much.

Most people, myself included, would look at it and ask why you don't just buy the music in the format you want to use it in. Why are you making two copies? You only use it in one format. Why don't you just buy it in that format and not pay the two fees?

**Mr. Richard Gray:** I think the best answer to that question is that radio stations are an ever-changing, ever-evolving business. We may be in a soft AC format today, tomorrow we may become a hot AC station, and a year from now we could be a classic hits station.

**Mr. Dean Del Mastro:** Am I not correct in making the statement, though, that you're forced to buy it in a format that you don't use, so that you can then buy it in a format that you do use?

**Ms. Tanya Woods:** I just want to make a clarification. We don't buy the music. The labels send it to us through a digital delivery service. We receive it in the format that they decide.

**Mr. Dean Del Mastro:** That they decide.

**Ms. Tanya Woods:** That's right, that they decide.

For example, it could be in a WAV file and our system may need it in an MP2 file. We have to make that conversion at each station.

**Mr. Dean Del Mastro:** So the bottom line is that you're paying twice for the exact same product.

**Ms. Tanya Woods:** That's exactly right.

**Mr. Dean Del Mastro:** And you have no way around that.

**Ms. Tanya Woods:** No.

**Mr. Dean Del Mastro:** It would make sense to me that you pay once for the product and that the Copyright Board establish the value of that single payment. Is that what you're asking for?

• (0935)

**Ms. Tanya Woods:** You're exactly right.

**Mr. Dean Del Mastro:** It makes a lot of sense to me.

Mr. McCarty, you talked about digital storage, and I want to speak about this for a minute. You said that digital locks have failed. But everything that underpins the cloud are technical protection measures. We can acknowledge, for example, that Netflix is a new way that people are consuming movies, and YouTube is a new way that people are consuming music.

My two nieces don't store anything. They're young, but if they want to watch Taylor Swift—and I've got to tell you, they watch a lot of Taylor Swift—they watch it on YouTube. They replay it and they replay it and they replay it. But they're not storing any of it. How will anything to do with “mechanical” impact on that when the next generation...?

Even me: I own hundreds of CDs, hundreds of DVDs, but I'm not buying any more of them. The reason I'm not buying any more of them is that I can access them very simply over the Internet, legally, and consume that product. I'm going to pay, as are, I imagine, most people in this room, in the not-too-distant future for access to digital libraries that will reward creators as part of the contract, but I won't have to store anything any more.

**The Chair:** You have 30 seconds.

**Mr. Michael McCarty:** Thank you.

I'm not sure whether that's a TPM question or not, but those are different uses of music that use different technologies that invoke different rights of ours. In a reproduction environment, it's using a reproduction right. In a streaming environment, it's using both reproduction and performance, but more performance than reproduction.

On the TPM side of it, I'm not against locks; I just think they've largely failed for music, and especially on the reproduction technology side.

**Mr. Dean Del Mastro:** I agree with you.

**Mr. Michael McCarty:** Right now, Firefox browser has a built-in StreamRipper. We have technology on our website to prevent people from ripping our streams of our music, including Taylor Swift, and kids get around it.

**The Chair:** Great. Thank you very much, Mr. McCarty and Mr. Del Mastro.

We will now go to Mr. Angus for five minutes.

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

This has been fascinating. I was at the Future of Music Coalition conference in Washington last year, and T Bone Burnett had a fascinating statement. He said that the value of recorded music dropped some 90% in a five-year period with the introduction of radio. The argument from radio back then was that they were giving them promotion. Until we monetized the stream of radio, the record industry was in a pretty deep hole. Out of the monetizing stream we created one of the greatest entertainment empires in North America and around the world.

Mr. McCarty, my colleagues seem to be hooked on the issue of the digital locks. You're saying that to have a market, we actually need to have a monetizing stream. It's not just about locking the content down. There has to be a monetizing stream so that what the artists are doing they are getting paid for. Is that where we need to be going?

**Mr. Michael McCarty:** If I could, I'd like to segue into the broadcast mechanical for a second.

It has been said that it's double-dipping and paying twice. My neighbour, a guy named Chris, who works for one of the major broadcasters in Canada, has said that to me. He said, “I don't mind paying for music once. I just don't want to pay for it twice.” I said to him, “Chris, do you get a salary?” He said that yes, he gets a salary. I asked if he gets a bonus. Yes, if the company does well, he gets a bonus. I asked if he gets benefits. Yes, he does. I said, “Would you say you are being paid three times?” No, he wouldn't. He's saying that it all adds up to a fair compensation package.

The two different payment streams use two different rights. That's how we get paid. If people use our rights, we have a right to be paid. That's the only way to get paid. That's our entire business.

**Mr. Charlie Angus:** I guess it is a question of fairness. We're not creating something new. This was adjudicated by the Copyright Board. The Copyright Board decided that this is a fair payment. My colleagues in the Conservative Party believe that it's all right to just erase a royalty payment, a royalty right that has been defined as something that is fair. They say that it's a tax.

I love radio. I love private radio. But I'm hearing them talking about double-dipping. I'm hearing this word “tax”, that copyright is somehow a tax on the consumer. My colleagues use that about the levy all the time. Now they are saying that this mechanical is a tax.

Mr. McCarty, I'm looking at the CRTC statistical financial summaries for radio. I'm looking at 1996, when their pre-tax profit margin was 1%. They were close to the bone. They came and they were crying about the hurt. I'm looking at 2009, when their pre-tax profit margin was 21.2%. They had gone from \$8.2 million in pre-tax profit to \$319 million in that period. What was it like in the music industry between 1996 and 2009?

• (0940)

**Mr. Michael McCarty:** I think you could lay that curve out and put a mirror image going downward for the music industry.

**Mr. Charlie Angus:** This is what we're talking about: What is fair? With the industry right now, we're seeing that they want to strike that \$20 million. They want to strike the \$30 million from the levy. That's an enormous hit to the bottom line.

I heard that it was only going to publishers. You're a publisher. How integral is the publishing system to actually maintaining the larger health of the music industry in this country?

**Mr. Michael McCarty:** We're the R and D of the industry. When you say that it only goes to the publishers, approximately 75% of every dollar we collect goes on to the songwriter and the composer. We're a middleman, in that sense. It's a false impression to think that the money stops when we get it.

As for the idea that it leaves the country, that's how copyright works. It's a bilateral, international system. Most of our money comes from outside of Canada. If we stopped paying people who are from other countries, they would stop paying us, and the whole system would break down. Nickelback and Arcade Fire get most of their money from America, I'll bet. They should keep getting that money. The singer from Arcade Fire is American. Maybe we shouldn't pay him his Canadian royalties. It's just not a valid argument.

**The Chair:** You have 30 seconds.

**Mr. Charlie Angus:** Ms. Marrelli, on the issue of orphan rights, you've raised a really important point on the TPMs. Do you have language you could produce for us on making sure that we're not losing the great heritage or losing access to the heritage of photography in this country?

**Ms. Nancy Marrelli:** I don't have any. We certainly can prepare something, if that's desirable.

**Mr. Charlie Angus:** That would certainly be helpful if you could.

**Ms. Nancy Marrelli:** It's very important for us, obviously, because many materials now are coming into the archives that will be digitally locked, which will ensure the destruction of those materials over the long term. That certainly is going to be the case as we go long.

I can engage to prepare that language.

**The Chair:** Thank you, Ms. Marrelli and Mr. Angus.

Mr. Armstrong, you have five minutes.

**Mr. Scott Armstrong (Cumberland—Colchester—Musquodoboit Valley, CPC):** Thank you, Mr. Chair.

I want to thank our guests for their presentations.

Mr. Gray, you talked about the notice-and-notice provision. You mentioned that you think that the artist should pay you, or pay through you, to contact the potential offender. Elaborate on that for a minute, because that strikes me as not an effective way to manage the system.

**Ms. Tanya Woods:** I'll have to take the question for Mr. Gray.

Radio doesn't do notice-and-notice. For that matter, neither does Bell Media. With respect to the way we view things, it's interesting when we hear that ISPs make money off piracy, because in fact the business of being an ISP is to make money on top-quality Internet service. By providing Internet service we're a common carrier, and as a common carrier we're neutral. That's decided by the Telecommunications Act.

We open the door to all kinds of things. We give you the ability to do whatever you like. You can check the weather, you can check a local business website, you can do downloading, as Mr. Del Mastro does, of legal content, of legal movies from wherever he gets them, possibly iTunes as well, which is legal content. But to make the

assumption that ISPs have some kind of control over the Internet would be false. We can't control what goes on online, and we can't control what people do online. We're simply neutral.

We expect, though—from what we've seen and from the testimony earlier in 2011—that reaching out to individuals on an individual level is an excellent way to educate them on piracy. It is effective. I think our colleagues at Rogers gave testimony to that effect.

**Mr. Scott Armstrong:** What if someone is using your technology to commit a crime, something illegal, and you're contacted by the creator of that? Don't you think, since it's your technology being used, that you should have the responsibility to notify—we're just talking about notification here—your client that they're doing something illegal? That's all we're asking you to do, correct?

**Ms. Tanya Woods:** That's correct. We would be happy to do that. We have absolutely no problem passing along the message, in particular because we're both a copyright owner and an ISP.

• (0945)

**Mr. Scott Armstrong:** When you say that you want someone else to pay for this service, you're asking them to remunerate you for notifying your client who is doing something illegal using your technology.

**Ms. Tanya Woods:** People use technology every day, all kinds of technology. I mean, the pen is technology from a quill, right? People can do whatever they like with technology.

As an ISP, we're totally neutral. We offer a technology; it does many, many things. Unfortunately, there are people who use it to do bad things. It costs to build a service specifically dedicated to target one issue for one set of individuals or an industry, which we also are part of as Bell Media. As Bell Media, we are happy to pay for that service because it helps us protect our business interests. As an ISP, we would expect to be paid for that service, but we're not even asking for profits; we just want to recover the cost.

**Mr. Scott Armstrong:** Mr. McCarty, what would your clients think if they had to pay the ISP provider to provide this notice?

**Mr. Michael McCarty:** Well, most of the creators in the music industry are individuals in small businesses, and the cost of getting a major telecom to do that kind of work could easily be prohibitive for them. They would not be able to do it. As it is now, there's a similar system on YouTube, and we're having a difficult time managing it—and we're a fairly large company. If we had to manage it for every ISP in Canada, it would be a nightmare.

**Mr. Scott Armstrong:** Mr. McCarty, just to continue, could you define a term you used—“corporate music piracy”?

**Mr. Michael McCarty:** It's the free riders I was referring to, the people who profit parasitically from piracy. In the ISP situation, they're selling bandwidth to people who are pirating music and movies and other copyrighted materials; that's how they profit. They're not, by the way, dumb pipes; they're smart networks that can act smart or dumb as the situation suits them.

**The Chair:** You have 30 seconds.

**Mr. Michael McCarty:** They could discriminate between different types of traffic on the network. They can identify their customers. They can identify child porn for the criminal investigators. They're not neutral. They're not dumb pipes.

**Mr. Scott Armstrong:** Ms. Marrelli, language that you could produce for us would be useful, and as someone who uses archives, I have some concerns there myself, so please get that to us as soon as you can.

**Ms. Nancy Marrelli:** I promise to do that.

**Mr. Scott Armstrong:** Thank you.

**The Chair:** Thank you, Mr. Armstrong and witnesses.

Now we will move on to Mr. Regan.

**Hon. Geoff Regan (Halifax West, Lib.):** Thank you, Mr. Chairman.

As the witnesses were coming this morning, Mr. Del Mastro was suggesting that if you're a radio station you should be able to buy the product once—the song, the music—and be able to reformat it. But what the Conservatives are saying about digital locks is that if you're an individual, or if you are the archives and you have information you either received lawfully or paid for, you shouldn't be able to reformat it if it's digitally locked. This seems to be contradictory.

Ms. Marrelli, you talked about the problems that digital locks and the inability to circumvent them create for you. I think what you're saying is they should be able to do this for a lawful purpose.

**Ms. Nancy Marrelli:** Yes.

**Hon. Geoff Regan:** What's your reaction when you heard the Conservatives telling their constituents not to worry if they broke a digital lock, because no one was going to go after them? Does that reassure you?

**Ms. Nancy Marrelli:** Archives generally don't break the law. We just don't.

**Hon. Geoff Regan:** Okay, let me ask you about the photographer as copyright owner, because to me it's attractive. We had photographers here yesterday who feel strongly that this is a positive move. But I take your point about the problem it creates for you where the owner is not ascertainable.

What is your solution to this?

**Ms. Nancy Marrelli:** The solution is definitely orphan-works legislation, which we know is not in Bill C-11, but which is essential for solving these problems. We understand that Bill C-11 is not going to solve this problem. It makes our problems more complex, because it can make ascertaining the copyright holder, owner, or creator more complicated than it was. But the problem is already there. The fix is not in Bill C-11. We need the fix, and we need to move forward on this.

**Hon. Geoff Regan:** Are you saying the fix should be in Bill C-11? Is this a bill that's not ready for prime time?

**Ms. Nancy Marrelli:** It's not ready for prime time.

**Hon. Geoff Regan:** Ms. Woods, let me turn to you. I'm going to talk about this issue of compensation for notice. On the one hand, you don't control what goes on online, and no one would suggest that you do. You should be neutral, and that's important. On the other hand, one could argue that an ISP is a beneficiary of what goes on online. In other words, if the demand for online services has grown exponentially, primarily because of downloading illegal material, then surely the ISPs are getting more revenue and artists are getting less.

Is it reasonable to say that the songwriter should be paying you? How do they afford to pay you to try to enforce their rights?

● (0950)

**Ms. Tanya Woods:** I want to correct one assumption there. We didn't increase bandwidth to accommodate piracy; we increased bandwidth to accommodate user demand. User demand includes having faster speeds, having more access. Nobody wants to wait three hours to watch the movie they have downloaded from Netflix. That's why—

**Hon. Geoff Regan:** That's whether it's illegal or not, right?

**Ms. Tanya Woods:** Netflix, I would have to assume, would be legal.

**Hon. Geoff Regan:** In that case, yes. We'll accept that.

**Ms. Tanya Woods:** Thank you.

Here's the thing. Notice-and-notice is a service. It's nothing more and nothing less than a notice service, much like a courier, much like the mailman. We're passing along messages, and to preserve our neutrality we're happy to do so. That is something we agreed to do with copyright owners a long time ago. We had a conversation and we said we thought this was going to help, and let's educate our subscribers.

There is a part of the bill that's quite helpful in handling concerns about costs and what fees should be and what would be appropriate—it's that the minister has the ability to set a reasonable maximum fee. We welcome the minister to do so.

**Hon. Geoff Regan:** Tell me about the problem you have with preparing for notice-and-notice, because that's the thing you raised that seems like a—

**Ms. Tanya Woods:** Yes, there are immense challenges. Bell has not yet fully automated its process and we are receiving at least a million notices a year. On top of that, we have to handle wireless. If we think about what takes place on an open Wi-Fi network, your smartphone, or your tablet, and about what goes on when you're sitting wherever you're sitting, there is no way right now. There is no one— *[Technical difficulty—Editor]*

**Mr. Geoff Regan:** Your mike was cut off for some reason. Were you finished?

**The Chair:** It's the glitch, unfortunately.

It's the glitch, so you can finish your statement. Please wait for your microphone to turn on.

**Ms. Tanya Woods:** Basically, what happens for us as a company is that we need to figure out how we can identify who is doing what on our network. That's a process, and then we have to figure out how we're going to build systems that are going to effectively pass notices along. It's a large project, and it will cost millions and millions of dollars, we expect.

**The Chair:** Mr. Regan, you had ten seconds when the mike went off.

**Hon. Geoff Regan:** Thank you, Mr. Chair. I appreciate that. It's all right.

**The Chair:** That was the end of the first round of questioning.

We'll move now to the second round of questioning for five minutes to Mr. McColeman.

**Mr. Phil McColeman (Brant, CPC):** Thank you, Mr. Chair.

Thank you to the witnesses for being here.

My first question is to Mr. McCarty. We heard testimony from the owner of a small radio station just east of Toronto—I think it was in the Peterborough area—saying that his operations would require a full-time staff person. It's a fairly small radio broadcaster, but it would need a full-time person because of the 30 days. He has the material available for 30 days, and then he has to delete it. Now he has to go again and reload it all onto his systems. He said it would take him—and he's done the calculations—a full-time person to do that repeatedly on an ongoing basis. What is your reaction to that?

**Mr. Michael McCarty:** That process and resource would be required to avoid paying the royalty. My advice would be to pay the royalty.

**Mr. Phil McColeman:** I see. You said in your testimony that it's simple. Where I was heading was that this is a simple click or switch and download it. It's just something that's easily done without the requirement of that full-time person. In your testimony, I believe you said that they simply would—

• (0955)

**Mr. Michael McCarty:** No. They could just take it to the hard drive and copy it.

**Mr. Phil McColeman:** In other words, you're disagreeing with his testimony that it would take that full-time person.

**Mr. Michael McCarty:** I don't know the details of his testimony, but it's not that hard to copy a hard drive. The point is that in discussions with the broadcasters, I'm well aware that most of them are intending to do whatever it takes to avoid playing the royalty.

**Mr. Phil McColeman:** Secondly, you said that through the value chain, the distribution channel, there are all of these different things coming together. You made the comparison to a person's employment and getting a bonus. Do you think there is a better way in terms of setting the value of the product and paying once?

**Mr. Michael McCarty:** No, I don't, because, as I said, there are different rights. You know, I have a cable connection that I get from one of the big brand-name Canadian cable companies. If I want to add the Leafs to that, I have to pay separately. It's a new bundle, a new bundle of rights or elements of the product. A recording is made up of many sub-elements, and one of the elements is the underlying copyright. The underlying copyright has different rights.

If they want to use one right, they pay for one stream. If they want to use the second right, they pay for an additional stream.

**Mr. Phil McColeman:** Can you explain the testimony that was given here, that the one payment has tripled? Can you explain why it has tripled? Has the cost of doing business tripled?

**Mr. Michael McCarty:** I believe that, first of all, it's not the rate that has tripled, or doubled, or whatever it has done; it's the increasing amount of repertoire that qualifies. They didn't used to pay on all the repertoire, and now they're paying on more of the repertoire that they use.

**Mr. Phil McColeman:** I'd like the reaction of Mr. Gray or Ms. Woods on that response. Why has the cost tripled? Typically, as a businessman with the products I used to deliver, my costs sometimes went up, and I put that into the final cost of the product. What would have caused, in your opinion, those prices to triple?

**Ms. Tanya Woods:** The Copyright Board establishes the royalties. They've established that the rate will grow, and it has grown, and it has tripled. As far as we know, the repertoires haven't actually changed in size at all. I don't feel qualified to speak about your repertoires. Our understanding is that the board sets the rates, and the way they've established the rates, they've tripled.

**Mr. Phil McColeman:** It's without rationale, that they're just going to elevate, no matter what the cost of producing the product is.

**Ms. Tanya Woods:** They certainly use a complex rationale to set their fees and tariffs at the Copyright Board. Not being from the Copyright Board, I'd like not to comment in any more detail, but I can certainly look into that and get back to you.

**Mr. Phil McColeman:** I'd like to know the answer to that.

**Ms. Tanya Woods:** Sure.

**Mr. Phil McColeman:** It makes sense from a business model point of view that the cost would have had to go up exponentially for the people who are providing it, or someone in the distribution chain has extra costs that need to be recovered. There's got to be some rationale there.

I will move on to Ms. Marrelli. You responded to Mr. Regan, who typically, as a Liberal, will try to make this a partisan thing. You said absolutely “not ready for prime time”. Previous to that you had stated that the orphan rights perhaps should be a totally separate issue, a totally separate bill. We have heard so many people come here and say we need copyright, and not now—we needed it yesterday. This has to happen for our country to benefit from the economic benefits. Yet it's not ready for prime time. Can you explain further?

**Ms. Nancy Marrelli:** We need the bill. We worked with the departments of heritage and industry dealing with this issue. I've spent many hours with department officials going over this issue. We've prepared briefs and we've done a lot of work with this, but it did not appear in the bill. That's what I meant when I said it's not ready for prime time.

**The Chair:** Thank you, Ms. Marrelli.

Mr. McColeman, your time has expired.

We are now moving on to Monsieur Nantel.

[Translation]

**Mr. Pierre Nantel (Longueuil—Pierre-Boucher, NDP):** Thank you, Mr. Chair.

I would like to point out that we are talking about culture here. I would also point out that even the late Steve Jobs observed that over 90 per cent of the material on the devices he and his team had so brilliantly developed, as a general rule, was illegal. We also know that what the music industry is currently experiencing will be replicated elsewhere and that it is only a matter of the volume of data for the video industry to experience it as well.

I would like to ask Mr. Gray a brief question. Is there a clear advantage to radio stations in broadcasting what listeners want to hear, for example, to broadcast stocked music that is totally owned by the radio station? In that case, the choice is to broadcast music because it is what listeners want to hear. It is music that they like.

Very briefly, what do you recommend to replace that loss? That is what we are talking about. There are creators who are losing money under Bill C-11 and we are being told no, the industry no longer wants to pay the \$20 million in broadcast mechanical royalties for ephemeral recordings. What do you recommend to your preferred content providers?

• (1000)

[English]

**Mr. Richard Gray:** My first response will deal with the initial part of your question. That was related to the provision of music that people want to hear. If we're not playing the kind of music that people want to hear on radio, they're going to go and find it somewhere else. In effect, what is a very strong business in Canada—as I mentioned, ours employs 723 people across the country—will first of all shrink and ultimately disappear.

With respect to the second component of your question, I think it was related to artist support. I think what has been absent from the discussion so far today has been what we do in terms of support to artists above and beyond the \$64 million I referenced earlier in terms of royalty payments and the \$50 million that we as an industry pay in Canadian content development. On top of all that, radio stations across this country are playing 35% Canadian music. We also heavily promote Canadian artists through a number of on-air involvements and initiatives. I mentioned in my presentation that we at Bell Media have what's called the Bell Media radio emerging artists initiative. What that program involves is that our program directors from across the country submit songs by emerging Canadian artists and then vote. They select an artist once a month who gets airplay across our entire catalogue of radio stations.

**Mr. Pierre Nantel:** If I may, Mr. Gray,

[Translation]

I understand what you are telling us and that you are obviously a partner in all this. However, what I was asking you was specifically this. Regarding the \$20 million that the industry no longer wants to pay, where do you think it will recover that money?

[English]

**Mr. Richard Gray:** I'm suggesting that the \$21 million is an inappropriate fee for us to be charged because it's a duplicate fee.

[Translation]

**Mr. Pierre Nantel:** Right. So where are you suggesting they recover that money?

[English]

**Mr. Richard Gray:** Where is it going to be recovered? That's not a question for me to answer.

**Mr. Pierre Nantel:** Perfect.

[Translation]

I will now address Mr. McCarty.

You apparently have a different perspective on this subject. The mechanical royalty that is paid for an ephemeral copy is something that has been paid for a long time. We are talking about a form of collective system.

What is your position on this?

[English]

**Mr. Michael McCarty:** The impact on the collective system will be serious. The revenues from the other sources are declining as it is, so combined it will really undermine the collective system.

The collective licensing system is actually extremely helpful and invaluable to the licensees because it's one-stop shopping, so to speak. It's a very efficient system.

In terms of what the broadcast system does for the Canadian music industry, it apparently is intended to be instead of paying royalties. All exposure, all grant systems, all specialty programs that help identify Canadian artists are really welcome, but they're not a substitute for paying royalties.

If I had to make a choice, I'd take royalties rather than grants.

**The Chair:** Thank you, Mr. McCarty and Mr. Nantel.

Mr. Moore.

**Hon. Rob Moore (Fundy Royal, CPC):** Thank you, Mr. Chair.

Mr. Gray, we had testimony this week from another radio station. There was some effort to explain the way in which you pay for the music you play over the radio. There was some discussion over this 30-day issue.

I wonder if you can walk us through, from the point that a new song comes out—something that people have heard about and want to listen to—and how it gets over the air on your local station.

Number one, we want to recognize right off the bat the importance of local radio in our communities, the work you do, the Canadian content you provide, and the help you give to artists who are starting out to get their work well known in the communities.

Walk us through how that happens and how it could be improved.

•(1005)

**Mr. Richard Gray:** Let me start with a historical perspective. The way it used to work was that record labels would bring us disks, and we would store a number of disks in libraries. Copies of those disks would go into our studios and into our broadcast booths. Disks became CDs and were delivered the same way.

But now there's a very different delivery system. It's a digital delivery system called DMDS. The record labels have given us access to their music system. We select the cuts that are appropriate for our particular format of a radio station. We download those. We make a copy of that music that then is appropriate for playback on our stations and is complementary with, is in line with, a number of different systems that are in place to drive the engine that is a radio station.

A radio station is a little more sophisticated now than it used to be, in that it's not just one announcer sitting in a booth with two turntables and a microphone and a commercial card deck. It's much more elaborate. It's much more computer-based. It's much more sophisticated.

I hope that answers your question to some degree.

You also asked about the 30-day exemption and what that process would involve for us as broadcasters. To replace the entirety of our music libraries every 30 days would be hugely onerous and massively time-consuming. Even the smallest of music libraries have about 3,000 songs in them. So if you were to download these at a rate of 15 songs an hour, and assuming nothing went wrong with any of the recordings, it would still take 200 hours a month or 20 very long business days to complete the task at every radio station across the country.

I think the other key consideration in this component that perhaps has been missed in the discussions and the presentations to date is that radio is a very different industry from others. Since we broadcast 24 hours a day, seven days a week, 365 days a year, it's not possible for us to shut down to retool. This purge and duplication process that we're being asked to do every 30 days to gain this exemption would have to go on while we continued to broadcast, complicating the process a great deal further.

**Hon. Rob Moore:** Thank you, Mr. Gray.

Not that we want to punish success in any way, but Mr. Angus mentioned an increase in the profit margins of radio stations. Do you have any comments on that? I know you're the one here representing radio stations and you get to speak to it.

**Mr. Richard Gray:** Absolutely, and I'm glad you did ask that question, because 2009 was a very long time ago. Yes, in 2009 the radio industry in Canada was a very healthy one, but I can tell you it's not nearly as healthy today. Since about last June, our business has been down upwards of 15% in almost every market across the country.

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

**Mr. Richard Gray:** Things have changed.

•(1010)

**The Chair:** Thank you, Mr. Gray and Mr. Moore.

Up next is Mr. Cash for five minutes.

**Mr. Andrew Cash (Davenport, NDP):** Thank you, Mr. Chair.

Thank you all for being here. It's been an extremely interesting discussion, one that's really close to home for me.

I think it's important to underline the long process it takes to get a song on the radio. It's a process that Mr. McCarty knows very well, because, as you say, your function is really R and D. That's a long process. You have to invest a lot of time and a lot of money into a lot of songwriters who don't necessarily write that song that ends up on Mr. Gray's radio station. It takes a lot of work. It's a lot of investment and it's a lot of risk, right?

**Mr. Michael McCarty:** Yes.

**Mr. Andrew Cash:** On our side we're very interested in ensuring that artists get paid, and ensuring that the small-business person, who is essentially the artist, is supported in ways that nurture a growing middle class of artists.

I like to say that the music industry is a great place to get rich and a lousy place to make a living. In other words, there are a few people who can strike it rich and the rest are working extremely hard and every dollar counts.

I think this is important for this committee to understand. I'm sometimes surprised at the members on the government side who dismiss the \$2,000 or \$3,000 that some artists get from the different royalty streams as being just a couple of grand and what's the big deal with that? Well, this is the underpinning of the music business in Canada. It strikes me as outrageous to sometimes hear this lack of understanding. One of the core pillars of the arts and culture sector in Canada is made up of essentially thousands upon thousands of micro-business people, who are trying to pay the rent, raise a family, write a good song, and make life a little more joyous, even for those of us on Parliament Hill.

When I hear this talk about actually taking money for artists off the table, this raises a huge red flag. We're talking about \$20 million right across the country.

Let's talk in real dollars here for a second. For a radio station with a revenue of about \$500,000—we're talking about a small station—its broadcast mechanical is about \$1,500. Are we saying that a small radio station whose broadcast mechanical is \$1,500 is going to spend way more than that on a staffer to copy the music?

Mr. Gray, that sounds like a strange business model to me.

**Mr. Richard Gray:** Well, I think...[*Inaudible—Editor*].

**Mr. Andrew Cash:** But it is true, and for a small station it's \$1,500 for the broadcast mechanical.

**Mr. Richard Gray:** I'm going to answer your question in a slightly different fashion, and I'm going to answer it using the same analogy that you did with respect to musicians. You said it's easy to get rich but it's also—

**Mr. Andrew Cash:** No, I said it's a good place to get rich but a lousy place to make a living.

**Mr. Richard Gray:** It's a good place to get rich and it's a lousy place to make a living.

Well, in radio there are a number of very successful stations and there are a number that are struggling. The reason is that music plays a big part in the success of a radio station but it doesn't play the only part.

Music is a component of a radio station's much broader environment that also includes the quality of the personalities on the station; the depth and breadth of the news, weather, traffic, and information we provide; the support we provide to the local community; the calibre of the creative people on the station; and the number and types of advertisers who are part of a radio station.

**Mr. Andrew Cash:** Understood.

How much money in broadcast mechanicals does CHUM pay?

**Mr. Richard Gray:** How much does CHUM pay?

**Mr. Andrew Cash:** Yes. What's the broadcast mechanical fee for CHUM?

**Mr. Richard Gray:** It's \$2.8 million.

**Mr. Andrew Cash:** Okay. What's the profit of CHUM?

**Mr. Richard Gray:** That's not something that—

**Mr. Andrew Cash:** Well, your parent company's profits in the third quarter of 2011 were \$652 million.

Seriously, we're talking—

**An hon. member:** What has that got to do with copyright?

**Mr. Andrew Cash:** What it has to do with copyright—

•(1015)

**The Chair:** There's a point of order.

**Mr. Phil McColeman:** What statute did we breach? If it's a point of order, I'm looking for a statute.

**An hon. member:** The point is relevance.

**Mr. Phil McColeman:** This is debate. Thank you very much. If it's not a statute, it's debate.

**The Chair:** Mr. Cash, you're out of time, unfortunately. Thank you very much.

We'll move on now to Mr. Calandra, for five minutes.

**Mr. Paul Calandra (Oak Ridges—Markham, CPC):** Thank you, Mr. Chair.

Mr. Gray or Ms. Woods, how many people does Bell Media employ in this country, approximately?

**Mr. Richard Gray:** Bell Media employs 723 in their radio business, and my guess would be that on the television side that number would probably be about 3,500—so between 4,000 and 4,200.

**Mr. Paul Calandra:** What about Bell as a whole?

**Ms. Tanya Woods:** What I can tell you right now—because I don't have those numbers with me, and I wasn't expecting to address Bell as a whole—is that in the Ottawa area Bell is the largest private sector employer.

**Mr. Paul Calandra:** Do you find it somewhat frustrating that you're being told you're making too much money, and that you

should be taxed to death, and that your success is somehow a blight on—

**Mr. Charlie Angus:** Sorry, on a point of order—

**The Chair:** On which statute is it? I hope it's one, Mr. Angus.

**Mr. Charlie Angus:** Well, it certainly is. It's called the statute of actually being able to listen. Nobody said that. He's making it up.

**The Chair:** Okay. That's debate, Mr. Angus.

**Mr. Charlie Angus:** He's making it up.

**The Chair:** Thank you very much. That's debate.

We're moving on to Mr. Calandra.

Please follow through with your question.

**Mr. Paul Calandra:** I would congratulate you for being a successful Canadian company that actually makes money and employs hundreds of thousands of people across this country, as opposed to suggesting that because you are a successful company that makes a lot of money and employs a lot of people, somehow you are a villain in this.

Mr. Gray, is CHUM opposed to paying artists for their works—yes or no?

**Mr. Richard Gray:** No, they are not at all. As I said earlier, we are paying \$8.1 million in performance royalties and an additional \$7.3 million in Canadian content development funds.

**Mr. Paul Calandra:** After this legislation, if it's passed and has the approval of Parliament, you're still prepared to pay royalties to artists?

**Mr. Richard Gray:** Absolutely.

**Mr. Paul Calandra:** Ms. Woods, briefly, some people talked about “notice and take-down”. Under a “notice and take-down” regime, who becomes the police, as such, of the Internet?

**Ms. Tanya Woods:** It certainly puts the ISPs in that role, but the problem is that notice and take-down isn't effective against peer-to-peer file-sharing. We want to use notice-and-notice to target individuals and to pass along messages. Even if the wrong individuals are getting the messages, we still benefit, because everybody's learning.

**Mr. Paul Calandra:** Mr. Gray, my riding's just north of Toronto. I'm in the catchment area of 1050 CHUM. It went from a music station to an all-sports station. How much in royalties do you pay artists on 1050 CHUM now?

**Mr. Richard Gray:** I can't answer that specifically. I can get back to you on that.

**Ms. Tanya Woods:** I can add in to that, though, that it would be very little if we're not playing music.

**Mr. Paul Calandra:** Okay.

The reality is that as your markets change, as you become less profitable, in order to stay on the air, in order to make that licence effective and not put people out of work, you need to provide a product people will actually listen to. Of course a lot of the AM dial has turned to talk radio. So the reality is, Mr. McCarty, that you need them as much as they need you.

What type of tax are you talking about levying on every single thing that we use? If you want to call it a levy, call it a levy, but the reality is that consumers will be paying more whether you call it a levy or a tax. What type of levy do you feel is needed to stop piracy?

My friends in the Liberal Party think that you don't need technical protection measures and you do not need levies, and the artists will still be protected.

**Mr. Michael McCarty:** As I said in my remarks, I'd rather not see a levy; I'd rather see a free marketplace where the products, services, and companies I was referring to were liable for the infringement, and then we could make a deal.

There was a fantastic example of a free-market equivalent of a levy on the Microsoft Zune, an ill-fated product, unfortunately, unrelated to this. It was their version of the iPod.

Can I finish?

• (1020)

**Mr. Paul Calandra:** No. What type of levy are you talking about? You're not giving me—

**Mr. Michael McCarty:** I'm talking about a commercially negotiated royalty. That's what I'm talking about.

**Mr. Paul Calandra:** That would be at what level?

**Mr. Michael McCarty:** It would be however the marketplace decided.

**Mr. Paul Calandra:** So you're not talking about putting levies. You don't think putting levies on these devices is a good way.

**Mr. Michael McCarty:** I want to get a royalty on that device from the manufacturer.

**Mr. Paul Calandra:** You want to get a royalty or a tax on the device.

**Mr. Michael McCarty:** It's not a tax; it's a royalty.

**A voice:** It's just for music.

**Mr. Paul Calandra:** It's just for music. But still, everybody should pay a little extra for this or whatever device they listen to.

**Mr. Michael McCarty:** Well, when you buy those devices, you pay a lot of money for the patents and copyrights embedded in them.

**Mr. Paul Calandra:** So you're calling a tax, then, a royalty, basically?

**Mr. Michael McCarty:** It's a royalty.

**Mr. Paul Calandra:** So you want to change the wording from a tax to a royalty.

**Mr. Michael McCarty:** It's not a tax. I want a commercially negotiated royalty.

**Mr. Paul Calandra:** So people would be paying a royalty tax on their iPods or their—

**Mr. Michael McCarty:** If you want to continue calling it a tax, go ahead. I'm fascinated by this.

**Mr. Paul Calandra:** What's the difference? Am I paying more—yes or no? As a consumer, am I paying more for this—yes or no—after what you've decided?

**Mr. Michael McCarty:** The manufacturer would have the decision to pass on the cost or absorb it.

**The Chair:** Thank you, Mr. McCarty and Mr. Calandra. Your time has expired.

I'm now moving on, for the five next minutes, to Mr. Benskin.

**Mr. Tyrone Benskin (Jeanne-Le Ber, NDP):** Thanks very much.

Thank you all for your presence here.

Contrary to our resident “sky is falling” pundit, we do congratulate you for being successful.

We look at the content—and I come from the content world, as an actor—as being a symbiotic relationship with the diffusers or the producers. Within that symbiotic relationship I think there needs to be a sense of sharing of that success rather than a flat “Here's your \$50, and go away”.

With that in mind, and my colleague across the way brought that up, it is a need-plus-need basis. You are not going to be successful unless you play music that people want to hear. Correct?

**Mr. Richard Gray:** Well, as I said earlier, that's true, but there's much more to the equation than that.

**Mr. Tyrone Benskin:** That I understand.

**Ms. Tanya Woods:** Sorry to cut you off, honourable member. As a point to add, we are still successful with talk radio programming.

**Mr. Tyrone Benskin:** Great. But if you've dedicated a station to being a music-driven station as opposed to a talk radio station, you need that music in order to bring listeners to your station. You need the music, you need the on-air host who adds to that. You need all those different levels. But a key component of that is playing the right music. Right?

**Mr. Richard Gray:** That is correct. And we do pay for it, as I've said before.

**Mr. Tyrone Benskin:** I understand that, but there seems to be a sense that it needs to be a flat rate: we pay some \$2 million, therefore that should be enough. What I'm saying to you is the success of your radio station is directly tied to the success of the choices that you make, whether it be the top 40 or golden oldies, and so forth. Rather than a flat fee that you pay, what I'm putting to you is a sense of sharing of that success due to their participation.

**Mr. Richard Gray:** If the success of a radio station was just about the music....

**Mr. Tyrone Benskin:** It's a component, sir.

**Mr. Richard Gray:** I know; I said that earlier.

**Mr. Tyrone Benskin:** If you have the greatest on-air hosts and so forth, but you have crappy music, it's not going to be successful. Is that fair enough?

**Mr. Richard Gray:** But just because I'm playing great music doesn't necessarily make my radio station a success, because I'm playing the same music as the guy down the street is playing, as the guy down the street farther is playing. Right? There is a great deal more to making a radio station a success than just playing records.

**Mr. Tyrone Benskin:** I understand that. All I'm trying to get is confirmation that the right music and the right musical choices are a component of that success.

**Mr. Richard Gray:** They are a component of that success.

**Mr. Tyrone Benskin:** Thank you.

I want to move on to Mr. McCarty.

We've heard talk of iPod taxes, and so forth. The physical element of any MP3 player is a series of inventions, creations that are put together and patented by either individuals or companies, that are put together to make this unit work. Right?

**Mr. Michael McCarty:** Correct.

**Mr. Tyrone Benskin:** And patents, we can agree, are copyrights.

**Mr. Michael McCarty:** They're a form of it, yes.

**Mr. Tyrone Benskin:** True.

So why is it, do you think, that people would be bothered by paying for the content that goes onto it, if they're already paying for the rights of all the components that make up the unit?

• (1025)

**Mr. Michael McCarty:** Intellectual property is an odd thing in the first place. It's invisible to most people as they go throughout their daily lives. When it gets brought up to them, it's a unique concept to them and they usually don't like the idea of paying for it. If you knew that \$5 of your iPhone went to a certain patent embedded in the iPhone, you probably would resent it. So just because it's being brought up here today, that's why people resent it.

The reason the iPhone will pay for the patent is because the law says they have to. The reason they won't give the music industry any part of their economic value chain is because the law says they don't have to.

**Mr. Tyrone Benskin:** Thank you.

**The Chair:** Thank you very much, Mr. Benskin and Mr. McCarty.

Now we're moving to Mr. Lake, for five minutes.

**Mr. Mike Lake (Edmonton—Mill Woods—Beaumont, CPC):** I have to go quickly here, so it's a quick question for Ms. Woods and Mr. Gray.

You paid \$64 million in 2011 for the broadcast right and \$21 million for the ephemeral right, basically. That totals about \$85 million. Before the \$21 million, before there was any fee paid there, what were you paying for broadcast?

**Ms. Tanya Woods:** It would have been the right relating to the performance.

**Mr. Mike Lake:** What was the amount?

**Ms. Tanya Woods:** I'm sorry, I don't know it off the top of my head. But I can get back to you on that.

**Mr. Mike Lake:** It would have been less than \$64 million, would it?

**Ms. Tanya Woods:** I'd have to verify it to be fair.

**Mr. Mike Lake:** Okay. I suspect that to be the case. I believe it's probably in the neighbourhood of \$60 million, if I'm accurate, which

would mean that the \$21 million over the last five years is just simply completely on top of that.

To Mr. Cash's point, he made a good point. He said why don't you just pay it? It's not that much, why don't you just pay it?

Mr. Cash, for you \$100 isn't too much, so why don't you just give me \$100—no reason, but why don't you just give me \$100, because it's not much for you?

[*Translation*]

**Mr. Pierre Dionne Labelle (Rivière-du-Nord, NDP):** Point of order.

[*English*]

**Mr. Andrew Cash:** Could I answer the question? No?

I'll talk to you after about that.

**Mr. Mike Lake:** The point is—

**The Chair:** Please don't touch the mikes.

**Mr. Mike Lake:** I'm good now.

It seems to me that this broadcast mechanical right is a phantom right, Mr. McCarty. Here's what I mean by that. It's paid not for the value actually provided by a musical—

**Mr. Michael McCarty:** Sure it is.

**Mr. Mike Lake:** [*Technical difficulty—Editor*]

**The Chair:** Maybe if you move to another spot, would that be helpful?

**Mr. Michael McCarty:** Do you want me to answer the question?

**The Chair:** We're having trouble with the mikes.

The time is stopped, of course, Mr. Lake.

Okay, there you are.

**Mr. Mike Lake:** Here we go.

The point is that it seems the broadcast right is value paid to musical creators but the value actually is provided by IT creators. The benefit that is derived from the technology is actually provided by IT creators, it's not provided by music creators. Why should a music creator be compensated for work done by an IT creator?

**Mr. Michael McCarty:** It's using the reproduction rights. When a record company stamps out a CD they're reproducing the music. It's technology that's stamping the CD, but they are reproducing the music. That's where the value is. There's no question that they're using the reproduction right. The Copyright Board said it has value, in fact there was a famous moment when they first set the value. Somebody from the broadcast industry was testifying about how useless it was and how meaningless and trivial it was, and somebody in the Copyright Board said if it's so trivial and useless, stop doing it. Then the response was, we couldn't run our radio station then. So that shows you the value.

**Mr. Mike Lake:** The point is this. We all agree that the creators should be compensated for the creation of their music, for their creation. But you provide that music, the music gets provided to the radio stations, it's going to get provided regardless of what technology the radio station uses, and the radio stations pay for that music, and rightfully they should.

**Mr. Michael McCarty:** They pay for one right.

**Mr. Mike Lake:** It doesn't matter, they pay for the music. If the argument is that the music is worth more, then certainly you should go before the Copyright Board and argue that the music is worth more, and that right for the music can be—

• (1030)

**Mr. Michael McCarty:** The use of the reproduction right of the music is worth more. If you don't want to pay the royalty for the reproduction right, don't reproduce it. That's how intellectual property works, plain and simple.

**Mr. Mike Lake:** The fact of the matter is that they're paying for music, they've always paid for music, and they will continue to pay for music. If the music industry says that our music is worth more, then that should be negotiated. But for the radio stations to invest in technology that allows them to change the way they play their music, it has nothing to do with the music provided. The IT industry should be compensated for that, and they are; they pay for the technology that allows them to play the music differently.

Likewise, as consumers we buy music. In fact, the technology allows this and results in me buying more music than I've ever bought in my life. So I pay for more music because the technology makes it easier for me to play. I get more benefit because of the technology, so I pay for technology and consequently I buy more music. Why in the world should I be paying more for the technology? Why should I pay musical creators for the work that's done by technology creators?

**Mr. Michael McCarty:** When you download a song from iTunes you're using two rights, or that system is using two rights, a reproduction right and a performing right. We get paid for both.

**Mr. Mike Lake:** I'm not talking in theoretical terms here, I'm talking about reality. I pay for my music and I pay for my technology.

**Mr. Michael McCarty:** Yes.

**Mr. Mike Lake:** On top of paying for my technology, why should I pay the music creators for the development of my technology?

**Mr. Michael McCarty:** You don't. You pay for the use of the right. I don't know how else to answer it, honestly.

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

Mr. Lake, I did give you some extra time as well, just in case.

To the witnesses who came today, I want to thank you very much for your information and for sharing your information with us.

We will suspend for five minutes.

• \_\_\_\_\_ (Pause) \_\_\_\_\_

•

• (1035)

**The Chair:** Ladies and gentlemen, witnesses, and members, I'd like to welcome you to the second half of the sixth meeting of the Legislative Committee on Bill C-11.

Before I begin, we still have those technical glitches, so I'm going to remind the members and the witnesses to ensure you do not touch

the microphones today to ensure that our fantastic proceeding and verifications officer can make sure the mikes are on.

If there is a point of order, of course you have the right to do that. We just ask that you take one second, take a breath, and then speak. That will give our PVO the opportunity to turn your mike on. Again, we apologize for this inconvenience. It's beyond our control, but we will do our best to make sure we can get through this today and make sure everyone has the mikes on when they speak.

With that being said, I'll turn to our witnesses and thank them for coming today. Each of you has been briefed by our clerk that you have ten minutes of opening time. I will ensure that you stick to those ten minutes. That's part of my job.

I'd like to introduce our guests. From Corus Entertainment, we have Mr. Gary Maavara.

Did I say your name correctly, sir?

• (1040)

**Mr. Gary Maavara (Executive Vice-President and General Counsel, Corporate, Corus Entertainment Inc.):** Maavara.

**The Chair:** Thank you very much, Mr. Maavara.

And we have Ms. Courtemanche.

From *Coalition des ayants droit musicaux sur Internet*, we have Mario Chenart and Solange Drouin. And from Google we have Mr. Glick.

Welcome, witnesses.

We'll start with Corus Entertainment for ten minutes.

**Mr. Gary Maavara:** Good morning, Mr. Chairman and members of this special legislative committee.

My name is Gary Maavara, and I'm executive vice-president and general counsel at Corus Entertainment. With me today is Sylvie Courtemanche, who is our vice-president of government relations. Sylvie is also the chair of the Canadian Association of Broadcasters.

We wish to thank the committee for this opportunity to speak to Bill C-11. We certainly recognize that the introduction of legislation to amend the Copyright Act of Canada is long overdue.

We applaud the government for its efforts on copyright reform and are generally supportive of Bill C-11, but Corus is seeking small changes to this bill to correct a historical mistake. Before we discuss this issue, we would like to establish our credentials on copyright matters.

Some of you may be surprised to learn that Corus is one of Canada's largest publishers of books for children through Kids Can Press. Corus is also one of the largest producers of television content, and our Nelvana studio makes some of the most popular children's programming. Our characters, such as Franklin the Turtle and Scaredy Squirrel, are seen by audiences and readers in more than 140 countries.

Corus also operates some of the most popular television channels in this country, including household favourites such as YTV, Treehouse, and the soon-to-be-launched ABC Spark channel. We are also partnered on television operations that serve audiences in the United States, Europe, Africa, and Asia.

**Ms. Sylvie Courtemanche (Vice-President, Government Relations, Corus Entertainment Inc.):** We also operate 37 radio stations that serve local communities from Cornwall to Vancouver. Corus Radio is all about personality and connecting with local listeners and communities. Our stations reach approximately 12 million Canadians each week.

We are part of a radio industry that employs people and is a fundamental part of the local culture of virtually every riding in Canada, including that of every member of this committee. If you think about it, there are very few industries that can say that.

Radio stations are at the core of each community, providing entertainment, news, and public affairs programming, as well as important information such as weather and highway conditions. In a multimedia world, radio remains relevant and is one of the only ways local businesses and government can get their messages out to the community on a timely basis.

In particular, Corus's radio stations support and give voice to their communities. John Derringer's 13 Days of Christmas on Q107 Toronto is an example of how we support hundreds of local, provincial, and national charities across Canada. CHED's Santas Anonymous in Edmonton leads a campaign of 3,000 volunteers to collect, wrap, and deliver toys to as many as 25,000 children each Christmas. It has been doing so since 1955. Dave FM 107.5 runs Dave Cares, a service that promotes local charity events in the Kitchener, Waterloo, and Cambridge communities of Ontario.

Local radio also promotes local musicians and artists. Corus runs initiatives such as the Canadian Artists Selected By You awards, and the Fox Vancouver Seeds independent music competition. In September 2010 Corus launched the first-ever integrated music-based social media platform to support new independent music on air and online. In Peterborough, our station The Wolf is showcasing local music acts through annual music festivals, such as Wolfstock and The Gift of Christmas.

• (1045)

**Mr. Gary Maavara:** In this context, Corus creates a significant amount of content and is therefore concerned with the protection of our proprietary works. We know about copyright and we are invested in ensuring the laws make sense for creators and for users. We believe it is important that the members of this committee understand a basic reality about copyright: it does not create markets for content. It is true that good copyright law can help to protect the value in content, but it does not create it. Other factors contribute to that. Some of the most important of these value creation factors are what Corus Radio does each day. When you think about the modern digital world, we are surrounded by an ocean of music that is available everywhere from your personal iPad to the local bar, restaurant, club, concert hall, supermarket, elevator, and these days even at the gas station pump.

Local radio uses a small portion of this music and mixes it with local personality and information to create listeners, advertisers, and

revenue. Radio competes with every other medium for your attention, so we understand the challenges of the digital economy. It's important to understand that in the context of the massive amount of piracy that the music industry endures as a result of digital technologies, radio is an island of stability. We pay higher amounts to the music industry each year and we provide massive amounts of support for local music content development and promotion.

Our cash contribution on music development alone has increased by 487% in the last ten years, and as an industry we paid about \$65 million to music collectives last year for the use of their music. Our payments in this regard have increased by 63% in just the last decade. We are not disputing these payments, and they will continue.

We create an enormous amount of value in that music for the artists who create it. We are proud of our efforts in that regard, but we are seeking small changes to Bill C-11, the most important of which is to the exception for incidental copying done to facilitate our broadcasts. The proposed exemption would require radio stations to delete their entire catalogue of music and related data every 30 days. This involves thousands of songs and related data for every station. Operationally, it just won't work. Imagine if your local riding team had to re-enter your constituent mailing list data once a month. Let's say that process took five minutes for each name and address, and you had to do a few thousand a month. You get the picture. It's a big job, and deleting and reconstituting the same information is a waste of time and money. Requiring radio to do that would fly in the face of this government's stated wish to make Canada more efficient and competitive.

To take advantage of the new Canadian digital economy, radio needs the Copyright Act to support our growth in innovation, not stand in our way. Without our proposed technical amendments, radio stations will be forced to operate as they did in 1995 to limit this unnecessary liability. This is neither progressive nor logical. Creative businesses like ours need the necessary tools to remain competitive in the new digital economy.

The main opposition to our request is the assertion that artists benefit from the money we pay for the reproduction right and that they will lose \$21 million. This is a gross exaggeration and it flies in the face of the actual economics of the situation. The vast majority of the current industry payments goes to offshore recipients and almost none of it ends up with any artist, let alone a Canadian one. This was confirmed to you on Tuesday by Bill Skolnik of the Canadian Federation of Musicians, who said the mechanical royalties are for the publishers and record labels, not the artists.

At best, artists may only see a fraction of the amount. If local radio can continue to grow local value, then the artists will continue to grow their revenue, but if radio is forced to continue to pay these reproduction tariffs, our ability to create local content will be threatened and so will revenue for local artists. Getting this provision right will make a significant difference to the future of local radio. Radio is about the only place where a member of Parliament can talk to constituents about important matters. Furthermore, we employ people who live in your riding and we help local retailers and their businesses to get their messages out to the local community in ways and at times that no other media can do. Local radio fills a need that no other medium does as well as we can, and our model is not sustainable under the current tariff regime.

●(1050)

The truth is that the reproductions made by broadcasters to get music into our playback systems do not harm or shortchange the rights-holders in any way. Private radio broadcasters make reproductions only to facilitate the broadcasting of the music we've already paid to use. This process also reduces the music companies' costs for distributing their content to our stations. No new use is made of the music. Radio makes no additional revenues, but our use adds enormous incremental value to the music.

For all these reasons, we are asking that Bill C-11 be amended to provide for a real exception that will still help artists protect their music while helping us to create the value in that music.

We have attached to our speaking notes our proposed amendments. These changes are very technical in nature, so we won't review them here.

Mr. Chairman and members of the committee, we thank you for your attention on this matter and we welcome any questions you may have.

Thank you.

**The Chair:** Mr. Maavara and Ms. Courtemanche, thank you for your presentation.

[*Translation*]

I now give the floor to the Coalition des ayants droit musicaux sur Internet.

You have 10 minutes, please.

**Mr. Mario Chenart (President of the Board, Société professionnelle des auteurs et des compositeurs du Québec, Coalition des ayants droit musicaux sur Internet):** Thank you, Mr. Thibeault.

Good morning. I would like to thank you for asking the Coalition des ayants droit musicaux sur Internet to appear before you.

CAMI is an organization that brings together the five author, composer, performer, producer, publisher and musician trade associations, and the four music right collectives that are active in the music industry. CAMI therefore is the unified voice of the entire Quebec music industry, representing over 100,000 music right owners.

CAMI is represented before you today by Solange Drouin, Vice-President, Public Affairs, and Executive Director of the ADISQ, and

myself, President of the Société professionnelle des auteurs et des compositeurs du Québec.

We will be splitting the presentation of CAMI's five main recommendations, which are set out in the document we are providing to you today. That document also contains the specific, concise amendments that should be made to Bill C-11 based on those recommendations.

The five recommendations are: make Internet service providers liable; consolidate the right of reproduction; modify the user-generated content exception; address the private copying regime; and define educational fair use.

**Mrs. Solange Drouin (Vice-President and Executive Director, Public Affairs, Association québécoise de l'industrie du disque, du spectacle et de la vidéo, Coalition des ayants droit musicaux sur Internet):** To begin, we would like to talk about the liability of ISPs or Internet service providers.

For ISPs, the only consequence of Bill C-11, as you know, is requiring them to notify an offender when rights owners report potential infringements of their rights. That scheme thus places the responsibility of reporting and prosecuting infringers squarely on the shoulders of right owners. As was stated earlier this morning, right owners do not have the capacity or resources to police the Web.

As well, habitual offenders will not be deterred by such a system and will simply keep up their illegal activity knowing that there will be no penalty from their ISPs. The ISPs themselves will simply go on hosting and allowing the unauthorized use of their works.

However, the ISPs have access to enormous resources that could be used to combat piracy, educate consumers and compensate the music industry for losses sustained. Yet, the proposed legislation stops short of asking ISPs to take any such actions or to compensate right owners in any way. The balance between the rights of creators and the interests of users that the government is seeking in Bill C-11 has therefore not been achieved—far from it.

Why not assign the people who are controlling and monetizing the bandwidth the job of introducing practices that protect the rights of the people who produce the content that circulates on it? How could we allow ISPs devoid of any liability to highjack the commercial appeal of content for the purpose of selling more subscriptions? ISPs are part of the solution and must never be excluded from the debate.

We therefore recommend, to make the notice and notice regime more effective, that ISPs be required, at a minimum, to disclose the names and addresses of potential offenders, and that notices be published in a register and kept there for a minimum of three years. That procedure would enable us to verify the efficiency of the system and to revise it if it proved to be unable to curb piracy. CAMI also recommends that Internet service providers, which have largely benefited up until now from the circulation of content provided by right owners without any remuneration or compensation in return, be made liable.

Second, the exception for user-generated content needs to be modified. The so-called "YouTube exception" makes it possible, for instance, for individuals to disseminate family videos on a pop music soundtrack. Individuals may also post any new work derived from a work, thus causing creators almost completely to lose control. Any individual can thus cause considerable harm to the market for a work.

Currently, websites whose contents are managed by users, such as YouTube, are required by law to negotiate conditions either with copyright owners individually or with organizations that represent them collectively. If Bill C-11 were to become law, Canada would become the first country in the world where companies such as YouTube would have the right to use protected works to generate revenue without any obligation to compensate content creators.

We believe that the current scope of this exception is too wide and causes irreparable harm to right owners, who have the right to benefit from this economic model in the making. We therefore recommend that the government limit the scope of the exception to acts accomplished for personal use and to limit this practice to works that have already been published or made available to the public with the agreement of the right owner.

•(1055)

**Mr. Mario Chenart:** Let us talk about reproduction rights and ephemeral recording.

The government wishes to bring broadcasting rules up to date by making sure that radio broadcasters will no longer be required to compensate copyright owners for making temporary reproductions of sound recordings required for digital operations. Ephemeral reproduction enables radio stations to create their own music catalogues by optimizing the operation of program management software and facilitating the use of the music. The exercise of reproduction rights results in savings on personnel, space and productivity.

The Copyright Board examined these considerations and set a tariff establishing the value of the right. The associated royalties are paid to us by commercial radio stations and the market has not collapsed as a result. To put things in perspective, the royalty rate that radio stations pay for all reproduction rights for works represents 1.4 per cent of their \$1.5 billion revenue for the use of the music that itself comprises over 75 per cent of their programming. That is a good deal. The financial burden for broadcasters that is attributable to paying for reproduction rights is therefore not heavy. Consequently, the repeal of subsection 30.9(6) is not justified. Nonetheless, our brief proposes that in the event that a 30-day exception is introduced, there should be an amendment to provide that the exception could not be applied over and over.

Let us talk about temporary reproduction for technological processes.

The government's intention is to stimulate innovation and allow some technical reproductions by making sure that some temporary reproductions are not an infringement of copyright. However, in spite of the conditions that apply, the wording of the exception is still so broad as to threaten numerous digital reproductions with already established value. What we are particularly afraid of is the possibility that many would claim that almost all of their reproduction activities

represent technological processes. What would then be left of the reproduction and of the related royalties?

So, in order to dispel any uncertainties as to the scope of the definition, we believe it necessary for the duration of the technological process to be defined and we propose introducing this notion in the wording of the law. The clarifications we are recommending in the form of specific amendments would make it possible to better identify the scope of this exception in accordance with the examples provided in the technical specifications. As well, these clarifications to the bill would exempt acts of reproduction that are already protected and that provide users with actual benefits, and have significant economic value that right owners should benefit from.

Let us now talk about private copying.

Initially, the private copying levy was collected from importers and manufacturers of blank audio cassettes and CDs. Today, only blank CDs are eligible. Hardly anyone uses these supports for copying anymore; they use digital audio recording devices such as iPods. Out of the 1.3 billion songs copied each year in Canada, 70 per cent are copied onto that kind of device. As these have become the main method of copying music and the levy does not apply to them, right owners receive no compensation for copies made on such devices. Incidentally, the revenue stream provided by the current levy is eroding at an alarming rate. Between 2008 and 2011 alone, it fell by nearly 70 per cent. The levy should have been extended to the new supports in order to reflect the new ways music is being copied, which would not be accomplished by Bill C-11. By legalizing reproductions made for personal use across the board without compensation, Bill C-11 in its present form would be catastrophic for music creators. CAMI, the Coalition des ayants droit musicaux sur Internet, therefore adopts the two recommendations by the CPCC, the Canadian Private Copying Collective. First, should it prove impossible to amend the legislation in order to allow this compensation, Parliament should ensure that the provisions found in section 29.22 are eliminated, so that copies of musical works are not allowed to be made without compensation. Second, the Berne Convention three-step test should be incorporated in the Copyright Act.

Let us move on to educational fair use.

The proposed legislation, while being represented as a balanced approach to copyright, contains many exceptions in favour of educational institutions, libraries and consumers without providing for monetary compensation for right owners. I would ask you candidly what favour we would be doing for educational institutions by eroding the value of intellectual property. Is that doing them a service? While exceptions to copyright are sometimes granted, under the international treaties that Canada has adhered to, they must be confined to certain special cases that do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder.

•(1100)

As these exceptions represent a form of expropriation of copyright, they generally come with fair remuneration. That is the case everywhere, but not in Canada.

**The Chair:** Mr. Chenart, your 10 minutes have expired.

**Mr. Mario Chenart:** Thank you.

**The Chair:** Thank you.

[English]

Now Mr. Glick has ten minutes.

**Mr. Jacob Glick (Canada Policy Counsel, Google Inc.):** Thank you, Mr. Chair.

My name is Jacob Glick. I am Google's Canada policy counsel.

It's my pleasure to talk to you today about copyright law, not only because I'm a copyright law nerd, but also because copyright law has become an increasingly important public policy issue for everyday Canadians.

My plan, in the 9.721 minutes I have remaining, is to touch on Google's commitment to Canada and discuss how the framework established in Bill C-11 is critical to jobs, growth, culture, and productivity.

Let me begin by discussing Google in Canada. We have offices in Kitchener—Waterloo, Toronto, Montreal, and Ottawa. In addition to adding people and space in Kitchener—Waterloo, Google is poised to reopen our expanded Montreal office. If I have time in the questions I'll tell you all about the climbing wall connecting the first and second floors in that office.

Google is consistently named one of the best places to work in Canada. Google Canada increased its employment by over 50% last year, and expects continued hiring growth in 2012. Through the "Get Your Business Online" program, Google is helping over 60,000 Canadian businesses get online for free. Our engineers in Montreal and Kitchener—Waterloo are developing products used by hundreds of millions of people all around the world. These engineering offices are expanding and will continue to generate highly skilled, knowledge-based jobs right here in Canada.

I am pleased to say that Google supports Bill C-11. It's not perfect, but perfection is rarely possible on complex public policy issues with a wide variety of divergent stakeholders. Of course, like many stakeholders we suggest some technical amendments to ensure that the stated purposes of the bill are reflected in the language. These suggestions, which have been provided to the clerk of the committee, are submitted on behalf of Google and Yahoo.

In addition, we support the amendments put forward by the Business Coalition for Balanced Copyright, a coalition of Internet, telecom, mobile, and retail companies and trade associations that appeared previously before the Bill C-32 committee.

While we have taken positions on a number of aspects of the bill, I want to focus my remarks on two issues: the non-commercial, user-generated content provisions; and the appropriate role of online intermediaries.

First, on non-commercial user-generated content, the Internet and digital technology have democratized the economics of content, production, promotion, and distribution. Never before in the history of mass communication has it been so easy for an individual to create and disseminate content reaching global audiences with ease. In 2011 alone, hundreds of thousands of hours of new Canadian

content was uploaded to YouTube. The vast majority of this new Canadian content was non-commercial and user-generated.

Members are likely aware of Maria Aragon, the Winnipeg pre-teen whose Lady Gaga cover got her global recognition from an audience as diverse as Lady Gaga herself and Prime Minister Harper. The provisions in Bill C-11 that protect non-commercial, user-generated content can help nurture the next generation of artists like Maria, who will help tell and shape Canada's story without risk of lawsuit. As long as they meet the reasonable conditions set out by the bill, these artists will be free to experiment, re-mix, and mash-up content.

The Internet also makes it easier than ever for creators to move from the non-commercial world to the commercial one. Canadians have proven remarkably adept at becoming commercial successes online.

One of my favourite examples is Haligonian Andrew Grantham. He produces talking animal videos on YouTube. One could make the case that Haligonian Grantham was the most-watched Canadian entertainer last year anywhere in the world. His "Ultimate Dog Tease" video was the second-most-popular video on the planet. This is Canadian content, popular on its own merit, shaping a global discourse.

Bill C-11's protections for non-commercial, user-generated content will be important to creative communities in Canada. They allow creators to continue to confidently share their creations online with the world, and help foster the next generation of commercial successes.

The second issue I want to address is the appropriate role of Internet intermediaries.

● (1105)

In general, we support the Internet intermediary safe harbour provisions in Bill C-11. I'd like to offer some evidence on how important clarity on these provisions can be to the growth of the online economy.

One of the critical issues the government has identified in this bill is ensuring that copyright law doesn't hinder the development of cloud computing in Canada. This is an important exercise, as the wrong legal framework could slow or handicap investment in Canadian cloud services.

A recent study by the Harvard Business School looked at the impact of a U.S. court decision on investments in cloud computing in the U.S. and the EU. The case in question was brought against Cablevision by a consortium of U.S. TV networks. The networks claimed that Cablevision's network PVR service violated copyright, and the courts disagreed.

The court decision clarified the U.S. rules around cloud computing generally. In Europe, that kind of legal clarity on cloud computing hasn't been developed yet. So the Harvard researchers compared investments in cloud computing in the U.S. with investments in Europe. After the Cablevision decision, investments in cloud computing increased by as much as \$1.3 billion in the U.S., and Europe lost out.

The Harvard study shows that clarity on copyright may be the single most important factor in determining whether investment flows in the online economy to one jurisdiction or another.

Another study, by Booz & Company, on U.S. angel investors and VCs and their attitudes toward copyright, underscored this point. It found that 80% of investors are uncomfortable investing in business models that are open to unpredictable regulations. Additionally, 81% of investors also said that weakened copyright safe harbour rules would be more likely to slow their investment decisions than would a weakening economy.

To reiterate, for these investors, bad copyright law, with insufficient safe harbours for online intermediaries, is worse than a recession. The study showed that investors want to see clearly defined legislation to protect intermediaries who are acting in good faith. The study concludes that the net benefit of appropriate protections for intermediaries could more than double the pool of investors.

Both of these studies demonstrate how important it is for investment, growth, and productivity that government get the legal regime right. Largely, Bill C-11 succeeds in this task. There are a few amendments Google and Yahoo recommend to provide clarity to ensure that the companies and investors make Canada a leader in cloud computing. The clerk has been provided with these.

You have the amendments put forward by the Business Coalition for Balanced Copyright, which we also support. We would also urge you to avoid amending the enabler provision in a way that would put at risk the safe harbours in Bill C-11 and consequently chill investment in cloud computing.

Let me conclude by saying that Canadian content is succeeding online. Canadians have embraced the open Internet, and they benefit from the increased choice and competition it provides. Clearly, we are in the midst of a new era of individual creativity, facilitated by the Internet. With this legislation, the government is protecting an important creative platform, allowing for the creation of new Canadian cultural content, and helping to grow a critically important Internet economy.

Thank you for this opportunity to speak today, and for those of you playing the home game, I tweet at jacobglick.

I'm happy to answer your questions.

• (1110)

**The Chair:** Thank you, Mr. Glick and witnesses, for your presentations.

Before I get to the first round of questions, there has been a lot of talk about the costs related to the ephemeral rights. I've asked the analysts to do some research at the Copyright Board. They will find

out what the rates are, and they will report back to this committee next week with those costs and rates.

**Hon. Geoff Regan:** Thank you.

**The Chair:** You're welcome, Mr. Regan.

We are now moving to Mr. Braid for the opening round. You have five minutes.

**Mr. Peter Braid (Kitchener—Waterloo, CPC):** Thank you, Mr. Chair.

That actually sets me up well. That segue is helpful. I think that is one of the areas I'll perhaps have some questions on, as well.

I'd like to start with the representatives from Corus. There has been a lot of discussion since the work of this committee began about this 30-day issue radio stations are confronted with. They have the choice—it almost sounds like choosing the best at an ugly contest—of paying a 30-day reproduction fee or deleting and recopying. That's essentially the choice you seem to be faced with.

Let me start with this fairly simple question. When you acquire a new piece of music and download the music file to play on the radio, do you play it for only 30 days and then chuck it, or do you play it for longer than 30 days?

**Mr. Gary Maavara:** Of course we play it for longer than 30 days.

It's important to also think of the download of that music in the same context as you might an iTunes context. When we bring the music down from the service that's provided to us by the studio—which incidentally saves them the cost of having to ship the CD to us by an over-the-ground process—there's a lot of money saved on both sides of the equation.

We get a song that comes down that's in a particular form—and the Bell representative talked about that a little bit—but we also get a range of data as to who wrote the song, who published the song, and whether the song has Canadian content or not. The process of entering that on iTunes has the stuff all load into your computer automatically, but it doesn't work like that for us.

In our case it's a little bit like what it is for those of you who maintain a contacts database, say in Outlook, where you've got to put in the name of the person, their address, phone numbers, and e-mail, and that all takes time—say five minutes. So it takes five minutes to download the song, and then it takes five minutes for you to input that data, which sounds great, but then think about it in the context of 9,000 pieces of data a month. That's where we get to that small-market broadcaster who was talking about having to hire somebody. You literally have to have somebody who has to sit there for 9,000 times five or ten minutes for every song, every month.

That's why it's not just about—as one of the parties who was here earlier talked about—transferring from one hard drive to another. The system doesn't work that way.

**Mr. Peter Braid:** Okay.

Each file will have a different 30-day clock, I presume?

**Mr. Gary Maavara:** That's the other thing that was mentioned earlier.

We don't stop. We have two, three, four, or five songs coming in every day. Our music people for each radio station look at the big pool of music and they say "I need this one, I need that one, and I need that one", but they also bring down a lot of music that they're not necessarily going to play, because—going to the point that Mr. Cash was talking about earlier about developing music—our development people have to listen to a ton of music every day in order to select what's going to go on air, and that is another download. So what you'd be saying to us is it's not only the songs that we use, but all the stuff that we have in the register to pick from. Or let's say a musician dies or something, and you want to pull that out of the shelf. You'd have to go get it, bring it down, and then get rid of it.

• (1115)

**Mr. Peter Braid:** Okay.

With my final time I want to ask you to elaborate on what the costs are to radio, the various costs to acquire and to play music, a breakdown of what those costs are, a description of what the costs are, and how those costs have trended in the last ten years, for example. Can you speak to that?

**Ms. Sylvie Courtemanche:** The way it works now, as it was explained earlier, is the music is digitally sent to us. At that point we download it into our database.

I will just add to what Mr. Maavara told you earlier. One of the reasons we have to manually identify everything is that we have to turn around and pay all of these collectives, so we have to identify whose music it is, and they require digital logs to do that. So we're doing this not just to facilitate our broadcast, but to then be able to turn around and be accountable as to what's payable to whom. That's another important factor I wanted to talk about.

Having said that, we pay the reproduction right, which is the transfer, of \$21 million. We pay the performance right, and we pay that to authors, composers, record labels, and performers, and that's a total of \$64 million. Those are the costs of playing music on radio in copyright.

**The Chair:** Thank you, Ms. Courtemanche and Mr. Maavara.

Your five minutes is up, Mr. Braid.

Now to Mr. Angus for five minutes.

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

It's great to have you all here.

I think the folks back home who've been watching the copyright hearings might get the impression that you all look at each other as blood enemies, when actually we're all involved in the same business, which is creating culture and moving culture. It's finding the balance: what is fair and what's not? When I read some of the testimony of the Copyright Board, you guys go at it pretty hard, and that's your job. Our job is to step back and say, "What's the balance here?"

I only have a few minutes, and my colleagues are going to follow up on the issue of the mechanicals because it's so important. But to clarify, Mr. Maavara, you'd talked about money going offshore to these publishers, these labels. The Canadian Federation of Musicians

said musicians don't benefit. The accurate thing would be to say session musicians are paid a fee; they're not involved in mechanical royalties. That's an important clarification. If you pay musicians to play on your record, they get paid, but the mechanical royalties are still part of the larger puzzle. The guy who comes in and does the flute might not get a mechanical royalty, but the publisher is given a 50% share of every dollar. The royalties are split. On every dollar, 50 cents goes to the publisher, and 50 cents goes to the musician.

When I was on Stony/Warner, they took the publishing. It wasn't that they were shipping it to an offshore bank account; they needed it to keep the label going. That's who gave us our advances. That's what made it possible. If I were independent, I could divide the 50% publishing share up with my musicians. It's money that comes back into the chain of music development. So I think we need to be clear: we're not talking about you having to pay an unfair fee that's being shipped off to some Cayman Island bank account. This is money that's going right back into our music system.

Mr. Glick, I wanted to ask you a few questions.

We're seeing these new development platforms. When I was in Washington at the Future of Music Coalition, one of the guest speakers was OK Go. Now, OK Go couldn't get played on radio; nobody would touch them till they put a video on YouTube, the famous one with them on those treadmills. The next thing we knew, they were at the Grammys. So you are creating a new platform to give musicians an opportunity.

For example, someone sent me an e-mail the other day of this group Shovels & Rope. I'd never heard of them before. I get an e-mail, and I check them out on YouTube. I figure their video probably cost them about a hundred bucks, but they're fantastic. With digital quality you don't have to pay what used to be paid. When we were starting out, it cost us \$10,000 to \$30,000 for a video, and it might never get played. That was a huge investment for musicians. It killed us, especially if the television station decided not to play it.

So there is an opportunity through YouTube, through the new distribution methods, for new artists to get their independent stuff out there. Everybody points to Google as making all the big bucks. We're getting access to a phenomenal catalogue of material we never had before. How do you balance that off with the other argument that some of the catalogue is being illegally distributed and someone's losing royalties? What's the balance for Google?

• (1120)

**Mr. Jacob Glick:** At YouTube we have developed one of the most sophisticated anti-piracy systems in the world—Content-ID. It allows the largest record companies in the world and small independent artists alike to give us copies of their music, which we then scan against the corpus of data on YouTube. This way we can identify, on behalf of those artists, uploads to YouTube of their content. Then we give those artists the opportunity to monetize the uploaded content.

**Mr. Charlie Angus:** I want to step in there, because I had uploaded a radio documentary I had done and the registry had picked some of the background music, which had been paid for. YouTube erased the content, and we had to make a filing. I think it was under Warner's catalogue. Warner said it was a fair use. It seems to me that this is a pretty sophisticated system. Yet what I thought was a fair use of my own work was stopped.

**The Chair:** Please be very brief, Mr. Glick.

**Mr. Charlie Angus:** How do you balance that?

**Mr. Jacob Glick:** The short answer is that we've invested \$30 million developing the system and over 50,000 hours of engineering time, and it's not a solved problem yet. It's very complicated because the manner in which rights are divided up is very complicated. The manner of deals within the industry is complicated, and it's tough to keep all of those balls in motion, but we do our best to find ways to remunerate artists, keep fans' material up as much as possible, and balance free speech. So we try to find a win-win-win.

**The Chair:** Thank you, Mr. Glick and Mr. Angus.

Now we'll go to Mr. McColeman.

**Mr. Phil McColeman:** Thank you, Chair.

Thank you, witnesses, for being here.

I'd like to go to the witnesses from Corus and pick up where Mr. Braid left off. You had mentioned the \$64 million to creators and \$21 million for the mechanical fees or royalties—whatever you want to call them. How have those trended over the last ten years? Go back ten years, if you can, and tell us the trend line on those expenses, if you will.

**Ms. Sylvie Courtemanche:** Right.

For what we call the communication rights, which is the right to broadcast the content, that has increased 63% over the last ten years. On the reproduction right or the mechanical right we're talking about, that's increased 483% over the last ten years. And just to put this in contrast, our revenues have increased 41% over that time period.

**Mr. Phil McColeman:** As a business model, you've—as most businesses do—operated on a certain margin that's dictated by marketplace factors. You've either had to lower your margin or increase your cost to the consumers or your customers.

**Mr. Gary Maavara:** Yes.

Mr. Angus used probably the perfect word for this debate, and that is balance. When we see these tariffs increasing by an amount of 483% against our revenue growth of 40%, something's got to give.

The problem we have is that this structure that we put in place over the last few years is not sustainable. We are not going to be able to provide the local content, the local colour, which makes radio valuable and which in fact makes people want to listen to the music on radio. It's just not sustainable.

**Mr. Phil McColeman:** Part of the discussion also has been around how much actually.... I take it that the \$64 million is royalties that are going to the creators, but the \$21 million that has gone up 483%, how much of that is staying in Canada versus going offshore?

And also, can you relate to us how much, from your experience, is actually getting to the creators?

• (1125)

**Mr. Gary Maavara:** We had a very interesting exposition on that in the panel before us. The gentleman from ole kind of made the off-hand comment about where the money goes. He started by saying that he pays out 75% of the money he gets. The other way to look at it is to say he takes 25% right off the top.

When you look at the \$21 million, and in terms of replacing the \$21 million, \$6 million is gone before the artists even get a whiff at it. Then 85% of that money goes somewhere else. The Canadian artist is getting \$21 million, less the \$6 million, less the 85%, and then that's going to somewhere else, and presumably there's a label or somebody else who is going to slice another piece of that. The artists end up with nothing, effectively.

**Mr. Phil McColeman:** Effectively, of the \$21 million that has gone up this 483%, the reality, you're saying right now, is that the artists get almost zero of that.

**Mr. Gary Maavara:** Yes.

Going to the question of international, in the United States radio stations don't pay this. A Canadian artist is not going to get anything from the U.S. Effectively, Canadians are paying for something that people in other countries don't, so this notion about internationalism is just wrong. We don't get any money coming in. There is no cross-border trade in this, because there is no mechanical right in the U.S. and other countries. They're taxing us, and meanwhile there is no money coming back.

**Mr. Phil McColeman:** My last question is to Mr. Glick, because I believe I'll be out of time, but how does safe harbour support cloud computing?

**Mr. Jacob Glick:** The cloud computing model, as you probably know, is the movement of computing services and resources from the desktop or from a system of computers within a corporate network to the public Internet. If the operators of those services don't have the confidence that the materials they're storing on behalf of somebody else can be stored by them at the discretion of that somebody else without triggering liability, then they just won't do it.

In other words, you have to have a certain level of immunity as the operator of a service on behalf of the end client. The end clients should be liable for whatever they're doing and whatever they're storing, but ultimately cloud computing is only going to work as a system of computing if the people who are operating and investing in the services have the confidence that those services themselves aren't going to come under attack by virtue of what their customers are doing.

**The Chair:** Thank you, Mr. Glick and Mr. McColeman.

We're now moving on to Mr. Regan for five minutes.

[Translation]

**Hon. Geoff Regan:** Thank you, Mr. Chair.

I would like to begin by addressing my questions to Ms. Drouin and Mr. Chenart.

The fact that artists' incomes are declining is a concern to me. On the other hand, representatives of industries associated with the Internet, radio and so on say they are not the source of the problem. According to them, it is consumers who are making different choices and using these artists' music without paying for it. They say it is not their responsibility, and they are neutral. Consumers do not want charges to be levied on iPods, for example. You are proposing an expansion of the private copying regime, but clearly the public's reaction to that is very negative.

Do you see an alternative, a way of ensuring that artists receive a fair income, but without expanding the regime and without involving iPads, computers, and so on?

**Mr. Mario Chenart:** I do not know where the information you are telling me, that consumers are not open to this, is coming from. When the government itself is campaigning against that position, that takes up a lot of air time, and of course it becomes difficult.

In terms of the money circulating, I could not resist the temptation of reminding our colleagues that there are in fact reciprocal payments. There is money that comes into Canada. Last year, SOCAN collected more royalties from outside Canada than it collected inside Canada. Those reciprocal payments therefore have a value. The tariffs are set by a separate arbitration board which evaluates them and assigns the value. It listens to the parties and takes into account whether a repertoire is represented or not. That is therefore all taken into account already in the values to be paid.

• (1130)

**Hon. Geoff Regan:** The problem is that I only have five minutes. Could you give me a brief answer, please?

**Mrs. Solange Drouin:** In any event, we will come back to the right of reproduction, or at least I hope so.

**The Chair:** Yes. That's fine.

**Mrs. Solange Drouin:** To come back to your question, it is clear that, to us, the best option was to uphold the expansion of the private copying regime. You say that people do not support that idea, but certainly if you ask someone to pay a fee they did not have to pay before, they are going to refuse to do it at first. We all want to get everything free of charge. Consumers would like not to pay for their electricity, or the gas tax. If we listened to them, there are a lot of taxes that would not be charged. In that case, there would be no more income tax, either.

You also talked about providers who say they do not benefit from illegal business done on the Internet. Piracy does not use 100 per cent of the bandwidth, granted, but the studies we have done show that about 40 per cent is used for entertainment and a large part of that 40 per cent is used for piracy.

We have never even considered, if there were to be a royalty or compensation to be paid, asking for 100 per cent of Internet service providers' revenue. That is not the kind of submission we make to the Copyright Board when we ask for a royalty from broadcasters. We are talking here about a percentage, not about these people's entire income. Obviously, if there were compensation, it would take into account the portion of the bandwidth that is used for that purpose. It is not 100 per cent, but it is nonetheless a significant percentage.

[English]

**Hon. Geoff Regan:** Merci.

Mr. Glick, what is your reaction on this question? How do we ensure that creators and artists get compensated?

**Mr. Jacob Glick:** I think it's a critical issue for the success of the overall legal framework that is represented by copyright. I think all of the evidence around the world suggests that providing a viable market for digital cultural products is the best way to combat piracy and to get artists paid.

For example, when Spotify, which is an online music service, entered the market in Sweden, rates of piracy decreased significantly. What I would say to members who are thinking about how we can provide a success for Canadian artists both in Canada and globally is that we have to encourage the proliferation of legitimate, licensed music services. We don't have enough of those in Canada, frankly. We don't have Spotify. We don't have Pandora. We need to have a copyright regime that makes it easy for those entities—

**The Chair:** Thank you, Mr. Glick and Mr. Regan. I know five minutes goes by very fast when you're having fun.

That ends the first round. Now we're moving on to the second round, for five minutes, starting with Mr. Moore.

**Hon. Rob Moore:** Thank you, Mr. Chair.

Mr. Glick, you mentioned earlier about this search that you offer to content providers, basically to search the Internet for where their content is being posted to look for potential copyright infractions. Is that what it is?

**Mr. Jacob Glick:** It's just on YouTube.

**Hon. Rob Moore:** Just on YouTube. I've often wondered about that. When you go on YouTube and it seems that every other thing says this has been flagged or this has been removed, is that through that search engine? This is not someone scrolling through YouTube and by happenstance finding something that's violating their copyright. Is this usually as a result of a search that would be undertaken?

**Mr. Jacob Glick:** It depends. When you see something that's been removed from YouTube, it might have been removed as a consequence of a rights holder flagging it through the content ID system, or because of a take-down notice that Google has received under the U.S. notice-and-take-down system and that we have taken down as a result.

The thing that is important to note is that for rights holders who participate in content ID, that is, who give us their corpus of content to scan against the corpus of YouTube content to determine when there are matches, the vast majority of the participants in that program choose to monetize works when they find them to their benefit—the benefit of the rights holder.

That's not surprising. That's a system we developed as a result of arrangements with all of the major studios and independents, separate and apart from the legal regime, which provides a win-win for all the players in the system. It takes a tremendous amount of investment by YouTube, in person-hours, R and D, and computing resources, to run this. But as a result of that monetization system, YouTube paid hundreds of millions of dollars to record companies just last year.

• (1135)

**Hon. Rob Moore:** Is the reason it's confined to YouTube because of the scale of YouTube, or is there an agreement there? There are other similar sites, right?

**Mr. Jacob Glick:** I couldn't speak to why other sites around the world haven't developed their own similar type of system. It is a massive undertaking, a very complex engineering problem, and it's very difficult to solve. We're lucky we have some of the best computer scientists in the world at YouTube.

I don't know if that answers your question.

**Hon. Rob Moore:** Yes.

With regard to notice and notice versus notice and take-down, could you comment on the distinction between those two?

**Mr. Jacob Glick:** Sure. We support the notice-and-notice regime in Canada. We think it provides the best possible balance between the rights of rights holders and artists who are looking to stop the infringement of their works online against the privacy and free speech interests of individuals who may be posting content.

Since the implementation of the U.S. Digital Millennium Copyright Act in the mid-1990s, there have been a host of all sorts of stories of improper take-downs that have been issued. The thing about a take-down is that it's essentially a lawyer's letter. It's a statutorily prescribed lawyer's letter—there are conditions you have to meet, but it's a lawyer's letter. You get the power of an injunction, which under law in normal circumstances is an exceptional legal remedy. So you get the power of an injunction on an allegation in the lawyer's letter.

That has proven to be problematic on a number of occasions. One that I will highlight for you is the 2008 presidential campaign. The McCain campaign had a number of videos taken down from YouTube as a result of DMCA notices that were filed. Once YouTube receives them, there's nothing YouTube can do about that. Legally, YouTube is obliged to take those down, and we did.

The McCain campaign complained to YouTube in a letter, saying, "This is free speech. This is fair use. I can't believe you took these down." Nonetheless, the videos were down, and in a very short timeframe.

In an election, that provides a lot of opportunity for mischief and stifling of free expression.

**Hon. Rob Moore:** Thank you, Mr. Chair.

**The Chair:** Thank you, Mr. Moore and Mr. Glick.

Now we'll move on to Monsieur Nantel.

[*Translation*]

**Mr. Pierre Nantel:** Thank you, Mr. Chair.

Thank you for being here this morning, everyone.

First, I would like to say that I completely agreed with what Mr. Maavara said at first about the fact that it was high time to do something about the Copyright Act. The concern here is that this is a very problematic bill with gaping holes. I do not know the exact amount of time, but certainly more than an hour has been spent since the beginning of this week on explaining how people who work at a radio station could potentially circumvent the 30-day provision, which I find to be very worrisome. It really is quite something, in this kind of situation, to hear how the spirit of the Copyright Act can be circumvented. It really is extraordinary.

That said, there are the representatives of Culture Équitable, who are people I think you know well. There are 14,000 people who have signed that petition and who are worried. I would like to hear what the people from CAMI say about that.

**Mr. Mario Chenart:** Very simply, Culture Équitable has addressed this issue. The petition has been widely circulated in social networks and through many other such avenues. Many rights holders and people who are active generally in the arts, and in particular in the music industry, have simply said to the government: "Do not reduce the scope of copyright".

• (1140)

**Mrs. Solange Drouin:** I would like to add something. Mr. Glick said he is very proud of the jobs created here in Canada. We too, as representatives of the music industry, from creators to producers and publishers, including all the artists, are very proud of the jobs we create in Canada. What we are saying is that with a bill like this, those jobs will be at risk: the jobs of the people who actually produce the content the radio stations lap up. Even if they do not say so clearly, Internet service providers are also at risk, because without content, why would anyone pay for the Internet? So yes, let us be proud of the jobs we create, including the jobs we create in the cultural industry.

**Mr. Pierre Nantel:** You used the expression "lap up". In fact, the perception I have is that people are being short-sighted when they ignore the fact that they may find the tables turned on them as creators of content themselves. For the time being, they are single-mindedly focused on their role as a disseminator. It is like a cheese factory that does not concern itself with the fact that the dairy farm next door is having financial problems. The problem here is that artists and creators are the losers in several respects with this bill.

I would like to hear your thoughts on that, Ms. Drouin. You were going to add something?

**Mrs. Solange Drouin:** Yes, I would like to add something on the question of reproduction rights. I do not know whether you want me to talk about that, but there are four things I would like to say on the subject of mechanical reproduction. There are half-truths and things being half-said here. We are going to try to tell you the whole truth, and after that you can make up your own mind.

First, when broadcasters have access to content the first time, when they receive a record, they do not pay for it. All the record producers that I know—and I have been involved in ADISQ for 20 years, so I have known many—send records out to radio stations free of charge. So, from the outset, it is incorrect to say that they pay for the content. Second, radio stations do pay for reproduction on a medium. Why has the right of reproduction expanded to this point? Some would say it was the authors and composers, who used to be the rights holders who exercised the right provided in the law. So they went to the Copyright Board and asked for a tariff, which they obtained, and obviously that generated a royalty.

The record producers who have a reproduction right under the Copyright Act, which performers do not have at the moment, exercised that right only four or five years ago, and that ultimately led to a payment. This is not a payment that will double again in three years or eight years. Now, the rights of the authors and the rights of the producers have been exercised, and that comes to a total of \$21 million. I think that is very clear. That amount is not going to increase or double again in eight years. That is why there is the impression that it has increased.

I would like to say one final thing. On the question of reciprocity, perhaps if we look at the United States, certainly there is not much of a balance of trade on our side in English. In French, France recognizes these rights. Authors, producers and performers receive royalties under reciprocity. The reason money is sent elsewhere is so that our artists are able to receive money when they work outside Canada. That is called reciprocity. We treat other countries well so the other countries will treat us well. So that has to be considered when we look at the \$21 million.

**The Chair:** Thanks to Ms. Drouin and Mr. Nantel for their remarks.

[*English*]

Mr. Calandra is up next.

**Mr. Paul Calandra:** Thank you, Chair.

Madame Drouin and Monsieur Chenart, I'll start with you.

Part of what I have here is the English version, which indicates that one of your recommendations is that Internet service providers be made liable, as they are definitely part of the solution. I'm going to give you an example. It's probably a bad example, but guide me through it.

If the police discover a grow-op in a neighbourhood, is the person who built the house responsible because he built a home where a grow-op could be made? Or are Hydro-Québec or Ontario Hydro liable because they provided the electricity that allowed this criminal to turn the home into a grow-op? Isn't what you're suggesting pretty much the same thing?

• (1145)

**Mrs. Solange Drouin:** The way we see it is that we don't think that the ISPs are responsible for piracy. I mean, they don't do it, but at some point they authorize it. They provide the public with the means to pirate the CDs. It's not because they are at the source of the piracy, but at the same time, they authorize it. It's on that basis that we think they should at least recognize that they take part in it, and that they should be part of the solution. Part of the solution would be

monetary, it could be educational purposes, and it could be other things.

On the international scene, we often discuss the implication of ISPs in the solution of this copyright infringement, not only for the music business, but in film, and so on. In France and the U.S. the ISPs are at the table for discussion. I think it would be wise for the Canadian government to help us talk about that and find solutions together with the ISPs.

**Mr. Paul Calandra:** I'm going to follow up on that.

Also in your submission you say that to improve efficiency of the proposed notice-and-notice regime, you recommend forcing Internet service providers to disclose the names and addresses of potential offenders and to provide for the mandatory publication of such notices.

How important an enforcement tool is forcing Internet service providers to provide the names and addresses of criminals, in your opinion?

**Mrs. Solange Drouin:** First of all, I'm not comfortable with the word "criminal", okay? We've never said that people who pirate are criminals. They infringe—

**Mr. Paul Calandra:** Okay, I'll withdraw that. A person who is potentially contravening—

**Mrs. Solange Drouin:** Yes, okay. They infringe copyright, but we've never said they are criminals. It's too strong language.

Sorry, what was the question?

**Mr. Paul Calandra:** You want to provide names and addresses. The question is, how important an enforcement tool is that?

**Mrs. Solange Drouin:** It's important to us because we have to keep track of that notice to notice. We have to have some information, and on top of that, what would be important, after a certain period of time, is to ask if it works, and after how many notices. If someone received many notices, did they stop pirating?

**Mr. Paul Calandra:** The only reason I bring that up—and of course it's not a question—is we have another bill in front of Parliament that would ask the Internet service providers to provide names and addresses of pedophiles or things like that. The opposition is desperately opposed to it, and they say it's a massive invasion of privacy. So I suspect you're going to have a very difficult time convincing people that your suggestion is a good one.

Just quickly, to Corus, I just want to thank you. I have two daughters, a five-year-old and a three-year-old, and without your channels I don't know what I would have done on many nights.

Mr. Glick, you've provided an example of a very successful Haligonian. Are there any other examples of people you might be able to name from my riding?

**Voices:** Oh, oh!

**Mr. Jacob Glick:** Well, you know, two of the biggest successes on YouTube today are Torontonians. If you are a fan of viral videos, the “Stuff Girls Say” video—the word “stuff” is actually the word s-h-i-t, which I wouldn't say at a parliamentary committee—is one of the most popular channels on YouTube right now. It's been viewed 25 million times, has spawned thousands of takeoffs all around the world, including “Stuff Edmontonians Say”, which has been viewed 300,000 times.

And Corey Vidal, who is a YouTube creator based in Toronto, got his start doing non-commercial user-generated content. He transitioned into being a commercial success because of the monetization tools available to him on YouTube to monetize his works directly, and to benefit solely, without the need of traditional intermediaries or other traditional firms to help him. Corey now—

**The Chair:** Thank you, Mr. Glick. We're well, well over.

**Mr. Jacob Glick:** I'll just tell you he employs 13 people now.

**The Chair:** Awesome. Thank you, Mr. Glick.

I will also mention that we could probably all sing Treehouse songs here, as a father of two young daughters as well.

We're moving on now to Monsieur Dionne Labelle.

• (1150)

[*Translation*]

**Mr. Pierre Dionne Labelle:** Thank you, Mr. Chair.

I would like to congratulate Ms. Drouin on her clear presentation. From the outset, I think it sets the record straight on a number of questions.

In fact, I was surprised at the rapid increase in mechanical royalties in recent years. You have said this was an adjustment. In general, that adjustment did not prevent the broadcasting industry from being a goldmine in Canada.

I have examined the rise in both total revenue and net pre-tax profits. Earlier, the representative of Corus Entertainment said there had been a 63 per cent increase in costs associated with various licences in the last five years. At the same time, however, radio stations' profits rose by 64 per cent. That is a corresponding parallel increase. As well, if we look only at pre-tax profit margin, last year it increased by 3.2 per cent, representing a return of 22.9¢ on the dollar before tax. My RRSPs do not provide that kind of return. You are part of an industry that is genuinely dynamic and efficient. As well, we are talking about a levy of 1.4 per cent of your revenue that is used for mechanical rights. What is that money used for?

I would like to ask Mr. Chenart a question. I think that money is used to produce Canadian content, which is then disseminated by the broadcasters. This is a cohesive industry that is doing very well. There is a radio industry that is extremely prosperous, with high rates of return. There is a small amount that is part of the total envelope and helps to produce Canadian content. Am I mistaken?

**Mr. Mario Chenart:** That is entirely correct.

We can add to that information the fact that not all those increases are due to the same rights. In 1997, Canada recognized rights that did not exist here but had existed in 40 countries since 1961: neighbouring rights. That right exists and has a value. We have tried

to manage. The bill was not paid during that period, and now it is recognized. Why is it recognized? Wealth creation does not involve just technological tools. When you buy an iPod, there are 70 patents to pay for. You pay royalties, you pay for all the applications, but at present you do not pay for content. That is something to think about. As a society, what do we want? What wealth do we want to produce? Is it just with technological tools, or is it with our content? All those rights call for us to consider what we want as a society. Are we going to set aside money so we have a little nursery where we will be able to plant seedlings and make sure we have a cultural garden to cultivate for years to come? That was the effect of adopting neighbouring rights.

I did my sociology studies here at the University of Ottawa. I left because I was sick of statistics. You can say different things with numbers, depending on the angle you analyze them from. When you are earning three cents and at a certain point somebody tells you that you are going to earn five cents, do you know that is a 60 per cent increase? You are not much richer with that increase, but in terms of percentages, it is enormous. But we really have to put the numbers we are using, and how we are using them, in perspective.

**Mr. Pierre Dionne Labelle:** Earlier, it was said that this money did not primarily benefit Canadian artists. I would like to hear your thoughts on that subject. Does it benefit Canadian artists and rights holders in general, or not?

**Mrs. Solange Drouin:** In terms of the money that is collected in relation to reproduction, to receive royalties, there has to be a right recognized in the law. Then, the right is exercised. The Copyright Act gives authors and producers a right of reproduction. So it is producers and authors who receive the money. That is also true for performers. There are performers who are also authors, and authors who are not performers but are producers. For example, Mario Chenart is an author.

**Mr. Mario Chenart:** There are some who are producers.

**Mrs. Solange Drouin:** There are examples you are familiar with. To say that no money goes to the artists is completely false. They receive it under their "author" hat, if they are authors. Yes, there is money that goes outside Canada, as I explained earlier, but there is also money coming into Canada.

• (1155)

**Mr. Pierre Dionne Labelle:** The question of reciprocity with France...

**The Chair:** Your time has expired, Mr. Dionne Labelle. Thank you.

[*English*]

For the final five minutes I'm just going to remind members that we are going into committee business in camera after this, so please stick around.

Now, for five minutes, Mr. Lake.

**Mr. Mike Lake:** Thank you, Mr. Chair.

To give credit where it's due, we talked about the "Stuff Edmontonians Say" video. It's been up for two weeks—321,000 views. It's Colin Priestner who put that up, and it does feature a couple of Edmonton Oilers and a CHED radio personality. It's a very, very popular video. Most people who have seen it would say it's pretty accurate in terms of the way it depicts things that Edmontonians say.

Getting to the substance of what we're talking about today, I want to talk a little bit again about this ephemeral rights issue, if we could. It seems the argument on the other side, from Mr. Dionne Labelle, is that it's nice to have money, so we should have it, basically. There's not a rationale that's based on any kind of principle or fairness principle here. It's just that we get the money and we should have it.

What we're trying to do here is create a system where yes, people do receive money and artists receive money for the things they actually create. That's what this whole bill is about. It's making sure that artists are able to be compensated for what they create.

The word "perspective" was used, I think, by Mr. Chenart. I would like to put a little perspective here. On the \$64 million you talked about, which is paid for the performance right, you said that's an increase of 63% from about 2001. Is that accurate?

**Ms. Sylvie Courtemanche:** That's correct.

**Mr. Mike Lake:** So the economy has grown probably somewhere around 20% over that same time period, and yet you're paying 63% for the performance right alone. That seems pretty substantial. Obviously—

**Mr. Gary Maavara:** If I could interrupt, I should also add that on top of these funds, we also spend \$50 million as an industry on development. That's going to the point about spending on development. That's over and above what we've already talked about.

**Mr. Mike Lake:** So then on top of that, you're spending 63% more. Even if there were no money in the technical reproductions, you'd still be spending 63% more than what was spent in 2001.

Can you just maybe speak to how those numbers come about? What is the process by which those numbers come about?

**Mr. Gary Maavara:** The tariffs are put before the Copyright Board and the board makes a determination. What's happened is that as the new rights have been introduced, they've been layered on top of the existing fees. The problem with the tariffs is they're a percentage of revenue, so that as our revenue grows, our cost grows. We all understand that. What's been happening is the tariffs have been layered on top of each other, and the result is that there's an actual incremental growth in the fees, which causes these numbers like 400%. That's why it's not sustainable.

**Mr. Mike Lake:** I find it interesting that you say as your revenue grows, your cost grows. Again, even just dealing with the performance right, the fees you pay for that, you say your revenue has grown by 41%, but your rights fee has grown by 63%. Again, that's without even adding on top the \$21 million.

**Mr. Gary Maavara:** That's correct.

The spirit of the act was discussed earlier. The mechanical right, which we supported as an industry, was introduced to help combat piracy. At the time—it may have actually been in this room—when we said there may be a problem because they're going to charge the people who are paying for the music for copying it under this law, the music industry representative said, "We won't file a tariff. We'd be crazy to file a tariff." The second the law changed, what happened? They filed a tariff.

**Mr. Mike Lake:** So just to clarify, how does that \$21 million come about? Is that a negotiation between you and them? How did you wind up paying the extra?

**Mr. Gary Maavara:** It's a fee that's set by the board as a result of these multi-layered tariffs.

**Mr. Mike Lake:** So there's no negotiation at all. You're just basically doing it now—

**Mr. Gary Maavara:** If there were a negotiation, the system would probably be more efficient. Corus and the radio industry are immensely and massively supportive of artists in Canada. We do a lot. The question I put to this committee is that there are hundreds of millions of dollars going into the system, and if the artists aren't getting it, where is it?

• (1200)

**Mr. Mike Lake:** I have very little time, so I'll finish up. I just want to clarify this one more time.

Even without the \$21 million, the performance right is still 63% higher than it was ten years ago. I'd just like to be clear on that.

**Ms. Sylvie Courtemanche:** Just to give you a comparison, in the U.S. in 2008 the performance fee, as a percentage of total revenues, was 2.36%, and in Canada it's 5.8%. That just gives you an idea.

**The Chair:** Thank you, Ms. Courtemanche and Mr. Lake.

I want to thank the guests.

[*Translation*]

Thank you for your presentations.

[*English*]

We will suspend for three minutes, and we will say thanks, and then clear the room to move into committee business.

[*Proceedings continue in camera*]







**MAIL  POSTE**

Canada Post Corporation / Société canadienne des postes

Postage paid

Port payé

**Lettermail**

**Poste-lettre**

**1782711  
Ottawa**

*If undelivered, return COVER ONLY to:*  
Publishing and Depository Services  
Public Works and Government Services Canada  
Ottawa, Ontario K1A 0S5

*En cas de non-livraison,  
retourner cette COUVERTURE SEULEMENT à :*  
Les Éditions et Services de dépôt  
Travaux publics et Services gouvernementaux Canada  
Ottawa (Ontario) K1A 0S5

Published under the authority of the Speaker of  
the House of Commons

### **SPEAKER'S PERMISSION**

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Additional copies may be obtained from: Publishing and  
Depository Services  
Public Works and Government Services Canada  
Ottawa, Ontario K1A 0S5  
Telephone: 613-941-5995 or 1-800-635-7943  
Fax: 613-954-5779 or 1-800-565-7757  
publications@tpsgc-pwgsc.gc.ca  
http://publications.gc.ca

Also available on the Parliament of Canada Web Site at the  
following address: <http://www.parl.gc.ca>

Publié en conformité de l'autorité  
du Président de la Chambre des communes

### **PERMISSION DU PRÉSIDENT**

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

On peut obtenir des copies supplémentaires en écrivant à : Les  
Éditions et Services de dépôt  
Travaux publics et Services gouvernementaux Canada  
Ottawa (Ontario) K1A 0S5  
Téléphone : 613-941-5995 ou 1-800-635-7943  
Télécopieur : 613-954-5779 ou 1-800-565-7757  
publications@tpsgc-pwgsc.gc.ca  
http://publications.gc.ca

Aussi disponible sur le site Web du Parlement du Canada à  
l'adresse suivante : <http://www.parl.gc.ca>