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Chair

Mr. Gordon Brown

Standing Committee on Canadian Heritage

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• (1530)

[*English*]

The Chair (Mr. Gordon Brown (Leeds—Grenville, CPC)): Good afternoon, everyone.

We're going to call to order meeting number 36 of the Standing Committee on Canadian Heritage. Today we are continuing our review of the Canadian feature film industry.

We have two panels today. For the first hour, we have with us, from Dentons Canada, Ken Dhaliwal, who is here with us in the room. As well, we have J. Joly, chief executive officer and founder of CineCoup Media, who is also with us here today.

By video conference from Vancouver, British Columbia, we have Lui Petrollini, a partner in media and entertainment with Ernst & Young.

We will start with Mr. Dhaliwal for up to eight minutes.

Mr. Ken Dhaliwal (Partner, Dentons Canada): First of all, thank you for inviting me to be a witness at this committee. I don't have a very long statement, although, if you want, I could speak for hours, but I'll keep it brief.

I think the review is timely and very important in the current environment. What you will find over the course of the hearings is that over the last 10 years since the last review was done, there have been some interesting and significant changes, and anything we can do to assist the film industry going forward is a good thing.

We have prepared a brief, which I'll submit, but at this point I really want to limit my comments and let you ask whatever questions you may have. You have my bio on what I do. I can refresh your memories if you require, but basically I'm here as you require.

The Chair: Thank you very much. That was very quick and subtle.

We'll now go to Mr. Joly.

Mr. J. Joly (Chief Executive Officer and Founder, CineCoup Media Inc.): Thank you very much for having me. It was an honour to fly here from cherry blossom country in Vancouver to be with you here today—

Some hon. members: Oh, oh!

Mr. J. Joly: —and you have lovely weather, so I'm really happy to be here.

I've reviewed everything until now, and today I'd really like to talk about change and hope and how we built a business, my business, CineCoup. We started about three years ago. We were a private, Vancouver-based company, although we really do stretch across the nation. We set out to disrupt the way independent content was packaged, marketed, and financed, beginning with feature film, and recently moved into television as well. In terms of our focus, really we serve mostly 18- to 34-year-olds.

Our partners include on the film side Cineplex, and on the broadcast side right now the CBC. My board and investors include Michael Hirsh from Nelvana, who is now the chairman of DHX; and people like Bob Ezrin and Richard Stursberg, leaders in their field. We've also built a really world-class team of media mavericks to help us see this vision of scaling not only in Canada, but also around the world.

When putting these ideas together, I was going to make a PowerPoint presentation, but I decided that I would just give you a short intro and then let one of our creators, who basically came through our platform, our studio model, tell you about his experience, because I think that's more valuable than my speaking about it.

When I started this company three years ago, people thought I was insane. I said that I believed there was a better way, an accelerated way, a way whereby we could get to market with content faster here in this country and that we could be leaders doing it, but that we had to embrace change and had to embrace acceleration and urgency. I said that we had to look for more private capital, we had to create greater revenue earlier in the system, and basically be more democratic and transparent to allow Canadians, the people, the audience who are the equity, greater decision-making input and democracy in the culture and content they want to see. I also believe that we have to change the model to allow new voices to come into it, specifically on a gender level with International Women's Day yesterday. I'm proud that we've been able to have up to 38% women in our content creators.

The tenet I started this business with was, how do I discover talent where no one else is looking? You don't have to live in Montreal or Toronto or Vancouver. I actually believe that there is more talent in the flyover part of this country aggregated than there is in any single media centre. The great thing about this generation, this social generation, is that technology has been democratized. There are no more gatekeepers. It's easy to find a 2K camera. Non-linear editing comes on every computer. So the differentiator becomes, how do we turn these guys into entrepreneurs? How do we basically create rigour around them so that instead of doing it in two to five years, we get them to do it in 90 days and get to market quickly?

The five tenets that I wanted to set out with my company, and that we've been able to achieve, are:

How do we find talent where no one else is looking? Just to give you an example, Lowell Dean is from Regina, Saskatchewan. That's where this movie was shot, in a province with no tax credits.

The second thing is, how do we find brave, new, original ideas, new IP, new intellectual property, that can be franchised?

The third thing is, how do we build an audience before we start financing a picture, and measure them?

The fourth thing is, how do we reduce discovery costs? I can't afford to read 400 scripts. I can afford to read 40, so I need to come up with a new rigour to do that.

The fifth thing is, how do we use analytics to basically moneyball what's called “marketing spend” so that we're not trying to outspend the Americans in our own market when we bring a movie to market.

The last thing is, if we can achieve this and build a pipeline of low-budget, high-performing content with a built-in audience, that will be the arms race of tomorrow when you look at Netflix and everybody. We shouldn't be trying to answer problems today; we should be building a business where it is three years from now. That's the problem with where we are now. We shouldn't be throwing more money at something basically to shore up a status quo. We need to start experimenting more and take more risk and be braver.

● (1535)

That all being said, I'm going to leave that issue for questions from you guys. But I'd like you to hear the story of Lowell Dean from Regina, Saskatchewan.

We were his last resort; everybody had turned his movie down when he joined our platform. In less than a year, he had a movie in Cineplex. It was sold into 20 countries; on Friday it opened in the Philippines in 20 cinemas; it won a jury award at one of the top film festivals; it has an action figure, a graphic novel, a regular novel; it just sold a thousand pieces of vinyl. And he is making *WolfCop 2* in Moose Jaw, where he shot the first one, for three times the budget. This is a cycle that took just under two years.

Without further ado, let me present Lowell Dean and Bernie Hernando, the producer and director of *WolfCop*, from Regina.

Play the video.

Some hon. members: Oh, oh!

The Chair: There is going to be translation of this, for those who wish to listen in the other language.

[*Video Presentation*]

● (1540)

Mr. J. Joly: Here is just a little thing. This movie has already screened in Canada, and it is being released in the U.S. tomorrow. We just opened the new cohort. The deadline was yesterday, and we have another 90 projects from across Canada that you guys can all watch in real time as of March 16 for 90 days, as they all compete for a million dollars and a guaranteed theatrical showing that we're putting up.

I hope you watch and tell all your friends, and please get behind the ones that you want to see made.

The Chair: Thank you very much.

We're now going to go to Vancouver to hear from Mr. Petrollini.

You have the floor.

Mr. Lui Petrollini (Partner, Media and Entertainment, Ernst & Young): Thank you.

I come to you from a very beautiful day today in Vancouver— cherry blossom country, as Mr. Joly referred to it.

I come at you from a different direction. I'm not a producer of Canadians films, but rather a service provider to the industry. I get involved at the conceptual, financial, or pre-production stage with producers. I advise throughout the production phases on financial matters. I assist in the wrap-up and financial reporting to achieve compliance with the various rules and regulations that producers are required to meet, including to gain access to the production tax credits that are available, both provincially and federally.

I also work very closely with interim financiers, such as the chartered banks here in Canada. Legal representatives, such as Mr. Dhaliwal, seek my advice on not only providing comfort on estimates of tax credits that will be claimed by producers, but also in terms of specific wording in the structuring of legal agreements in order to have the producers comply with the various rules and regulations around the tax credits.

Like Mr. Joly, I think that change is good, but change has to make sense as well. The benefits have to outweigh the cost of change. Keep in mind that my comments are general ones that come from years of experience in reviewing production budgets, financing structures, and cost reports; in preparing tax filings; and in working with various organizations like CAVCO, the provincial films organizations, and Creative BC here in B.C. I also work closely with the CRA in their reviews of tax credits and their interpretations of the various guidelines.

My comments are based on that, but also with the objective of any review being undertaken, such as yours, on how to improve as a country.

We've been successful in building this production industry in this country, which has been idolized by many other countries. We've also become known as a best in class for these tax credit programs that we have and that have been replicated all over the world. That being said, how do we improve? There are a number of things that we can do, but it plays on my experience that I've had over the last 21 years.

First and foremost, given that there are so many parties that play in the space—whether it be the various government agencies, provincial and federal, including the CRA as an example—we all have to work together. We have to work for the common good. We have to be as cohesive as we possibly can in administering the various programs, and we have to improve the cohesion. There's a lot of red tape that's involved in this industry, with the producers constantly having to prepare and compile information and supply it to the various organizations, whether they be the provincial institutions or federal institutions such as CAVCO, the CMF, or the CRA. We have to make this as easy as possible for producers so they're spending more time in the production or distribution of their films, as opposed to the administration around their productions.

When you consider incentives, we need to start considering incentives around the promotion of films.

There have been a number of producers who have said to me that producing films is easy, but that selling them is hard. That's so true because films are costly and risky to produce. With all the years that I've had in reviewing production budgets, there's one thing that I've noticed time and time again, which is that all the dollars that are raised by producers are going into the production and not into P and A. By P and A, I'm referring to prints and advertising, which are costs incurred in the distribution of film.

When we look at the tax credits that are so generous in this country, we're seeing those tax credits going into the financing of the productions. It's very seldom that you see excess tax credits being generated by a production company that are then being plowed back into the capitalization of that company, or prints and advertising for the promotion of its films.

● (1545)

Some of the things we have available to us here in British Columbia include an international financial centre. British Columbia has been designated as that. That means that companies, like brokerage firms, that work with foreign customers are able to gain access to reduced provincial taxes based on the work they do or the sales they make to these foreign clients. It's based on a net income and it's a percentage of their net income related to their IFC activities.

One of my thoughts is that if we could get a similar program for distributors of film to help them gain access to reduced taxes on sales of Canadian feature films, that would go a long way to promoting the distribution industry here in Canada.

When we look at existing tax credits, I'm sure you all know by now from the other interviews that you've had that the federal credits actually grind the provincial tax credits that are generated. By grind we mean that the base on which the federal tax credits are based is far less than the base of the provincial tax credits because the provincial tax credits are taken into effect.

I know there's a movement that would request that the federal grinds be reduced or eliminated. The only issue with that is that you've got to be careful about the costs this may add to the federal government in terms of additional tax credits, but you've also got to be concerned with the consistency with other industries such as the technology industry where SR and ED calculations also grind federally by provincial assistance programs that are similar in that space.

At end of the day it all comes back to the commercial viability of Canadian feature films. We need to investigate the costs versus benefits of protecting Canadian heritage over the commercial viability of productions. One of the things I've considered in making this presentation is whether we can look at the components behind tax credits on Canadian certification and play with those components to make it easier for producers to make their films more commercially viable.

We look at things like the producer-control guidelines and whether we can relax those to a certain extent. We look at things such as the need to have one of the top two highest paid actors be Canadian. Can we relax those, so that we can bring more foreign talent that is more recognizable in the world to our productions without damaging or impacting our ability to claim a Canadian certification in tax credits? Or do we reduce the spend criteria on Canadian productions, so that we can have more foreign influence?

Finally, the last point I wanted to make is about commercial treaty productions. As you know, or you may not know, there is no co-production treaty with the United States. We have many co-production treaties with other countries around the world, but we have various guidelines that restrict the ability of co-producers to use talent or services from outside of those co-producing countries.

If we were to perhaps relax those restrictions, we could potentially enter into more co-productions and bring talent outside of those co-producing countries that might make our productions more commercially viable.

Those are just a few points that I wanted to raise. I'm sure you have a number of questions, so I'm going to leave it at that. I thank you for giving me the opportunity to address you, and I look forward to entertaining any questions you may have.

● (1550)

The Chair: Thank you very much, Mr. Petrollini.

We're now going to move to questions.

Mr. Yurdiga, for seven minutes.

Mr. David Yurdiga (Fort McMurray—Athabasca, CPC): Good afternoon everyone. Thank you, Chair, and thank you to the witnesses for being here today.

What's really interesting to me is the interim financing and I'll direct my first question to Mr. Joly.

What kind of collateral do you have? If I'm producing a film, what steps do I have to take in order to get financing? Is it a lengthy process?

Mr. J. Joly: Within my model?

Mr. David Yurdiga: Yes.

Mr. J. Joly: No. We guarantee the financing, so the financing is waiting.

Just to give you a little bit of context on it, sir, as quickly as I can, and please stop me if any of this becomes jargonesque as we say, or say *j'accuse*, or whatever you want.

Basically I am a serial entrepreneur, so this is my second company. CineCoup is from a film accelerator background, so it really does build on a technology accelerator. Look at me like a VC, a venture capitalist, and everybody that comes into my funnel, say the 90 projects.... The first time we worked with the CBC we had almost 280 in our cohort that time, some as far away as Nunavut.

What we are doing is that we are creating meaningful milestones and a destination for people to put in a lot of sweat equity and build up their audience equity. Then at the end of it, we have a guaranteed theatrical.

If you want to talk about how I finance the picture, I'm happy to be transparent with that too. It's a combination of private equity, soft money from tax credits, and we also build revenue. Because I am aggregating 18- to 34-year-olds around culture, we have brands that come in like Canon and William F. White that want to connect with this next generation of filmmakers. So one of our big differentiators over a traditional studio is that where development used to be a sunk cost, we have actually learned how to monetize it. We are actually creating revenue from pre-script right up to the end of the funnel.

I hope that answers your question.

Mr. David Yurdiga: Yes. Thank you.

I have another question for you. Can you describe the challenges you face regarding the distribution of the films you produce or finance?

Mr. J. Joly: That's the great thing about the time we live in. That's why I am so well hated because I am trying to disintermediate, which means I'm trying to get rid of the middlemen. I went straight to Michael Kennedy at Cineplex. I read his quarterlies, I saw where his pain points were, and I addressed them.

It's one of those things where I do believe there's still a good reason to have traditional distributors, but for my model you really have to look at the business of making films. It's a bifurcated media just like video games. There are only two kinds of movies that make money from a consistent ROI point of view. You have the big Hollywood tent poles and then you have the sub-$5 million independent genre films. Everything else is kind of the city of broken dreams. It takes a lot of money to make them and a lot of money on P and A.

My big thing is that if I can connect directly with my audience and build a database—we were one of the first companies in the world to do this—then I can go directly to them and use all the analytics I create to basically moneyball that P and A spend that Lui was talking about.

We can't afford to compete as Canadians with *The Avengers*, when it gets released and they spend millions and millions of dollars in this country, and spend on the same earned media that they do. We have to be less like a shotgun and more like a sniper to get our job done. Again, I'm like Wayne Gretzky. I'm playing the puck where it is three years from now. I'm not trying to answer questions today but take big risks on tomorrow.

Mr. David Yurdiga: Thank you for the answer.

My next question is for Mr. Petrollini.

You mentioned there is quite a bit of red tape in the financing of any film. What type of red tape are you talking about? Is it government red tape, financial red tape, or is it a combination of the two?

● (1555)

Mr. Lui Petrollini: It's actually a combination of the two.

Let me just outline it as best I can. I'll take a British Columbia production as an example.

If you're producing a British Columbia film, you're required to submit applications to Creative B.C. for eligibility certificates, which will give rise to provincial tax credits at the end of the day. You're also required, on the federal level, to submit a similar application to CAVCO. That will be a lot of consistent information and a different application form, with costs to be incurred as well.

If you're interim financing your tax credits, as part of the financing you'll be required to have that interim finance in place. Typically, from what I see, it will be from one of the chartered banks here in Canada. One of the chartered banks, whichever it is that is providing the financing, will reach out to someone like me and ask me to go in and vet the budget and all of the assumptions behind that budget in order to provide a formal comfort letter outlining and supporting the calculations of the potential tax credits that this producer would be able to generate based on their production budget.

Following the completion of the production, there's also a need to apply it back to Creative B.C. and the federal government in CAVCO for completion certificates for those productions. Again, it's another application. It's another set of documents that focus more on the completion documents of the film, whereas the initial applications are based on budgetary information and assumptions related to the intended production of the film. Along the way, there's a lot of administration. There's obviously time that transpires between the time those applications are made and when they're finally processed. Moreover, a lot of time goes by in the eventual accessing of the tax credits, because tax credits are not paid to the producers until the filing of a corporate income tax return and the assessment of those returns by the CRA. That can occur a long time after the production is wrapped up, completed, and shown or distributed in the international marketplace depending upon how much time goes by. There's a lot of administration for the producer. You can imagine that in the case of a producer, very few of them can work on one production at a time. They may work on that one production during the time of production, but they're constantly developing new productions.

Ultimately, once a production has been wrapped up and delivered, that administration is still there while the producer is continuing to move on to produce or develop more productions for the future. There's a lot of administration, and that is the red tape that I'm referring to. To the extent that we can reduce the amount of red tape or work more quickly and cohesively as a group of organizations working towards the common good of developing the Canadian industry, then we'll be that much better off.

The Chair: Thank you very much.

We'll go to Mr. Stewart for seven minutes.

Mr. Kennedy Stewart (Burnaby—Douglas, NDP): Thank you, Mr. Chair.

Thank you to the witnesses for coming today.

It's been very interesting, and I think you represent a good cross-section of the industry that is helpful for our deliberations here.

I'd like to zoom out. We've been talking a lot about tax credits and a little bit about other policy levers that we can use to help the industry. If we just leave tax credits aside, if you were going to blue-sky about what we could do, I'm wondering what kinds of policy levers we could use to help the industry grow,

Maybe all three of you could suggest one or two that we might consider.

Mr. Dhaliwal, perhaps.

Mr. Ken Dhaliwal: Sure.

I think Mr. Petrollini alluded to this, but one of the things—and this is a bigger policy question—is maybe relooking at the rules around what Canadian content is. This is something that was in the last policy review 10 years ago.

The point I'd like to make is that if you were looking at what Canadian content is, the current model that has existed in Canada for at least the last 15 years is a point system. The point system is based on 10 points. By contrast, looking at some of the other countries that have similar cultural tests or content tests, Germany has one that looks at local and global content and it goes beyond just the personnel. The Canadian test is just the personnel involved; the German test is much broader. The U.K. test, which is somewhere between the Canadian and the German test, is also much broader in terms of the number of points and the number of things that you can look at as elements of domestic content. It's not just the people involved but where it's shot, whether it has some history related to, in our case, Canada, or the diversity of Canada, and those kinds of things. I think that's actually a bigger policy point, but it's something that would impact the entire system and make it a little easier for producers to access things.

● (1600)

Mr. Kennedy Stewart: Thank you.

Mr. Joly, do you have something to add?

Mr. J. Joly: Again, I'm going to put my disruptive entrepreneur hat on here. We're in an exponential rate of change. The current speed of business, regardless of how you look at it, is too slow. You need to start deploying smaller bits of capital faster, experimenting more with it, and looking for measurable results. That's all my business, as well as making great content.

We can all pat ourselves on the back. We all make great content, but I believe that what we're terrible at is really building and understanding the audience in a meaningful way such that we can.... Again, this year's for learning, and next year's for earning, so that we're constantly moving forward as a nation to.... For example, there's *WolfCop*. I'm going to go back to it. As goofy as that title may sound, 90% of the people who worked on that picture were from Saskatchewan, a place with no tax credits at the time, and before we even financed the picture, they had fan art coming out of South Africa. They had blogs being written in Japan. Sixty per cent of their audience was international. They had done 160 million impressions, with 16 million unique people around the world, and with earned media worth almost $30 million without ever spending a dime. That, to me, is measurable KPI.

One of the things I always look at is that everybody is always asking for more money, and my big thing is that if we're going to put in more money, can we at least put it towards experimentation? Putting it into something like the government recently did with the accelerator program in Canada, where they took a five-year...where they deployed some capital to let it go to work to create more entrepreneurs, the people who are sustainable and who not only know how to make great content but also know how to market that content. More importantly in this world, in a world where there have never been more people so intimately connected, on such a massive scale, they know how to market themselves in this world.

I guess that's going on a little long, but I could go on. I'll leave it there.

Mr. Kennedy Stewart: We'll get back to you in a second.

Mr. Petrollini, do you have any ideas beyond tax credits that you would suggest the federal government undertake regarding policy?

Mr. Lui Petrollini: I'll echo Mr. Dhaliwal's comments. It's around producer control. My world isn't in tax credits, obviously, and isn't in tax incentives, but the producer control guidelines give us the opportunity to play with such guidelines without impacting the tax credits or without offering more tax credits.

Again, on the topic of treaty co-production—and this speaks to producer control again—if we relax the ability of or the need for producers to only engage individuals who are resident in the co-producing countries, then ultimately that will speak to commercial viability of films and potentially enhance the viability of our Canadian films.

Mr. Kennedy Stewart: Thanks.

I have two minutes left. We'll have quick questioning. If we could go around one more time, could you tell me whether or not you think grind is actually a problem that we have to deal with?

Mr. Ken Dhaliwal: We're talking about the grind on the credit?

Mr. Kennedy Stewart: Yes.

Mr. Ken Dhaliwal: It's a problem for producers, because they're the ones who are losing out. I think the question is—if I were to take the other side of the equation and say as Lui said—is it consistent with industries across the board? If you're looking at applying a sort of policy to this industry that matches with others, then I would say that it's probably not an issue.

Mr. J. Joly: Sure. There are obviously a lot of voices around. I can absolutely say there's a problem with it when you look out through that lens. Specifically, when it comes to geographical production, I think some people get more food on their plate than others, potentially. Like I said, I like to look at other ways to bring other revenue into the system as well. I know that some things are not necessarily going to be there forever. I always try to play the long game.

Mr. Lui Petrollini: I think my answer could make me somewhat unpopular, but I would have to say that you really have to understand what the implications are of relaxing the grind. The implications are in the numbers themselves. Ultimately, on a basic production, it's going to result in about $8 more, on a Canadian content production, in the hands of the producer. Based on what the federal government is currently paying, it's about 50% more than what you'd be actually giving up now in the form of tax credits. You have to be cognizant of what the costs are if you're willing to do that.

My concern would be more around the consistency of the federal government and how it deals with other programs or similar programs that are available to other industries.

● (1605)

Mr. Kennedy Stewart: That's very responsible of you. Thank you.

I have a minute left. I asked other witnesses whether or not our federal tax credit is high enough. Perhaps in this one minute you could answer whether or not you think it's high enough.

Mr. Ken Dhaliwal: I think it's probably high enough, but it takes too long to get.

Mr. J. Joly: I would echo that sentiment. I would say that if you can accelerate anything and create urgency around it, that creates a better pipeline and more business.

Mr. Kennedy Stewart: Thank you.

Mr. Petrollini...?

Mr. Lui Petrollini: I agree that it's high enough and I agree as well about acceleration.

The only thought I have about accelerating is to perhaps help producers by interim financing some of the tax credits—paying a portion in advance of the actual claims.

Mr. Kennedy Stewart: Okay. Thank you very much.

The Chair: Thank you.

[*Translation*]

Mr. Dion, you have seven minutes.

Hon. Stéphane Dion (Saint-Laurent—Cartierville, Lib.): Thank you, Mr. Chair.

[*English*]

Thank you very much, the three of you, for being with us.

On this issue of there being a long wait for the money, Mr. Shawn Williamson from the Motion Picture Production Industry Association of British Columbia said the same. I will quote:

> The suggestion was that there may be a way for government to front that money and allow [the production industry]...to save the banking on that.

You are starting to come up with ideas you may have to speed up the process, so that the producer does not have to spend so much money on the loans and have the tax credit at the front.

Can the three of you develop that new idea, please?

Mr. Ken Dhaliwal: Other jurisdictions have adopted various methods. Some jurisdictions don't wait for an audit. Part of the timing here is that you need an audit, and that audit has to be completed after all the expenses are made.

I'm not necessarily supporting that there be no audit, but perhaps a portion of the money could be paid the way a bank would pay: a small amount is paid up front and the balance upon audit. The risk, obviously, is that you're paying before you know what has actually been spent.

● (1610)

[*Translation*]

Mr. J. Joly: Thank you, Mr. Dion.

My French is a bit rusty because I don't often have an opportunity to use it in Vancouver, but I will try.

I'm not a traditional producer. I am a CEO of a company and I work with producers.

I think that this problem doesn't affect Canada alone; it's a global phenomenon. Advancing money is a very good idea. But other things are more beneficial for my company. The North American film industry is not a growth industry. That's mainly because of the money spent on printing and advertising.

My platform was developed based on the movie *Moneyball*, whose principles I apply to printing and advertising. Each dollar I invest in the system equals $1,000 in user or public funding.

The federal government could perhaps help us with those marketing activities. That could help me a lot.

Hon. Stéphane Dion: You would like to have some help with marketing.

Mr. J. Joly: Yes.

Hon. Stéphane Dion: What can the federal government do in terms of marketing?

Mr. J. Joly: Some distributors are currently recognized by Telefilm Canada. They are different from me because I am a non-traditional film distributor. I am the distributor, and I operate like a studio. Therefore, I cover all the expenses related to printing and advertising. Other distributors can spend money, but since they are recognized by Telefilm, they recoup their expenses.

Being able to receive this kind of funding would help my company. At the time of deployment, that money would be used to cover printing and advertising expenses. It may be an incentive, especially in Canada, to be able to recover a little of the money spent on marketing, as some companies do.

[*English*]

I don't want to seem like the voice that's going against all the others, but for me, making the movie is one thing, but unless you can market it, that's the real challenge. For me the focus has always been, how do we get

[*Translation*]

more money for our innovative printing and advertising activities.

[*English*]

Hon. Stéphane Dion: Merci beaucoup.

Mr. Petrollini, would you like to add something about the way we may speed up the federal help and the possibility of having the tax credit up front in order not to have to pay so many loans before enjoying it?

Mr. Lui Petrollini: That's a difficult one because ultimately the tax credit moneys are always the last moneys in the door, and that has to do with the fact that they're triggered by the filing of a corporate income tax return and the various tax credit claim forms.

There are risks associated with interim financing, the tax credits, or paying them up front. Some of the risks would involve or include whether or not a company or a production actually meets the CAVCO Canadian certification criteria at the end of the day. It's one thing to go forward with a production budget and a plan of who your key creative individuals are going to be, and meeting those points and making sure you meet the expenditure limits required under CAVCO guidelines. At the end of the day, however, you could be in a situation where, if you haven't had production accountants or producers who have been watching those costs closely, you do not meet those expenditure criteria. I've been in those situations.

You don't want to have a situation where the federal government is supplying a tax credit up front with those risks occurring, unless they're mitigated. There would have to be a clear process in place to eliminate or mitigate those risks to the greatest extent possible, so that you're not faced with having money out there that should not have gone to those producers in the first place.

Do I think it's a good opportunity to help producers? Absolutely.

Hon. Stéphane Dion: Thank you very much, the three of you.

The Chair: Thank you.

We'll now go to Mr. Young for seven minutes.

Mr. Terence Young (Oakville, CPC): Thank you, Chair.

I thank everyone for coming here today.

I'd like to start with Mr. Petrollini, please. You made a comment about relaxing the production control guidelines. I appreciate the suggestion. That's the kind of help we're asking for. However, I wanted to ask your opinion. Can we do that without it leading to a situation where Canadians become the actors and the singers but they don't have the value-added jobs, which is what we're trying to do? We're trying to create value-added jobs in everything we do, jobs of the future, and with fair trade more jobs.

For example, we don't just want Canadians to be the actors or the singers but also the writers and decision-makers, producers, directors, and financiers. If we relax those guidelines, doesn't that lead us in a direction we don't want to go?

● (1615)

Mr. Lui Petrollini: It's a good question.

My suggestion is not to eliminate the role of the Canadian producer. We still have to have a feature film industry where Canadians are producing, but there are other guidelines that really limit their ability to partner with non-Canadian producers or receive financing from sources that could potentially provide the majority of the financing.

There's a written guideline, and it is a guideline, mind you, that if you have 75% of your financing coming from one non-Canadian source, it could be implied that the company providing that financing is in the position to dictate to the producer how to produce their film, to have more than just a say over key creative elements but to have a say in the day-to-day operations. So I'm not suggesting that we remove the role of the producer.

My comment was focusing on the commercial viability of our films. One rule I question is the need for one of the top two highest-paid actors being Canadian. If we could relax that rule, we could perhaps still require that there be a Canadian screenwriter or a director, because that is one of the guidelines. However, if we relax the ability to bring people to the production that the rest of the world will associate with better to make our productions more viable, that's the sort of thing I'm looking at.

The last thing I want to see is our being known as a country that provides all these incentives and all that we're creating are actors and singers. That's the last thing we want to see.

Mr. Terence Young: Right. Thank you.

Mr. Dhaliwal, welcome. How can we get more big projects, the kind that you often work on, such as *Pompeii*? I understand that was a very big-budget production and a lot of work. How can we get more projects like that one produced in Canada in order to create more work for Canadians?

Mr. Ken Dhaliwal: That's a very good question. *Pompeii*, as an example, was a co-production, which I think indicative of most of the larger-budget Canadian movies that are shot in Canada. It was a treaty co-production with Germany. The reason you're able to have these larger budgets on co-productions is that you're able to automatically access, as Mr. Petrollini was saying, cast and directors and financing because of the more relaxed rules around co-productions. *Pompeii* had some very big stars in it who wouldn't have been able to be employed in a Canadian content without a co-production, just because of the control guidelines and the points test.

So the co-production is one way, and probably my favourite way, to increase the size of productions and increase the quality of the people that Canadian producers produce with. I think it's the way that a lot of Canadian producers are going in terms of trying to access bigger markets and more payday.

Mr. Terence Young: Thank you.

Mr. Joly, is that creating an international star system? The star system has been dominated by Hollywood for decades and decades.

One of the other people who came before the committee advised us that we don't necessarily have to go and compete with Hollywood and the “moneyball” and stuff, that the star system is becoming international. We can go around them and create an international star system that would benefit Canadian actors.

Mr. J. Joly: I think to a certain degree that's true. Again, I'll be a little bit of a dissenting voice and say that the packaging's comparable model is not as accurate as it used to be. You can look at recent articles in *Forbes* and stuff, and even for the current generation, when they come up, they don't recognize.... It's arguable whether Johnny Depp could open a movie anymore. I would say that in fact if you look at his movies of late, he can't open a movie anymore.

There are recognizable international stars. When you look at a place like China, they recently beat North America, for the first time ever, in their box office...absolutely. There are stars who increasingly will be that. But in my terms of looking at the business, and the bifurcated nature of the business, I would bank on YouTube stars before I'd bank on the long tale of what my IP was going to be. That's kind of what we've started to do.

I look at protecting the downside. I focus on genre pictures and launching new careers. My thing is that I'm never going to make a big picture. But if I could make a pipeline of low-budget, high-quality, high-performing content with a built-in audience—if I could make it like Jason Blum of Blumhouse, where I'm making a $3-million horror movie that makes $72 million its opening weekend, with a 2,600% ROI—that's a business I'd want to be in.

Voices: Oh, oh!

Mr. J. Joly: So I don't know. Again, these are very different things. By nature I'm a high-risk individual, with private money and high risk. People are taking a big chance on me.

I have great respect for Ken and Lui, but they represent a different kind of...more of a producer. They're bringing a lot of jobs to the country, and they're bringing bigger productions, but my big thing is I that want to find the next Peter Jackson. I want to find the guy who builds the Weta here. I want to find that.

● (1620)

Mr. Terence Young: I wrote out a list of things that you want to do. It sounds like you're achieving them all by building the audience first. I wonder if you could just summarize how you do that. I'm talking about discovering talent, creating entrepreneurs, finding new ideas, building an audience, and reducing discovery costs. Are those all part of your model?

Mr. J. Joly: Those are tenets of our model. The last one was how we attract more private equity—by figuring out ways to protect the downside, by creating more...or monetizing the system, not just when the product's created when it goes out to market but while it's still in development, trying to eliminate some costs across the whole board.

Mr. Terence Young: Can you tell us, if I have a minute left here —

The Chair: No, I'm sorry, you're out of time.

Mr. J. Joly: I'm happy to write you an email, if you want, and describe the process.

The Chair: Thank you. We're going to have to move on.

Ms. Nash and Ms. Sitsabaiesan, I think you're going to split that five minutes?

Ms. Peggy Nash (Parkdale—High Park, NDP): Yes, thanks, Mr. Chair, I will split my time.

Mr. Joly, let me continue with you. It sounds like you have a very innovative and interesting business model. You use an aggressive social media campaign to choose which production to focus on.

First, do you see the future of Canadian film being increasingly digital, or will there be a shift in the mix of distribution to the Cineplexes of the world? Obviously there's a radical shift in how we consume television and film. How do you see that affecting the work you're doing?

Mr. J. Joly: That's an excellent question. I still think that theatre is an incredibly important window. It's a great marketing window and I think you can make a lot of money in that first window.

Again, the great thing about having a Cineplex in our country is that you can use them as dynamic inventory. That's what we did through the social media. And we're not just about social—

Ms. Peggy Nash: Excuse me, what do you mean by dynamic inventory?

Mr. J. Joly: It means that if you have the analytics, you can put the movie in the theatre where the most people are aggregated. You don't have to open it at a regular run. I'm increasingly interested in event screenings and how you put it in the right theatre for maybe one night, or maybe it's a carryover, or maybe you can be more experimental where you do what's called a “date and date”.

I don't know everything, but I do like experimenting. What I found with a great partner like Cineplex is that, as we've been able to prove our assumptions into actuals, they're increasingly willing to roll the dice with us. Cineplex is a great partner.

In terms of television I do think we would be remiss not to really acknowledge that foreign pre-sales are in trouble. I think everybody would say that—that the red tide in all of the SVODs and over-the-top we're seeing.... But the great thing is that it's a big opportunity, too. If you can create that pipeline.... The arm's race is new content, so that's a really great thing.

Canada has the soft money. We have the co-production treaties. If we could find urgency and deploy capital faster we can be a world leader.

Again, the audience doesn't decide our voice. They help us filter. We look at the kinds of users there are. We look at reach, retention, engagement, sentiment, structured data, and unstructured—

Ms. Peggy Nash: I just want to ask one more quick question.

I think it's an interesting, exciting model for generating and finding Canadian content. Do you think with the Netflixes of the world that it's going to be more challenging for Canadian content, or do you think that it is helpful in terms of Canadian content?

Mr. J. Joly: That's a great question and on the next panel I really encourage you to ask Naveen that question because he's right in the midst of it.

I don't want people to take this the wrong way, but my company doesn't make Canadian movies for an international audience. We make international movies that just happen to be made by Canadians. We've already proven that there are *WolfCop* fans in all kinds of places around the world, so for me, when my audience goes on Facebook they're having a global water cooler conversation.

We have a movie that was probably one of the most heavily pirated Canadian movies last year. It was because the U.K. released it four months ago and then Germany released it. Tomorrow, finally, the U.S. is releasing it. In that time there was a conversation going on and you couldn't go to iTunes Canada or to Netflix Canada, so where did you go? You went to BitTorrent. Thankfully for the movies we make, we love piracy because it sets up our sequel really nicely because they're the mountain....

● (1625)

Ms. Rathika Sitsabaiesan (Scarborough—Rouge River, NDP): I'm going to interrupt you, if I may, Mr. Joly, because I know that the five minutes is going to be almost up and I want to try to get at least one question in.

You mentioned earlier that it would help if there were capital infusion in smaller chunks throughout the process, rather than what Mr. Petrollini and Mr. Dhaliwal have mentioned with the tax credits. You mentioned that the support from the government is coming in probably a year afterward, because once it's completed you're filing your corporate income taxes, and then you get it only in a very slow process.

I think Mr. Petrollini 's suggestion was to ensure that people are meeting the criteria in advance and that possibly we could be having interim funding through the tax credits.

What other tangible suggestions or recommendations do you have, other than just making sure you meet the requirements in advance? Is there something we can actually be doing? Are there changes to the procedure or process that any of you would suggest?

Mr. J. Joly: Other kinds of money, or just...?

One of the things I'm trying—

Ms. Rathika Sitsabaiesan: I'm going to assume it's with respect to the interim funding because that's something all of you have mentioned.

Mr. J. Joly: Yes, one of the things I'd like to see, and what we've been trying to do is the same thing you can do with technology in B. C., which is how do we incentivize...? There is something called an EBC for technology. If you're a B.C. investor you can invest in a British Columbia tech company and you can receive 30% back and you can get money back on your RRSP.

For my model, one of the things I would love is to figure out if there is a way to incentivize Canadians to invest in content, especially content pipelines. I personally think this would be a very interesting model to look at.

I do think there is a lot with crowd funding and crowd sourcing, especially around how that's eventually going to grind things, too. That's a bigger, hairier beast we have to tackle in this world.

But I'm going to leave it to these two gentlemen to talk about the other one.

The Chair: They'll have about 15 seconds each. Sorry.

Mr. Ken Dhaliwal: One of the funding sources—not tax credits —is Telefilm Canada, which funds a lot of movies over the course of the year. You could perhaps look at some of the rules and regulations of Telefilm and some of the metrics for success on how they advance money.

Mr. Lui Petrollini: [*Inaudible—Editor*] the thing is, Mr. Dhaliwal, making sure we review Telefilm Canada and their policies and making sure that we have an equitable distribution of funds across the country to assist producers.

The Chair: All right. Thank you very much.

We have about two minutes left, and we're going to go to Mr. Dykstra.

Mr. Rick Dykstra (St. Catharines, CPC): Thank you.

I'll go quickly and jump into this.

Mr. Joly, you mentioned a couple of times, and also based on the video we saw in terms of *WolfCop*.... In Saskatchewan, where they don't offer tax credits, what's the pull? What's the draw? It doesn't seem that it's necessarily the only thing that is going to carry the industry through in Canada. There are other pieces of this that need to be addressed. I just wonder if you could touch on that.

Mr. J. Joly: Yes, I'm going to go through it quickly. At the time we made *WolfCop*, there wasn't a tax credit and there wasn't a CreativeSask. We were in a really weird zone. That's where the entrepreneur in me came in.

You have to realize that *WolfCop*.... On the last round of voting, there were billboards being put up by private citizens in Regina. The government, again, gave us money so I didn't move it to Manitoba, because it was such a groundswell of their culture and their local thing. Again, the Saskatchewan government wanted to be in the business of *WolfCop*, just to be completely transparent. That's a marketing thing.

Mr. Rick Dykstra: My son is a film studies major. He has graduated. There is one thing he kept talking about and has urged me to ask, so I will, of all three of you.

We have all these Canadian Cineplex Odeon theatres across the country that are used as a particular point of entry for all the high-revenue and obviously, hopefully, the big-hit wonders for those who invest at the cinemas, but there is a ton of off-time when the screens are black.

What do you guys think about the opportunity of using those screens or the potential of assisting those theatres in showing Canadian films in off-times, or at least times in which they could get some exposure they wouldn't potentially get now? It would obviously be in such a way that it wouldn't be that cost-prohibitive to do.

● (1630)

Mr. Ken Dhaliwal: If you could speak to Cineplex and find a way to make it work, I think it's a great idea.

The Chair: All right, on that note we're going to wrap up.

Thank you to our witnesses for their contributions.

If you have anything further that you would like to contribute, we'd appreciate that, as well.

We are going to briefly suspend.

●

(Pause)

●

The Chair: Good afternoon, everyone.

We are going to call meeting number 36 of the Standing Committee on Canadian Heritage back to order. We are continuing our study of the Canadian feature film industry.

We are going to hear from three witnesses in this second hour. We have Patrick Roy, president, Entertainment One Films Canada and Les Films Seville; Richard Rapkowski, from the Canadian Association of Film Distributors and Exporters; and Naveen Prasad, from Elevation Pictures, who is the executive vice-president and general manager.

Monsieur Roy, you have the floor for eight minutes.

● (1635)

[*Translation*]

Mr. Patrick Roy (President, Entertainment One Films Canada and Les Films Seville, Entertainment One): Thank you, Mr. Chair and members of the committee.

My name is Patrick Roy, and I am here representing Entertainment One and its Quebec-headquartered business, Les Films Séville. Thank you for the invitation to contribute to this study of our sector.

Kindly note that we are members of the CMPA, or the Canadian Media Production Association, and the CAFDE, the Canadian Association of Film Distributors and Exporters. Our remarks here today follow the spirit and substance of their respective submissions.

[*English*]

Headquartered in Toronto and Montreal, eOne and Les Films Seville are global entertainment leaders in independent content ownership and distribution of film, television, and music. eOne has 1,700 employees worldwide, including over 800 employees across Canada, with offices in eight countries.

In the most recent year, eOne invested more than $500 million in film and television content. Listed on the London Stock Exchange, we go to the open market and get investors' capital to make investments in Canadian content, and we have built a global content company headquartered here at home.

eOne believes that a strong production and broadcast environment is essential for the continued success of the Canadian television and film industry in its objective to create and produce compelling and diverse Canadian television, film, and non-linear digital programming that resonates with Canadians and can be successfully exported to the global marketplace.

[*Translation*]

In 2014, eOne invested $17.5 million in English- and French-language Canadian films, which amounted to $23.5 million in box office revenues in Canada. The company released over 200 feature films to theatres around the world. Many of those were Canadian films.

We also launched Séville International, a Montreal-based boutique international sales company, to source and secure English- and French-language Canadian films for worldwide distribution. Séville International helped many Canadian films gain global recognition. One example is Xavier Dolan's *Mommy*, which was sold in virtually every country in the world.

As you know, our industry is changing quickly. Distributors are at the heart of all those changes; consequently, we constantly have to reinvent ourselves. Theatrical movie going has decreased in recent years, and audiences can now discover movies on a variety of new platforms at home. Canadians today have access to a vast array of programming services and on-demand film and television content from all over the world, all competing for the viewers' time, attention and money.

These proceedings and all of the outcomes that influence the production, broadcast, distribution and export ecosystem for Canadian films are clearly of great interest and importance to us. Sustained access to U.S. and foreign films and the ability to distribute those films within our borders play a significant role in the Canadian film industry.

The box office in Canada largely belongs to American films, and while we have a world-class creative community in Canada, resources and reach are limited in the face of the 90% of North America that is the U.S.

[*English*]

A comprehensive distribution policy was effected in 1988 to support the objectives and preserve the integrity of the Canadian film industry as we mitigated the increasing risk of encroachment by new U.S. and foreign players not grandfathered within it. While the policy continues to shape how Canadian distributors operate within the Canadian ecosystem, non-enforcement of the policy is of growing concern.

We are seeing more and more cases where the distribution policy is being manipulated and loopholed in ways, we might suggest, it was never intended.

We understand that the committee is interested in hearing our thoughts about the effectiveness of government funding programs, ways to promote the value of the industry, the quality production services offered in Canada, the exceptional content that is created by our talented Canadians, and recommendations regarding support for the Canadian film industry.

I would like to take this opportunity to thank the Government of Canada, Minister Glover, and the Department of Canadian Heritage and Official Languages for their continuing partnerships across our business and their ongoing support.

Film production is a complex business that requires expertise and significant resources. In Canada, the funding to get a film made comes mainly from three source: distributors, who purchase the rights to sell the film to audiences at home and to other distributors abroad; government agencies, who fund the tax credits and Telefilm Canada; and broadcasters, who pre-licence TV rights. This trifecta—distribution, government, and television—ensures that films get made and have a post-theatrical home on television, where most Canadians access the majority of their filmed entertainment. The belief has long been that the taxpayers who contribute to the creation of the film should be able to access them as easily as they do U.S. and foreign films.

● (1640)

[*Translation*]

While we, as distributors, continue to find new and innovative ways to engage with audiences, the health—and the very existence—of our sector depends on support from broadcasters, exhibitors and government partners alike.

Telefilm Canada is an instrumental partner in our efforts to deliver great Canadian films. There are a number of areas where we can improve our partnership, many of which rely on Telefilm Canada having the necessary resources it needs to market and promote Canadian films.

[*English*]

In broadcast and exhibition, consolidation has limited our options for delivering Canadian films to Canadian audiences. This is particularly prevalent in English Canada, where fewer and fewer players are buying Canadian films and consolidation in theatrical exhibition has concentrated cinema ownership in the hands of one company.

In Quebec, our broadcasters often invest in our films. As a result of their support, films are getting made, marketed, and shown on television to hundreds of thousands of people at a time. The model in Quebec has enabled us to entertain audiences with great films and, in turn, they are excited about local productions and want more.

Broadcasters are the drivers, delivering access and creating demand. However, accessibility is only possible if we have a healthy production sector in Canada and we can invest in quality films for distribution across the country and around the world. The model is at risk without public support and public support is only possible if Canadians can see the variety of our quality films.

The film industry in Quebec is doing well, partially due to the fact that we get that full support from broadcasters, alongside the support of government and distributers. They are living up to their obligations to the CRTC and the public, and profiting from this. It's working because along with the world class talent and government support, which English Canada certainly has as well, we have broadcaster support.

In this golden age of scripted television, broadcasters in English Canada are focused on series and low-cost reality television, but they continue to enjoy a huge advantage: privileged access to public airwaves. They are protected. In exchange for their protected status, they have an important responsibility to showcase Canadian culture and invest in the industry that carries the dual function of telling our stories and creating economic opportunities for the tens of thousands of Canadians who work in filmed entertainment.

We recently spoke in front of the Standing Senate Committee on Transport and Communications, and among other recommendations regarding broadcaster mandates, we shared our belief that the CBC should aspire to be the home of Canadian films. National broadcasters around the world are the number one place for domestic audiences to see their stories, and our stories have never been better.

[*Translation*]

As distributors, we are fortunate to watch our homegrown talent from the front row seat. We work with creative and acting talent throughout the life cycle of our films, on all platforms.

Today, Canadian films are stronger than ever. eOne saw seven of our films exceed the $1-million box office mark in 2014. But even as the quality goes up, it remains nearly impossible to find those films on English-Canadian television.

[*English*]

Canadian writers and directors, who are finding major success on both sides of the border, want to work at home and make films that have not only Canadian sensibilities but feature real Canadian cities and stories.

● (1645)

They are doing it: Cronenberg, Egoyan, Vallée, Villeneuve, Dowse, and Falardeau, to name a few.

They are also finding success around the world, proving that Canadian films can be exported and the profits derived from them can be reinvested if ownership is kept in the hands of Canadians.

Xavier Dolan's *Mommy* was seen by over 1.2 million people in theatres so far in France. *The Grand Seduction* captivated audiences around the world, with over $300,000 in box office revenue in the U. K. alone.

Canadian films may not add zeros like simulcasting U.S. television programming does, or be as cheap as reality shows, but they are part of our cultural fabric. Even more they are an important part of the economic model. Importing content has no employment benefits and does nothing to tell the Canadian story at home or around the world. Every film made in Canada further defines our identity and employs hundreds of highly skilled Canadians. Today we are facing a new reality for the film industry, but working with an outdated model and playbook.

How do we move into the future? We must do everything we can to ensure the production of films that are aligned with market interests at home and abroad. We must own international sales companies that showcase our stories around the world. We must embrace new technologies. We must respect the digital consumer who wants to watch what they want, where they want, and make it available across all screens.

The government can play an important role by ensuring that Telefilm Canada has enough resources and support to help market and promote Canadian feature films. This would increase the demand, initiate more production, and ultimately create more jobs in our sector. The government can help us by enforcing the 1988 distribution policy and by ensuring that Canadian films are available to Canadians on television, where they play on a consistent basis for all Canadian audiences. In English Canada the increasing investment in, and popularity of, television content made film even less of a priority for broadcasters who remain privileged and protected, but are not living up to their requirements when it comes to film production.

The CRTC can support our sector by making a small change to the Canadian content regulations and adding a new category of programming for film, distinct from dramatic television series, that enshrines feature film in its own category with resources of its own.

[*Translation*]

Delivering Canadian films to audiences at home and around the world, while continuing to create quality jobs in Canada, is our shared opportunity. We are keen and available at any time to be involved in proceedings and discussions that impact our sector. Please do not hesitate to call on us.

Thank you very much for the opportunity to speak before the committee today. I am available to answer your questions.

The Chair: Thank you.

[*English*]

Mr. Richard Rapkowski (Canadian Association of Film Distributors and Exporters): Thank you.

I would like to thank the members of the committee for launching this review of the Canadian feature film industry. My name is Richard Rapkowski. I'm here today to represent the Canadian Association of Film Distributors and Exporters, otherwise known as CAFDE.

CAFDE is a non-profit trade organization that serves to represent the Canadian film distribution industry and its members on matters of national interest. Current membership includes D Films, Elevation Pictures, Entertainment One, Les Films Séville, IndieCan Entertainment, KinoSmith, Métropole Films, Mongrel Media, Pacific Northwest Pictures, and Search Engine Films.

Members of CAFDE are responsible for the vast majority of theatrical releases in Canada and are in fact responsible for two and half times more theatrical releases in Canada than the six major Hollywood studios combined.

In regard to the development, production, and distribution of Canadian films specifically, CAFDE members play an essential role. As distributors, we have a specialized understanding of the film market and consumer tastes, and we invest our private funds in the Canadian films that we believe have consumer appeal and commercial potential. Telefilm Canada relies on our investment decisions as a signal for which film projects merit the investment of public funds. As such, CAFDE members have a vested interest in the continued success of the Canadian film industry, and we follow all proceedings that can and will impact Canadian cinema with great interest.

We believe there are three main policy issues for the government to consider to support and strengthen the Canadian feature film industry: first, enforcement of the 1988 distribution policy; second, a reflection on such policy in light of the increased importance of ancillary windows in distribution; and third, the need for renewed broadcast support, especially from the CBC for Canadian feature films.

The first and arguably the most substantive policy issue is the critical need for the robust application of the 1988 distribution policy. As this committee knows, for much of the 20th century Canadian feature films struggled to get produced, and even when they did they faced an uphill battle in order to find a place on cinema screens. This was largely due to the unfettered domination of the major U.S. studios that paternalistically viewed Canada as an extension of the American domestic market.

However, in 1988, the Conservative government led a bold initiative to modernize the Canadian film industry by announcing a new film distribution policy. The purpose of the policy was to promote a dynamic and viable Canadian film industry by developing Canada as a separate distribution market and to support distributors who invest in and promote Canadian films in Canada.

At its root, the policy recognized the crucial role that distributors play in supporting Canadian culture and that a strong distribution sector is vital for the long-term success of the Canadian feature film industry. It reflected the market reality that Canadian distribution companies need access to foreign films to sustain businesses that can then afford to invest in Canadian films.

Flora MacDonald, the then minister of communications, introduced the film products importation bill to parliament, which would have afforded Canadian distributors fair access to film distribution rights in Canada and the necessary protections to fend off Hollywood studios that were increasingly encroaching on the Canadian film landscape and siphoning revenue from entertainment consumption out of the country. Unfortunately, however, due to the intense lobbying efforts of the Motion Picture Association of America representing the major studios, the bill never came to fruition.

Nevertheless, the spirit of the bill remains intact on a policy level. It created a distinct Canadian distribution market and required the theatrical and home video distribution of motion pictures in Canada to be carried out by Canadian owned and controlled distributors.

There are caveats to the policy. It only applies to non-proprietary product, which means those films that are not financed or owned by the company seeking to distribute in Canada, and the policy does not apply to the foreign-owned Hollywood studios, i.e., Universal, Paramount, Disney, 20th Century Fox, Sony, and Warner Bros. They were grandfathered in, allowing them to continue to distribute their films in Canada.

As Ms. MacDonald outlined at the time of tabling the initial bill, the government intention was that “foreign-owned film distributors will be able to import for distribution films in which they have a significant financial risk, and which we consider, for all intents and purposes, to be 'their' films”. The intent of the policy was not “to promote the personal well-being of Canadian film distributors...[but rather]...to enable them to earn a normal share of the Canadian film market, so as to encourage the re-channelling of funds back into the Canadian film industry”.

● (1650)

To accomplish that goal, the policy required that non-proprietary films be distributed in Canada by Canadian-owned and -controlled distribution companies. This policy was an unequivocal success, resulting in the strengthening of the Canadian distribution sector, which was now finally able to invest in new Canadian feature films that have the market strength to be distributed properly and sustainably. The government's achievement with the policy is evident: 2014 was one of the strongest years for critical acclaim of Canadian film in recent history. This past year at the international Cannes film festival, a record three Canadian films were in official competition. There we witnessed a standing ovation for Atom Egoyan's film *The Captive*, acting awards for Julianne Moore in David Cronenberg's *Maps to the Stars*, which went on to earn a Golden Globe nomination, and a jury prize for Xavier Dolan's film, *Mommy.*

Unfortunately, the hard-fought gains that Heritage Canada has made in the sector are threatened of late, with recent developments signalling a disturbing erosion of the policy and its intent, an erosion that will inevitably lead to a decline in the success that the sector and the government have worked so hard to achieve for close to three decades.

For example, Warner Bros. Entertainment Inc. released the film *Transcendence* in Canada in April 2014. *Transcendence* is not a proprietary film. Warner Bros. does not own or control world-wide rights. Rather, Warner Bros. simply acquired Canadian distribution rights on the open market as an add-on to its right to distribute the film in the United States. Warner Bros. did not produce the film, nor does it own or control any rights outside of North America.

Though Warner Bros. is a major U.S. studio and therefore arguably falls within the grandfathered exception contained in the film distribution policy, the intent of the policy was to create a distinct Canadian marketplace for this very type of independent film. When the policy was introduced in 1988, major U.S. studios did not acquire independent films for distribution in North America. The studios were solely in the business of distributing their own proprietary product on a world-wide basis, and so such exploitation would not have been contemplated as being captured by the grandfathered exception. Allowing the major studios to use their grandfathered status as a sword to distribute independent, non-proprietary films in Canada, instead of using it as a shield for proprietary content as intended, puts the entire policy at risk, and certainly the intent of the policy is not being met.

Another recent and even more disturbing example is provided by the film *Story of Your Life*. In this case, Paramount Pictures lumped Canadian distribution rights into its acquisition of U.S. distribution rights. Once again, *Story of Your Life* is not a proprietary film. In fact, a number of CAFDE members tried very hard to acquire Canadian rights to the film but were precluded when Paramount made Canadian rights a condition of its offer to distribute in the U.S.

What is particularly irksome about this example is that the film is being directed by Denis Villeneuve, one of Canada's most talented directors, whose career has been supported and nourished by Canadian distributors and Canadian funding agencies. His films *Polytechnique*, *Incendies*, and *Enemy* are all examples of Canadian films that have achieved both critical and commercial success in Canada and abroad. He is in many ways a byproduct of the success of the distribution policy. Although *Story of Your Life* is not a Canadian film, it is still a non-proprietary, independent film with a marketable Canadian director and cast, which Canadian distributors were unable to compete for, given the unfettered heft of the U.S. studios.

This has been followed by another more alarming example. Just recently, Sony Pictures has agreed to distribute a suite of films in Canada to which they do not even hold U.S. rights, in the most egregious violation of the policy to date. In that instance, all U.S. rights are owned by a company called Open Road Films, a U.S. distributor that cannot avail itself of the grandfathered exception to the policy. Rather than engage a Canadian-owned distribution company to handle the films in Canada, they licensed their slate to Sony. Once again, a number of our members sought to acquire this lucrative deal with Open Road Films.

This example demonstrates clearly the slippery slope of allowing the U.S. studios to fly in the face of the spirit and intent of the policy. The erosion of the policy's protections puts the gains that the sector and Heritage Canada have made to date in jeopardy. I can assure you that, if left unchecked, these activities will decimate the Canadian distribution sector.

Canadian distributors play a vital role in supporting Canadian culture. They help to finance Canadian feature films and implement the marketing strategies for their release to Canadian consumers. In fact, in the last decade alone, CAFDE members have invested upwards of $400 million in Canadian production. However, as I mentioned previously, the annual output of Canadian films is not in and of itself sufficient to sustain the business activities of Canadian-owned distributors. They rely on access to foreign independent films —i.e., foreign non-proprietary films—to generate sufficient returns from the marketplace across its entire portfolio of films. Canadian owned and controlled distribution companies hold a small share of the Canadian theatrical market compared to their foreign-owned Hollywood counterparts.

● (1655)

In order to demonstrate the dominance of the major Hollywood studios, let us consider the most recent complete data set from Rentrak Box Office Essentials, which shows a total Canadian box office revenue of approximately $970 million. Of that $748 million, or 77% of the market share, went to the six major U.S. studios. The independent studios meanwhile accounted for $223 million or 23% of the market share. Yet while enjoying the dominant share of the market, the major Hollywood studios do not invest in or distribute any Canadian films.

The film distribution policy addresses these facts and creates a profitable distribution sector, which is in a stronger position to invest in and market Canadian feature films. The government's continued commitment to supporting the Canadian feature film industry and to upholding the film distribution policy is of paramount importance to CAFDE members who have built their businesses on the basis of this policy, as well as the indigenous feature film industry in Canada, which is of vital cultural and economic importance to Canada.

Allowing the foreign-owned studios to run roughshod over the intent of the policy will have dire consequences for the Canadian owned and controlled distribution sector and its continued ability to finance and market Canadian films. Additionally, in allowing these foreign-owned studios to intrude into the distinct Canadian film market it signals that the Government of Canada is no longer concerned about the cultural and economic considerations that engendered the policy and paves the way for the U.S. studios to bypass Canadian distributors and take an even greater share of profits from Canadian distribution out of Canada.

As I mentioned, CAFDE members' commitment to financing and distributing Canadian content while sustaining business operations in this competitive marketplace is in large part contingent upon the government's enforcement of the Canadian film distribution policy. Looking forward we think it will also require a willingness on the part of the government to modernize its application of the policy so that its intent is preserved in the face of a changing landscape.

Our second policy initiative focuses on this changing landscape.

● (1700)

The Chair: Excuse me, Mr. Rapkowski.

Mr. Richard Rapkowski: Yes.

The Chair: I'm trying to give time to our witnesses to make their presentations but yours is going way over time. Could you maybe wrap it up in about 10 or 15 seconds please.

Mr. Naveen Prasad (Executive Vice-President and General Manager, Elevation Pictures): If it's all right. Because CAFDE speaks on behalf of Elevation, I'm willing to shorten my talk.

Mr. Richard Rapkowski: I'll be very quick. Thank you, though. I do have a tendency to go on and on.

Our second policy initiative focuses on this changing landscape. In an era where increased ancillary exploitation such as digital and on-demand services are coupled with plateaued theatrical movie going, the film industry is facing major and complex challenges. Whereas Canadians used to enjoy films primarily on the theatrical screen, they are now increasingly opting for their television or mobile screens. While DVD sales once used to be a lucrative source for films, we are now seeing their ongoing decline, replaced by digital sales.

The 1988 film distribution policy is in many ways responsible for the success of the Canadian feature film industry. However, in light of the advent and the ubiquity of over the top services like Netflix, it is also out of date and out of step with the Canadian reality. Twenty-seven years ago it made sense to limit the scope of the distribution policy to theatrical releases and video sales, as those were the only two mediums that existed for audiences. That is no longer true today, as Canadian consumers are increasingly opting for digital media and television in order to watch feature films.

CAFDE recognizes that the issue of digital and OTT services is an incredibly complex one, but it is nevertheless a pressing matter that must be addressed. As it stands, OTT services like Netflix effectively operate beyond the bounds of the Canadian regulatory system, undermining many of the tenets that the film and television industries are based on.

CAFDE understands how multi-faceted and truly complex an issue this is. Without studying the matter further, any potential progress that could be made risks getting buried under unsubstantiated rhetoric. As such, we are of the opinion that this matter should be further studied in transparent and comprehensive consultation with all key stakeholders in order to come up with an innovative solution that will ensure a strong Canadian feature film industry.

I thank the committee for allowing me to speak today. I'm sorry for going overtime.

The Chair: Thank you very much.

We'll now move to Naveen Prasad from Elevation Pictures.

Mr. Naveen Prasad: Thank you very much.

Thank you, members of the committee, for the invitation to speak to you guys today.

I'm Naveen Prasad, executive vice-president and general manager of Elevation Pictures Corp. We're a private Canadian film and television company, based in Toronto, which launched just under a year and half ago. I myself have had the privilege of working in the Canadian content distribution industry and in partnership with this country's independent film and television production community for over 15 years. I echo the points made by Mr. Rapkowski and Monsieur Roy, and, therefore, I'll be a bit more brief than they were, but I'll provide further colour and thoughts based on my professional knowledge and by highlighting some of my company's current activities.

My company's business plan has us releasing about 20 theatrical releases per year, of which about five are certified Canadian content. Some of our upcoming Canadian film releases include Patricia Rozema's *Into the Forest*, starring Ellen Page; *Room*, based on a novel by fellow Canadian Emma Donoghue, which was a *New York Times* bestseller and was shortlisted for both the Booker Prize and the Governor General's Awards;*Regression*, a $20-million Canadian co-production with Spain, which has already secured a wide-release commitment stateside by the Weinstein Company; and *Hyena Road*, Paul Gross' upcoming epic about the Canadian military's efforts and sacrifices made during Afghanistan. Perhaps you saw the teaser trailer, which we were able to secure on the front of both *The Imitation Game* and *American Sniper* in theatres. If not, it would great if you guys could check it out. We're really pleased to get that type of awareness for a Canadian film like that.

I'm highlighting these titles as examples of what we, as an industry, are bringing to Canadian audiences. My friends here at eOne and the rest of the CAFDE company members have brought many other important, successful and culturally valued films to market, and while doing so have helped to foster various generations of talent. Collectively, we spend tens of millions of dollars annually supporting the production, distribution, and marketing of Canadian films. Now while about a quarter of my company's films are Canadian, we still rely on being able to secure many foreign films, the majority being non-studio Hollywood features. We require this mix of content and this number of overall titles to remain fiscally sound.

We are independent companies that have to compete with U.S. studios across all distribution windows. Those include theatrical, DVD, VOD, pay-per-view, television broadcasts, and over-the-top SVOD. Our slate of production and access thereto need to be competitive at all these levels of distribution. But in the end, we won't be able to compete with the leverage some of the studios have now begun exerting to acquire what are in fact non-studio films, some example of which Mr. Rapkowski just spoke.

To reiterate what was said earlier on, our ability to invest in bringing Canadian films to theatres and homes is directly tied to our ability to secure the rights to the non-studio fare. We are looking for this committee's support and resolve to further strengthen the film distribution policy of 1988 to help us in this effort.

To circle back to Canadian films, I'm very proud of how the overall industry has grown over the past few decades. The support of Telefilm Canada, broadcasters, and us film distributors has played an important role in advancing our nation's production industry and filmmaking community. I've often referred to it as the three-legged stool, but it's clear that some of the legs are now beginning to wobble. Telefilm Canada has been a great champion and key catalyst in getting Canadian films made. I realize, given Heritage's oversight of Telefilm, that what I'm saying is not new to you, but I'd be remiss if I did not at least mention how much we, as a distributor, value their partnership. The financial support they provide through the development, production, and marketing of films cannot be understated.

The 2013 Nordicity report, “The Economic Contribution of the Film and Television Sector in Canada”, in which Telefilm plays a large role, stated that in 2011 the industry provided over 260,000 full-time jobs; generated $12.8 billion in labour income, $20.4 billion in GDP, and $2.4 billion in exports; and returned $2.8 billion in federal taxes. These are fantastic figures. I kindly ask that this committee work to ensure that Telefilm's funding capabilities not only be maintained so that it can continue to help stimulate such continued economic success but also be further strengthened to the level it was at prior to the $10.6 million in funding cuts imposed on it back in 2012. To a business person, it seems penny wise and pound foolish to have scaled back on an investment that pays back so well.

While the goals of Heritage and the CRTC should be aligned, there has been—and I quote the Standing Committee on Canadian Heritage's previous statement back in 2005—an “absence of a broadcasting policy to support the promotion of Canadian feature films”. Sadly, that holds true a decade later: There are no broadcast regulatory requirements designed to truly support domestic feature films. Under the group-based licensing, as approved by the CRTC, feature film has no defined standing under any broadcaster's program expenditure requirements.

● (1705)

Nevertheless, the success of Canadian films is and will continue to be dependent on broadcast licences, at both the premium pay level and the post-pay windows of conventional and specialty. I ask that Heritage and the CRTC work together to set meaningful benchmarks for the programming of Canadian films across all broadcast windows.

Again, I appreciate this opportunity to speak before you guys today. I would be happy to answer any questions you may have.

The Chair: Thank you very much.

We're going to move to the questions and go to Mr. Weston for up to seven minutes.

Mr. John Weston (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC): If this succeeds today, then maybe the headline should be “Big save by Patrick Roy, this time in the film sector”.

[*Translation*]

Thank you. You have given us a lot of information, but you have done so very quickly.

[*English*]

Let me make sure, for the benefit of slow-thinking parliamentarians, that we're keeping up with what you told us.

Firstly, distribution is a big form of employment, as you said at the beginning, Mr. Roy, and you gave us a number for how many jobs depend on it.

Mr. Patrick Roy: No, I don't know how many jobs in Canada, but maybe Richard does.

● (1710)

Mr. Richard Rapkowski: I don't have that figure. We would be happy to provide that as a follow-up to our remarks.

Mr. Patrick Roy: The jobs I was talking about are at eOne.

Mr. John Weston: Okay.

Mr. Patrick Roy: Just at eOne in Canada, there are 800 employees.

Mr. John Weston: I see.

Secondly, I think you all agree that there are some good things about Canadian government policy. The Telefilm support, I think you all said, is something really good, and on the tax credit system, I think one or two of you referred to it and said that's been instrumental in helping the Canadian film industry grow. So far, so good.

Mr. Naveen Prasad: I didn't mention that, but I do agree with that.

Mr. Richard Rapkowski: Absolutely.

Mr. John Weston: Okay. Then there's this 1988 distribution policy. Pardon me if I didn't understand completely what you said. I was trying to follow as closely as I could, but there are several points that you have to pull together to really get this.

I think what you said is that there's a grandfather clause that allows foreign distributors to enter the Canadian market. Is that right, Richard?

Mr. Richard Rapkowski: On foreign companies, new foreign operations are not allowed to set up distribution in Canada. That's protected by the Investment Canada Act, but the entire policy is said to not apply to the major American studios.

At the time, they tried to introduce the policy as the film importations bill, but the Motion Picture Association lobbied so hard they were not able to pass it. It never became law because the studios fought very hard to say that they had invested in those films, they owned those films, those were films that they distributed worldwide, they financed them, and they needed to be able to distribute them in Canada. It didn't pass.

It was said that the policy did not apply to them, but what's happening now is that they are distributing in Canada films that are not their proprietary films.

Mr. John Weston: Oh, I see.

Mr. Richard Rapkowski: As for what we've heard back, as you know, we've made submissions to Heritage before and we've said that they're distributing non-proprietary films and shouldn't be allowed to do that. What came back was an answer, just as a blanket statement, that this policy doesn't apply to the studios, period, whether it's non-proprietary films or proprietary films. What we're saying is that this really flies against the intent of what the policy was introduced to accomplish.

Mr. John Weston: Who would enforce such a policy? Assuming your interpretation is accepted, where is the responsibility for enforcement?

Mr. Richard Rapkowski: There were fines. There were penalties that were in the film importations bill. As a policy, it doesn't have an enforcement mechanism, so we would welcome thoughts about how the policy could actually be enforced.

To say that you couldn't have a provincial film distribution licence to distribute that film, because it's not a proprietary film, would be a great place to start. To say that you couldn't get.... For example, in Quebec, where they require stickers from the Régie in order to distribute video products in the province, it would be great if they said that if it's not your proprietary film, they're not going to issue those stickers.

Mr. John Weston: You lauded Flora MacDonald for bringing in the policy, but what I'm hearing is that it has never been enforced.

Mr. Richard Rapkowski: Well, it is enforced, and it's enforced on a policy level without much teeth to it, so it seems to be something that is understood. Again, it's supported by the Investment Canada Act, which doesn't allow new foreign entrants into the marketplace, so that is protected, and—

[*Translation*]

Mr. John Weston: But Patrick, you said that 92% of films came from major U.S. producers. Is that right?

[*English*]

Mr. Patrick Roy: Yes.

Mr. John Weston: So really, enforcing against the small new ones isn't going to do a lot to help us, if I'm following the argument closely.

Mr. Richard Rapkowski: No, but what would help is if we did not allow the studios to use their grandfathered status to pull these independent films, which are the bread and butter of our businesses that allow us to invest in Canadian films. By pulling those away from us—these ones that are the really choice films—it erodes our entire business model.

Mr. John Weston: You're asking for a new regime. In other words, somebody in the government needs to stand up and enforce a policy that's been there but has never been enforced previously.

Mr. Richard Rapkowski: Well, no, because from what I understand, Canadian Heritage is saying that the policy is in place and will be enforced, but it won't be enforced at all against the studios.

It's proprietary versus non-proprietary. If we had our choice, we would want the non-proprietary requirement to apply to the studios, so that it would say yes, it doesn't apply to studios, you're still allowed to be in Canada, but you can only distribute your own proprietary films.

Mr. John Weston: But you're not sure who ought to enforce that.

Mr. Richard Rapkowski: Well, look, we would love to have legislation introduced to mirror what the films importation bill had tried to accomplish. We recognize that is an uphill climb. That's not an easy task for government. In the absence of that, we would want a more robust application and for the government to say that the intent of this policy was to allow the studios to distribute their proprietary films in Canada. This erosion of starting to partner with American independents and starting to distribute their films in Canada, films that ought to go to Canadian distribution companies, should be stemmed.

● (1715)

Mr. John Weston: Do you have any other comment on that, Patrick or Naveen?

Mr. Naveen Prasad: No. He summarized it perfectly.

Mr. John Weston: Richard, you were saying there were three policy issues. One is the enforcement of the 1980 policy, and we just covered that. Then there's the reflection on such policy given ancillary distribution, and that—

Mr. Richard Rapkowski: I cut short a bit of my remarks on that because I was going long. What we're talking about there is the fact that the policy governs the actual distribution and physical video.

Mr. John Weston: But not TV.

Mr. Richard Rapkowski: Not TV, not OTT, not digital.

Mr. John Weston: Somebody said earlier on that most Canadians are now watching on TV, digital. Do we know the percentages?

The Chair: Mr. Weston, we're going to have to wrap up.

We're now going to move to Ms. Nash and Ms. Sitsabaiesan for up to seven minutes.

Ms. Rathika Sitsabaiesan: Thank you.

Mr. Rapkowski, I know you had more notes that you wanted to read into the record, but if you could maybe send in your complete speaking notes to the clerk, we could have them entered in as evidence for the committee. Thank you. Anything else you do want to submit, if you send it in writing, we could also have that available for us to go through and to add to the report.

My question is maybe semantics related, I'm not sure. Mr. Rapkowski, you mentioned that you'd like to see enforcement of the 1988 distribution policy, and Mr. Prasad, you mentioned that you'd like to see it strengthened. I think we've had a little bit of a breakdown, and I don't want to call it protectionism, but really it's about protecting our local industry and allowing for the growth or our local, domestic distributors.

Is the piece that we've hammered in a little bit, what you're saying, Mr. Rapkowski, namely about the enforcement of the 1988 distribution policy? Mr. Prasad, you were saying you want to strengthen it. How?

Either one of you can answer.

Mr. Naveen Prasad: I don't necessarily have a solution here to present today.

Ms. Rathika Sitsabaiesan: Not now? No? Okay, you can send it in by writing if you'd like.

Mr. Naveen Prasad: This is something that we've noticed happening over the past year, year and a half. It is a real concern because my company had tried to acquire the rights for these films that Richard was talking about—and I suspect Patrick's company was as well. We compete for films all the time. Then to be undermined by a U.S. studio outright, without even being able to have a discussion, is an issue.

It's my understanding that if the film distribution policy of 1988 were strengthened, we could go back to it so we could prevent this from happening. I'm not by any means a lawyer or legislator in any regard, so I can't tell you the steps taken.

Ms. Rathika Sitsabaiesan: Exactly how, the minutiae of how....

Mr. Naveen Prasad: I can tell you that if it continues, it's going to put companies like mine in peril.

Ms. Rathika Sitsabaiesan: When somebody asked about the number of jobs in the film distribution industry in Canada, I think Mr. Rapkowski said he could send that in. If you could send that number in, it would give us an idea of the number of jobs that are available in the industry today and what types of effects it could have if these large U.S. studios were allowed to continue to undermine the intent of the 1988 distribution policy.

I'll ask one more question. The rest of my time is for Peggy.

I want to ask about the technological change and the shift that's happened. I think it's been 10 years since the last study was done. You can talk about whatever timeline you'd like to.

How has that affected the work you're doing with respect to distribution? What type of legislative adjustments, if any, that you know of or can think of, need to happen to facilitate the work you're doing in distribution? If you'd like to, go on to content creators.

Mr. Naveen Prasad: Is that our turn to speak?

Ms. Rathika Sitsabaiesan: Sure.

Mr. Naveen Prasad: Over the past 10 years, digital distribution has emerged in, I would say, two main forms, the first being transactional VOD and electronic sell through—that is, the likes of iTunes, Rogers on Demand, Bell IPTV or Bell Fibe—which has grown. This is a case in which consumers are renting or purchasing the right to own a movie. It has supplanted DVD revenue, but it hasn't grown to the point that it has taken over or by any means made up for it; there is a decline. So the decline in home video has continued and the rise of transactional has risen, but it doesn't look as though they will ever meet.

Then the coming of Netflix to Canada was probably one of the larger shifts. They are acquiring content on an SVOD or subscription VOD basis. I don't think anybody here is suggesting, by any means.... We work with Netflix. and they have been good buyers of both our foreign content and some Canadian content as well. But the advantage they have, as far as obligations are concerned, relates to the broadcasters.

● (1720)

Mr. Richard Rapkowski: If I can touch on a—

The Chair: Excuse me. Ms. Nash wanted to get in.

Ms. Peggy Nash: I just want to get a couple of minutes to ask questions. I want to thank you, Mr. Rapkowski, for your explanation about the enforcement of the 1988 agreement and law. But I want to ask my question to Mr. Roy.

First of all, thank you for the role that Entertainment One plays in the Canadian market. I think your company plays a very valuable role for Canadian content and distribution.

I want to pursue the point you raised about Canadian content and TV broadcasters, that there should be a dedicated portion of Canadian content dedicated to Canadian feature film. That obviously is not happening now.

Can you describe what needs to change and what difference it would make to the industry?

Mr. Patrick Roy: I think what's important is that we make films in Canada. Heritage Canada is helping to finance these films with tax credits, with Telefilm Canada. Then we have the CRTC; they regulate the broadcasters. But it's as if there is no link between the two, and we need to have a link, because broadcasters should buy Canadian films and offer these films to the Canadian audience.

The impact we have seen in Quebec is that the more you see these films on TV, the more you're able to reach hundreds of thousands of people at the same time, and then these people discover what Canadian films are. They love these films; then they want to see more of them and they go into theatres after that to see the next ones.

Ms. Peggy Nash: Can I ask you, is there a difference in Quebec?

Mr. Patrick Roy: Yes. In Quebec, we have really strong support from Radio-Canada.

Ms. Peggy Nash: Ah. Okay.

Mr. Patrick Roy: They buy, I would say, almost 90% of the French-Canadian films. They're doing really well with these films. Many people are watching them, and that has an effect on the entire business. So that's what we—

The Chair: Thank you very much.

Mr. Patrick Roy: —would like to have in English Canada.

The Chair: We have to move on.

[*Translation*]

Mr. Dion, go ahead for seven minutes.

[*English*]

Hon. Stéphane Dion: I have just seven minutes and there are so many things to discuss.

[*Translation*]

Thank you, Mr. Chair.

Thank you for being here, gentlemen.

[*English*]

Mr. Rapkowski, you use very strong words, giving rather a wake-up call. You speak about erosion of the 1998 policy, which will be dismantled, if we let the status quo continue unchecked.

I don't want you to repeat your presentation, which was a bit long for the taste of our chair, which I understand. However, can you in a nutshell tell us the main reasons for this erosion, since when we have been experiencing it, and what you would dream of seeing in our report to address this situation?

Mr. Richard Rapkowski: It does seem to be happening in the more recent past, I would say the last five years, where we've been seeing the major U.S. studios using this position they have as grandfathered to take advantage of these smaller independent films, and to take these films that would otherwise be distributed by Canadian distributors and use their system to distribute them. It seems to be a relatively new phenomenon. I think some distributors in the U.S. or owners of U.S. rights are starting to become wise to this idea that they don't have to go through Canadian companies, that they'll just go through their Hollywood brothers, who will distribute it for them in Canada because they're not subject to the policy.

So it seems to be increasing: we see it happen once and then it gets worse, and then it gets worse. That is why I am trumpeting a very loud horn about the distribution policy. I admit I am using strong language for it because we have tried to address it before with government and it seems to be falling on deaf ears. What people need to understand is the important role that distribution plays in the ecosystem. Without distribution, Canadian films won't get produced because the production community can't produce them without help from private funds from distributors, and it's the private funds from us that signal to Telefilm to invest in them as well.

● (1725)

Hon. Stéphane Dion: When the U.S. started to do that, was it because we changed our policy or did they discover a loophole they hadn't discovered before?

Mr. Richard Rapkowski: I think they did discover a loophole and I think the studios have changed their model. They used to produce a lot more films and they had enough in their pipeline to satisfy themselves. Now, as you know, there are just fewer films, lots of these huge tent-pole films, and so they have extra capacity to fill their pipeline with these smaller films, and independent films have started to become a lot more popular. If you look at what was nominated for Academy Awards this year, these are the types of films that we have traditionally distributed as Canadian distributors, and it's a good business model for them.

Hon. Stéphane Dion: Now, what would be the main solutions you would like us to write in our report?

Mr. Richard Rapkowski: It would be to recognize the intent of the policy and to come out with either policy directives—again, new legislation would be great—or, at the very least, a directive that this policy will be enforced according to its intent and the spirit of why it was brought in, not the letter of this grandfathered exception allowing people to circumvent it. I'm a lawyer by trade, and a film lawyer, so I don't have that much expertise in how these things could be accomplished by government. We would rely on the experts to figure out how these policies can be enforced, but again, it was working up until now and everyone understood how it worked. I think if there were an announcement from the government that this is the way the policy will be interpreted going forward.... Again, enforcement is difficult without legislation.

Hon. Stéphane Dion: But you addressed that with the government. You had discussions with the minister about that.

Mr. Richard Rapkowski: We sent letters to Canadian Heritage to try to at least bring these, what we consider, violations of the policy to the attention of the ministry, and the response we got back was that it doesn't apply to the studios. We think that was the wrong interpretation of the policy because it's looking at a literal interpretation as opposed to focusing on what is most important, which is the intent of the policy and what it is meant to accomplish.

Looking at a literal interpretation just cuts the legs out, and we're left in a very difficult position, and it's going to affect not just distribution. We're not just trying to protect our own businesses as distributors, although that is important to us. It is part of the fabric. As Naveen said, it's a three-legged stool and without distribution—

Hon. Stéphane Dion: In the coming days or next week, if you would send us more specific solutions about that, we would be very willing as a committee to look at them.

Mr. Richard Rapkowski: I gladly will.

[*Translation*]

Hon. Stéphane Dion: Mr. Roy, you mentioned the role of the Canadian Broadcasting Corporation several times.

Is the corporation still able to support you?

Mr. Patrick Roy: Yes, it continues to support us. Of course, since it has less and less money, its funding for films has decreased over the years, but it is still a key partner and continues to play its role exceptionally well in Quebec.

Hon. Stéphane Dion: Okay, but you do feel that it's running out of steam.

Mr. Patrick Roy: Yes, the funding has been decreasing for a number of years, and that automatically has an impact on us, the distributors, since we sell those films. When broadcasters pay less, we do the same when we buy films, and that has an impact on productions. So it ends up affecting the entire chain.

Hon. Stéphane Dion: So you feel that the corporation is a vital tool?

Mr. Patrick Roy: It's a vital tool when it comes to financial matters, but as I said earlier, that also includes promotion. When people watch movies they like, they want to see more of the same. So the corporation is also a driving force in promotion, which is an important aspect.

Hon. Stéphane Dion: What do you think about CBC's plans for the future? Do you think the corporation is headed in the right direction?

● (1730)

Mr. Patrick Roy: I have not read any specific information on CBC's plans. I know that the corporation has suffered significant cuts. As a distributor and a Canadian taxpayer, I will always support the CBC. I consider the corporation to be a key player in the industry.

The Chair: Thank you, Mr. Dion.

[*English*]

We have just a minute or so left.

Mr. Dykstra, if you want to squeeze in a question, we have time.

Mr. Rick Dykstra: I do. It's for all three. I really would like to get into the production issue that Richard and both Naveen and Patrick have commented on, which you describe so well, but obviously we're a little stuck for time, so one of the issues here that I had was how streaming technologies like Netflix and Shomi have impacted the Canadian market.

Mr. Prasad actually commented specifically on a deal Elevation Pictures just made regarding a television show called *Between*.

Mr. Naveen Prasad: Yes, we're very proud of this. It's the first Canadian content Netflix original. Today it was announced that it's premiering on May 21 on Netflix around the world, excluding Canada, where Citytv, a Rogers media company, holds the exclusive Canadian distribution rights. It was a partnership between Rogers and Netflix, with a full Canadian crew: Michael McGowan, the show's creator; Don Carmody, a producer; and I'm serving as an executive producer as well. We're very proud that it's based on the system that has been developed over the years. Although this is a television project, it's a feature filmmaker, Mike McGowan, who had many films that Telefilm supported.... We see that there are these opportunities where Canadian content can make it to the big leagues, if you will.

The other side of that is whether Netflix is supporting Canadian content. I would say in some regards they are, but not to the degree that broadcasters have been, considering the program expenditure requirements on overall Canadian content. However, I would point out that there's nothing that clarifies how much of that has to be for Canadian feature films, which, I think, is an important point to mark.

The Chair: You have about 20 seconds.

Mr. Richard Rapkowski: If I could add, one of the most difficult challenges that we're faced with is the fact that these OTT services are not subject to regulation in Canada, and the Canadian broadcasters, who are their competition, are subject to regulation. That creates a very unlevel playing field, and it's very difficult because your only option is either to require less Canadian content for the Canadian broadcasters or regulate the OTT services, or leave an unlevel playing field. None of those options is great.

It's a very complex issue and I don't have a solution for it, but it is something that we need to look at because it does have the potential to erode the fabric of what we've established. Further study is needed on that topic because the broadcasters are obviously pressuring to reduce their commitments in the face of that, which I don't think is going to help the Canadian film industry.

Mr. Naveen Prasad: If I could add, all three of us, speaking on behalf of all the CAFDE members, would like to be involved in that process.

The Chair: Right, on that note, thank you very much. Thank you for your contributions. If you have any more that you'd like to contribute, please send it in.

The meeting is adjourned.