HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Industry, Science and Technology

INDU • NUMBER 129 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Monday, October 1, 2018

Chair

Mr. Dan Ruimy

Standing Committee on Industry, Science and Technology

Monday, October 1, 2018

● (1530)

[*English*]

The Chair (Mr. Dan Ruimy (Pitt Meadows—Maple Ridge, Lib.)): I call the meeting to order.

It's another fine Monday afternoon here. Welcome to INDU, where we are continuing our study of the five-year legislative review of the Copyright Act.

Today, from Telus Communications, we have with us Ann Mainville-Neeson, vice-president, broadcasting policy and regulatory affairs, as well as Antoine Malek, senior regulatory legal counsel.

From Association québécoise de la production médiatique, we have Hélène Messier, president and chief executive officer; and Marie-Christine Beaudry, director, legal and business affairs, zone three. That's exciting, zone three.

From the Société professionnelle des auteurs et des compositeurs du Québec, we have Marie-Josée Dupré, executive director, by video conference from Montreal. Can you hear me?

Ms. Marie-Josée Dupré (Executive Director, Société professionnelle des auteurs et des compositeurs du Québec): Yes, very well.

[*Translation*]

The Chair: Excellent.

[*English*]

Finally, from Association des réalisateurs et réalisatrices du Québec, we have Gabriel Pelletier, president, and Mylène Cyr, executive director.

[*Translation*]

I'll do my best.

[*English*]

Before we get started, Mr. Albas, I believe you have a notice of motion you'd like to present.

Mr. Dan Albas (Central Okanagan—Similkameen—Nicola, CPC): Great. Thank you, Mr. Chair.

I apologize to the witnesses, and I'll make this very quick.

Obviously this is very timely. I'd like to table a notice of motion.

It reads as follows:

> That, to assist in the review of the Copyright Act, the Standing Committee on Industry, Science and Technology requests Ministers Freeland and Bains, alongside officials, to come before the committee and explain the impacts of the United-States-Mexico-Canada Agreement (USMCA) on the intellectual property and copyright regimes in Canada.

Obviously this isn't something we can debate at this time. I do hope that members find it to be timely and that we can discuss this at an upcoming meeting.

Thank you.

The Chair: Thank you very much.

Now we're going to go to presentations. Why don't we start with Telus Communications?

[*Translation*]

Ms. Mainville-Neeson, you have seven minutes.

Ms. Ann Mainville-Neeson (Vice-President, Broadcasting Policy and Regulatory Affairs, TELUS Communications Inc.): That's great. Thank you.

[*English*]

Just for a change, I'll make my presentation in English, but I'm happy to respond to any questions in French or in English.

Good afternoon, and thank you on behalf of Telus Communications for the opportunity to appear before the committee.

My name is Ann Mainville-Neeson, and I'm vice-president of broadcasting policy and regulatory affairs at Telus. With me is Antoine Malek, senior regulatory legal counsel at Telus and an intellectual property lawyer.

Telus is a national communications company. Whether it's connecting Canadians through our wireless and wireline businesses or leveraging the power of digital technology to enhance the delivery of health care services, we are committed to connecting with purpose, positioning Canada for success in the digital economy and enhancing economic, educational and health outcomes for all.

We provide a wide range of products and services, including wireline and wireless telephony, broadband Internet access, health services, home automation and security, and also IPTV-based television distribution. In light of earlier testimony that you received from other TV service operators, it is relevant to note that unlike our main competitors, Telus is not vertically integrated, meaning that we do not own any commercial programming services. We are purely an aggregator and distributor of the best content there is to offer.

In striving to be an aggregator of choice and the place where Canadians go to access content, we listen to our customers and we are constantly looking for better ways to meet and anticipate their needs and desires. We know that innovation is essential to competing in the digital environment, where consumers have more choice than ever before. We believe that innovation is essential in keeping the Canadian broadcasting system, which is a major source of income for Canadian artists, healthy and competitive. Accordingly, our remarks today are focused on amendments that would foster innovation by promoting efficiency and by increasing the resiliency of the act in the face of rapid change.

I want to start with one of the areas where amendments enacted in 2012 fell a little short on the innovation front. In 2012, Parliament adopted exceptions that would provide users with the right to record a program for later viewing. This recording can be made on their own device or on a network storage space. When the recording is made in the cloud, it is referred to as a network personal video recorder—NPVR—or sometimes cloud PVR.

While the 2012 amendments were a step in the right direction, the statutory language contemplates a discrete recording for each user. As a result, an NPVR service provider like ourselves might need to store hundreds of thousands—even millions—of copies of the same recording, one for each user who initiates a recording. That kind of excessive duplication is unnecessarily inefficient and costly for the network operator, and creates no value for the rights holder.

Innovation dictates leveraging the benefits of network efficiency by sharing a single recording of a program among all the users who initiated a time-shifted recording of that particular program. Telus recommends that the act be amended to allow this to happen without any additional liability being incurred by the network operator.

Looking to the future and other ways that the act can more broadly foster innovation and be adaptable to technological change, Telus recommends that the risks associated with innovation in the face of statutory ambiguity be distributed more evenly between rights holders and innovators. Specifically, we propose some changes to the statutory damages regime in the act.

Under the current rules, the potential liability posed by statutory damages can be completely detached from either the actual harms suffered by rights holders or any profits derived from an infringement. We recommend that the courts be empowered in all cases to adjust statutory damage awards to align them with the circumstances of the infringement. The courts are already empowered to do this, but in limited circumstances only. Evidence of bad faith should be required to justify statutory damages if they're disproportionate to the infringement. By ensuring that the punitive aspect of these awards is applied only in cases where it is appropriate and desirable to do so, the Copyright Act would no longer be discouraging innovation.

I would now like to turn to the notice and notice regime.

First, Telus agrees with other ISPs who have presented before you that notice and notice is a reasonable policy approach to copyright infringement because it balances the interests of rights holders and users. We also agree with proposals to mandate the form and the content of notices, especially to require them to be machine-readable so that the processing can be as close to fully automated as possible.

● (1535)

Telus also agrees with Minister Bains's earlier announcement that notices should not contain extraneous content, such as settlement demands, nor should they contain advertising on where to find legal content, as some have suggested. That is not the purpose of notice and notice.

Telus also echoes TekSavvy's proposal that ISPs be permitted to charge a reasonable fee for forwarding notices. This is not only a matter of fairness to ISPs, which are innocent third parties in copyright disputes; it would also address the potential for misuse of the regime. While the government has announced an intention to take steps to address misuse by prohibiting settlement demands, this doesn't address other forms of misuse, such as fraudulent notices or notices that include phishing links, which pose a security concern for consumers. Adding an economic cost to accessing the regime would go a long way towards minimizing its abuse.

Finally, Telus also proposes that the separate statutory damages provisions under notice and notice be amended to be harmonized with our proposals for amendments to the broader statutory damages regime under the act. Specifically, Telus proposes that under notice and notice, the courts should be given the discretion to lower a minimum award to ensure that it is proportional to any actual harm to rights holders, and that evidence of bad faith on the part of the non-compliant ISP be required to justify a disproportionate and punitive level of damages. Such an amendment would go a long way to helping ISPs deal with the significant and increasing costs that they are required to incur to help rights holders enforce their rights.

In closing, we thank the committee for its work in reviewing this important piece of legislation. Copyright is one of the key legal regimes that governs the digital markets of the modern economy, and we support its intent. In order to maximize the potential for Canada's digital economy, we believe the legislative framework must balance support for creators with the public interest in supporting innovation that leads to new technology and business possibilities for the benefit of all Canadians. Thank you.

The Chair: Thank you very much.

We're going to move to Association québécoise de la production médiatique. Madame Messier.

[*Translation*]

Ms. Hélène Messier (President and Chief Executive Officer, Association québécoise de la production médiatique): Good afternoon.

I'll be giving my presentation in French.

Mr. Chair, ladies and gentlemen, my name is Hélène Messier.

I am the president and chief executive officer of the Association québécoise de la production médiatique, or AQPM for short. Joining me is Marie-Christine Beaudry, director of legal and business affairs for Zone3.

Zone3 is one of the largest production companies in Quebec. It produces films, and its subsidiary Cinémaginaire recently produced the Denys Arcand film *La chute de l'empire américain*.

In the television arena, the company produces programs of all genres including series for youth like *Jérémie*, magazine programs such as *Les Francs-tireurs* and *Curieux Bégin*, variety shows such as *Infoman* and comedies such as *Like-moi!*

The AQPM brings together 150 independent film, television and web production companies, representing the vast majority of Quebec companies that produce audiovisual content for every screen in both French and English. The AQPM's members produce more than 500 films, television programs and webcasts watched by millions of people on every type of screen.

Our members are responsible for such film productions as the feature *Bon Cop Bad Cop* and *Mommy*—winner of the Jury Prize at the Cannes film festival and the César award for best foreign film—not to mention television programs *La Voix*, *Fugueuse* and the daily *District 31*, just to name a few. The commercial success of these productions is the envy of many.

In 2016-17, Canada's film and television production sector was valued at nearly $8.4 billion in total, generating more than 171,700 full-time equivalent jobs in both direct and indirect employment. Quebec's film and television production sector is worth $1.8 billion and generates 36,400 jobs.

We want to thank the committee for the opportunity to contribute to its statutory review of the Copyright Act. Although the AQPM is concerned about a number of issues including piracy and the extension of the private copying levy to audiovisual works, our remarks today will focus on audiovisual copyright ownership.

Determining who the creator of a sculpture or song is may be straightforward, but it's a whole other story when it comes to an audiovisual work, be it a television program, film or web content. The Berne Convention for the Protection of Literary and Artistic Works gives countries freedom in establishing copyright ownership of cinematographic works.

In Canada, the identification process began in the early 1990s but has been delayed ever since, leaving Canadian legislation silent on the issue. As a result, only the courts are empowered to identify who the author of a cinematographic work is on the basis of facts specific to that work. With few documented cases, no clear rule has emerged.

Many countries have opted to set out in their legislation how the author of an audiovisual work is identified. Countries with similar copyright philosophies to Canada's—the U.S., the United Kingdom, Australia and New Zealand—have identified the producer as the sole copyright holder, with the exception of the United Kingdom, where both the producer and director are copyright owners.

Conversely, in Canada, not only are producers not recognized as copyright owners, but they are also forced to operate in an uncertain model when producing and using audiovisual works, managing all related risks. It is worth noting, though, that, in order to limit those risks, some clarification has been incorporated into collective agreements negotiated between unions, representing screenwriters, directors, music composers and performers, on the one hand, and the AQPM, representing producers, on the other. Generally speaking, the producer has rights and pays a fee or royalty for the use of those rights.

A question worth asking is whether “cinematographic work” is still the right designation for the wide range of audiovisual works dominating the sector today, including those intended for digital media. In the AQPM's view, the current definition of a cinematographic work is not technology-neutral since it refers to a traditional production technique—cinematography—as opposed to the actual work.

For that reason, the AQPM recommends that the new category “audiovisual work” be created. It would be defined as an animated sequence of images, whether or not accompanied by sound, and include cinematographic works.

● (1540)

The next question that arises is who the copyright owner of an audiovisual work is. The answer lies in characterizing the work somehow. Is it a work in and of itself, or is it a collaborative work or compilation that brings together a number of underlying works? Does the script or music, for instance, represent a whole that cannot be separated, or do a number of separate works make up a whole that is more than the sum of its parts? Who owns the copyright as far as that whole is concerned?

The AQPM maintains that the producer's role in the creative process and making of an audiovisual work dictates the recognition of the producer's creative contribution to the work. This would make the producer the owner of the copyright in the audiovisual work, and all related rights, without penalizing the creators of the underlying works. In that case, it would be important to specify that a corporation could be the first owner of copyright in the audiovisual work.

Ms. Beaudry will now explain why the producer should hold all rights to the audiovisual work, right from its infancy.

● (1545)

Ms. Marie-Christine Beaudry (Director, Legal and Business Affairs, Zone 3 , Association québécoise de la production médiatique): Good afternoon.

Being the producer of a cinematographic work is a whole art unto itself.

The producer can be thought of as the conductor of the cinematographic or audiovisual work. The producer is the only one present from the beginning of the work's creation to its delivery, and even after, during its use or exploitation. The producer has total control over the funding and management of the project, as well as the creative elements.

Not only by securing the funding, but also by selecting the artists involved throughout the process, the producer determines, guides and influences the content of the audiovisual work, be it a magazine, talk show, variety program, documentary or drama.

What's more, the producer participates in the actual creation of the cinematographic work through day-to-day involvement in the creative development process. When all is said and done, the producer is the final decision-maker, all the while respecting the prerogatives of screenwriters and directors.

Depending on the type of production in question, be it a work of fiction, a variety program, the recording of a concert or a documentary, the involvement of the artists, screenwriters, directors and composers will vary.

The components of the work will also vary: original or existing music, original script or book adaptation, film footage, existing artwork or the creation of original art. The combinations are endless, and many are those who can claim to be the author of any one of the elements that make up an audiovisual work.

It is essential that the producer be able to hold all copyright in the audiovisual work with total certainty. Not only does the producer play a vital creative role, but they are also solely responsible for respecting contractual obligations to third parties, including financing partners and the production team.

At the end of the day, the producer alone assumes the risk for any budget overruns that occur during production of the audiovisual work. The producer's involvement is absolute.

Today, it is nearly impossible to produce a cinematographic work without relying on tax-credit-based funding. In granting federal tax credits for cinematographic works, the Canadian Audio-Visual Certification Office, known as CAVCO, stipulates in the application guidelines for its film or video production services tax credit that the producer be sole owner of global copyright in the work for the purposes of its use. This appears in the copyright ownership section.

Furthermore, nearly all funds for cinematographic production in Canada, not to mention bank financing in some cases, require the producer to be accredited by CAVCO, meaning that the producer must adhere to the requirement in order to access funding for production. Any change to the Copyright Act that awards copyright ownership to a third party would run counter to these funding requirements and undermine Canadian film production.

Once the work is completed, it is also the producer who determines, funds and manages the exploitation of the cinematographic work. To that end, certain elements are contracted out to third parties all over the world. The producer may decide to work alone or to go through a distributor or distribution agent.

The ways in which a cinematographic work can be exploited or used are many, and they require a myriad of copyrights in the work. That may include the distribution of the work in existing markets here, at home, or in other jurisdictions, the sale of a format based on the work, the marketing of merchandise and so forth.

The Chair: My apologies, but I have to interrupt. You've been speaking for almost 11 minutes. Could you please wrap it up?

● (1550)

Ms. Hélène Messier: Yes, of course.

We have repeatedly called for a solution to address the uncertainty surrounding an audiovisual work. Should the government decide not to adopt our solution, it would have to make sure that each category of creator listed in the Copyright Act was not considered to be in conflict with existing collective agreements. The government would also need a presumption of law, similar to France, whereby the producer receives an assignment allowing the exploitation of all the rights in the work.

Thank you.

The Chair: I will now hand the floor over to Marie-Josée Dupré, from the Société professionnelle des auteurs et des compositeurs du Québec.

You may go ahead for seven minutes.

Ms. Marie-Josée Dupré (Executive Director, Société professionnelle des auteurs et des compositeurs du Québec): Thank you.

Mr. Chair and members of the committee, thank you for inviting us to take part in these consultations.

My name is Marie-Josée Dupré, and I am the executive director of the Société professionnelle des auteurs et des compositeurs du Québec, better known as the SPACQ. Established 37 years ago, the SPACQ works to promote, protect and advance, in every possible way, the economic, social and professional interests of music creators—several thousand music writers across Quebec and French-speaking Canada.

The cultural sector is an important part of Canada's economy, but not all participants receive their fair share. Very often, music writers work in the shadows and are not necessarily feature artists. They are nevertheless the first link in a long chain of players, and usually the lowest paid.

I will now discuss the elements that are especially important in order for Canada to have copyright legislation that is simply adequate.

The first element is the duration of copyright. Further to yesterday's signing of the U.S.-Mexico-Canada trade agreement, or USMCA, we were pleased to learn that Canada will extend copyright protection to 70 years after the death of the author, as is already the case in the countries who are our main trading partners.

All of our creators will now be treated equally. The Copyright Act, however, contains a large number of exceptions, so limiting the number, interpretation and scope of those exceptions will be essential to preserve any gains from extending copyright protection to 70 years after the author's death. It would be very unfortunate if an overly broad interpretation of the existing exceptions were to chip away at compensation for the use of works.

The second element is the responsibility of platforms when it comes to user-generated content. We applaud the European Parliament's recent majority decision on the responsibility of content-sharing platforms, requiring royalties to be paid to creators and rights holders. Again, I would point out that, up until last night, Canada was one of the few countries, if not only one, to view such sharing of works as being exempt from responsibility.

It's time that lawmakers revisit their position and adopt appropriate measures. In other words, it's time to hold companies like YouTube—not to get too specific—responsible for payment of adequate royalties, given the content distribution on their platforms.

The third element is the private copying regime. Introduced in 1997, the system allows Canadians to copy whatever music they please for personal use; in return, authors receive royalties for those copies. The levy is supposed to apply to all audio recording media usually used by consumers.

Parliament's intent was clearly to create a regime that was technology-neutral, meaning one that would not become obsolete simply because of media advances. Unfortunately, in 2012, the regime's application was limited to blank CDs, a now outdated medium. Consumers, however, continued to make just as many copies of music on other types of audio recording media, including tablets and cell phones, which are not subject to the regime. Because of this restriction, creators are losing tens of millions of dollars in royalties.

Fixing this problem is paramount. The Copyright Act must clearly stipulate that the regime applies to all audio recording media, and the term “medium” must be interpreted broadly enough to cover all existing and not-yet-discovered media.

It is worth noting that companies with which creators do business set out in their contracts the ability to disseminate and copy creators' works by every known and not-yet-known means. Conversely, Parliament has curtailed creator compensation by amending a regime that cannot keep pace with technological advancement.

In addition, as far as the Copyright Board of Canada is concerned, it is essential that the process be simplified and that decisions be made more quickly so that creators can receive adjusted compensation, increased to reflect the situations under consideration, and so that users know where they stand within a reasonable time frame.

Waiting years for decisions hinders the effective application of levies by copyright collectives, and this is a major irritant for users. Keep in mind that these long wait times can mean that the use of levies at the source and related challenges are no longer the same, given the pace of technological change.

● (1555)

Above all, the government must ensure that the necessary resources are allocated to the board. As a result, the board will be more effective and will have a positive impact on both creators and consumer users.

In conclusion, the government must keep moving forward. It must recognize the value of the works used on a daily basis and ensure that the creators receive fair compensation. Otherwise, culture in general will suffer. Creators are at the heart of culture. Without creators, no content would be available.

Thank you for listening.

The Chair: Thank you.

I'll now give the floor to Gabriel Pelletier, from the Association des réalisateurs et réalisatrices du Québec.

Mr. Gabriel Pelletier (President, Association des réalisateurs et réalisatrices du Québec): I look forward to speaking to you, but I'll give the floor to Mylène Cyr.

The Chair: You have seven minutes.

Ms. Mylène Cyr (Executive Director, Association des réalisateurs et réalisatrices du Québec): Mr. Chair and committee members, the Association des réalisateurs et réalisatrices du Québec is very pleased to be appearing today to discuss this important review of the Copyright Act. My name is Mylène Cyr, and I'm the executive director of the association. I'm joined by Gabriel Pelletier, the president of the association.

The ARRQ is a professional union of freelance directors. It has over 750 members, who work mainly in French and in the film, television and web fields. Our association defends the professional, economic, cultural, social and moral interests and rights of all directors in Quebec. The negotiation of collective agreements with various producers in one step taken by the association to defend the rights of directors and ensure respect for their creation conditions.

I'd like to discuss some of the goals mentioned by Minister Bains and Minister Joly in their letter to the chair of this committee:

> How can we ensure that the Copyright Act functions efficiently ... and supports creators in getting fair market value for their copyrighted content?
>
> Finally, how can our domestic regime position Canadian creators ... to compete on and harness the full potential of the global stage?

As the Copyright Act stands, the determination of the creator of a work is primarily a question of fact. The act never specifies who the creator is. Film works, which are generally collaborative, are no exception. Canadian case law states that, if there are many candidates for the title of creator of the film work, the director and scriptwriter will generally be among them.

According to the principle issued by the Supreme Court, these creators clearly use their talent and judgment to create the film works. Under the act, the creators are the first owners of the copyright of the film works. However, certain sections of the act, in particular the sections that concern presumptions, generate some ambiguity in this area. This ambiguity prevents directors from obtaining fair market value for their rights. The SACD and SCAM brief states as follows:

> When SACD-SCAM tried to negotiate general licences for the benefit of directors with certain users of audiovisual works, the users refused to negotiate on the basis of the legal uncertainty. Directors currently do not receive all the compensation to which they are entitled for the use of audiovisual works.

Recently, in our collective agreement negotiations, an association of producers questioned the ownership of the rights of freelance directors to film works. The effects of this ambiguity are particularly significant in a context where the broadcasting market is constantly evolving and where the market value of copyright must be able to evolve with it. It's therefore essential to give the market a clear chain of title that can be negotiated at its fair value for creators.

We find that it would be appropriate, as part of the review of the act, to clarify any ambiguity concerning the status and rights of the director and scriptwriter when it comes to film works in Canada. The ARRQ is proposing a simple amendment to the act that does not call into question the principles of the act or the current method of compensation, but that would resolve any ambiguity regarding the rights of freelance directors. We're submitting an amendment of section 34.1, which introduces presumptions respecting the copyright ownership of film works for the director and scriptwriter as co-creators of the film works.

This proposal, which the ARRQ supports, has been agreed upon by the SARTEC, WGC and DGC artists' associations. It also fulfills the objectives of the SACD-SCAM collective society.

● (1600)

Mr. Gabriel Pelletier: Mr. Chair and committee members, my name is Gabriel Pelletier. I'm not only the president of the ARRQ, but I'm also a director.

I'm very pleased to finally be able to speak to you today. I've been waiting many years for this moment.

In 2000, I directed a film entitled *La vie après l'amour*, which won the Billet d'or for the highest box office revenue in Quebec. The film even came in second place in terms of box office revenue in Canada in general. Its commercial success was obviously very profitable for the companies that distributed the film and for my producer's company.

I remember quite well the royalty amount that I obtained for directing the film, in Canada, because it's easy to recall. It's a round number, and even a very round number. It's zero dollars and zero cents. For the six films that I had the opportunity to direct in my career, a number of which generated $1 million in revenue, I obtained the same amount for my rights as a director in Canada. Yet, I've had no difficulty obtaining royalties in other countries in the Francophonie. Canada is the only place where the ownership of my rights as a director is contested and where I'm not given my fair share. As a result of ambiguity in the Canadian legislation, the SACD, which represents my rights, can't negotiate with the companies that use my works.

I'm not the only person in this situation. This is the case for all francophone directors whom I represent. No one is calling into question the rights of the other artists whom we direct to create our films or television programs, such as music composers or actors, who obtain neighbouring rights. So why are we calling into question the director's rights? Can we really claim that Xavier Dolan, Philippe Falardeau or Léa Pool don't leave an original mark on their works? That would be dishonest.

Like my director colleagues in Quebec, I'm a freelance artist. We all must cope with job insecurity in an extremely competitive environment. We must develop ideas and projects, and then pitch them to producers and finally to investors.

Only a few of these projects see the light of day. In many cases, we must work at a second job to fulfill our financial obligations when we aren't working on a project. Ensuring fair compensation for the distribution of our works is the best way to give us the financial peace of mind needed to continue doing what we do best, which is creating new works.

This is how we can harness our full potential and become competitive on the domestic and global stage, as suggested by Minister Bains and Minister Joly.

Committee members, today you have the opportunity to rectify a situation that has been undermining the key creators of film works, the directors and scriptwriters, in the representation of their rights. By simply clarifying the act and without betraying the act's principles, you can help these creators effectively contribute to the Canadian creative economy, while strengthening that economy.

Thank you.

The Chair: Thank you for your presentations.

We'll start the question period.

Mr. Graham, you have seven minutes.

Mr. David de Burgh Graham (Laurentides—Labelle, Lib.): Mr. Pelletier, I'd like to understand the “zero dollars” that you mentioned.

Could you explain the structure of a film crew and the distribution of revenue?

Mr. Gabriel Pelletier: There are different ways for directors to make money from copyright. They make money either through collective agreements, when licences are granted to the producer, or through broadcasters, when the work is used. These are all secondary markets, for example, and the reruns on television or digital platforms, at this time.

For instance, the Directors Guild of Canada, or DGC, works on a front-end basis. In other words, its members receive payments in advance, whereas francophone directors are generally paid at the back end of the project. We're therefore paid when the work is used. However, since broadcasters have been challenging the directors' ownership of copyright, they have refused to negotiate royalties for directors when the work is used.

The reason is that, in the past, directors were employees of broadcasters. Under Canadian law, the first owners of copyright were the employers. However, our market has changed, and broadcasters have outsourced the production of works to production companies. From that point on, we should have been the owners of copyright. We were supposed to negotiate an arrangement, but the companies refused to do so.

● (1605)

Mr. David de Burgh Graham: Okay.

Ms. Beaudry and Ms. Messier, would you like to respond?

Ms. Hélène Messier: Yes.

We aren't taking into account the initial fee paid to directors, which includes part of their use rights. Directors are then entitled to a portion of the producer's revenue for their residual payments.

If the director doesn't receive any revenue, the reason is that the producer, at the start, doesn't receive any revenue. If the director receives a percentage of the fees collected by the producer for use of the work on other platforms, for example, but the producer doesn't receive any revenue, the amount will be reduced if the director receives 4%, 5% or 10% of the amount obtained by the producer. I'd say that this is also the producer's problem. However, the initial fee is still a considerable fee that includes the director's rights for the first uses.

Ms. Beaudry, do you have anything to add?

Ms. Marie-Christine Beaudry: As producers, we have, for example, agreements with the SARTEC for scriptwriters. When the material is broadcast, scriptwriters receive from the SACD an amount that comes directly from the broadcasters.

In addition, the scriptwriters negotiated with us, the producers, the use and revenue from the use of the audiovisual work, and a right to access the economic life of the work. This means royalties of 4% or 5%, or on the basis of their specific negotiations with the producers.

The directors have the same right in our collective agreements where, according to the economic life of the work, they'll be associated with it. If the work is used elsewhere, they have access to royalties of 4%, 5% or more, depending on their direct negotiations with their producer. It's part of their collective agreement.

It must also be understood that there are different types of productions. In terms of audiovisual works, we're talking about both magazines and feature films. It's important to understand the wide range of situations that may arise when it comes to film works at this time. This must be kept in mind.

Mr. David de Burgh Graham: I don't have much time, Mr. Pelletier, but I think you would like to respond.

Mr. Gabriel Pelletier: Yes.

I simply want to point out that, initially, the scriptwriters obtain the use rights. The SACD can negotiate rights for them because, traditionally, as I was saying earlier, they were originally freelancers, even for broadcasters.

Furthermore, Ms. Beaudry is confusing dramatic works and non-dramatic works. This is about dramatic works, and copyright applies differently. Our ability to negotiate is at stake. We give producers a licence to use the work. Once this is done, we obtain a share of the profits. However, as a result of the definition of profits, it's mathematically impossible to obtain royalties.

For example, the most popular film and biggest box office hit in Canada, *Bon Cop Bad Cop*, which you should all know, earned $8 million. Fifty per cent of the $8 million went to the theatre operators, which left $4 million. Between 25% and 30% went to the distributors. This left $1.5 million. In addition, since we're discussing profits, the film cost $5 million to produce. It's therefore impossible to obtain a share of the profits.

In other words, I'm asking today that creators be given the ability to negotiate.

● (1610)

Mr. David de Burgh Graham: Okay.

I have only 30 seconds left, and I'd like to ask the people from Telus a question.

[*English*]

It's just to finish off.

What is Telus's position on FairPlay?

Ms. Ann Mainville-Neeson: We supported the FairPlay proposal. We are not part of the coalition, but we did support the FairPlay application. The reason is that piracy is an important problem for Canada, and we believe as an ISP that we have a role to play and an ethical obligation, let's say, to ensure that piracy is addressed.

Mr. David de Burgh Graham: You weren't a member of FairPlay at the outset, so what caused a change of mind?

Ms. Ann Mainville-Neeson: It wasn't a change of mind. It is simply that we are not vertically integrated. We are not the primary owners of rights, and therefore we supported separately.

Mr. David de Burgh Graham: All right. Thank you.

The Chair: Go ahead, Mr. Albas, for seven minutes.

Mr. Dan Albas: Thank you, Mr. Chair, and I'd like to thank everyone here for their testimony today and for their expertise.

I'd like to start with Telus. I sincerely appreciate that you've brought up a number of small and reasonable requests. I think that basing it off some of the changes in the 2012 Copyright Modernization Act and getting feedback is very good. I appreciate that.

On your first recommendation regarding a single recording, would a single recording framework that is accessed by users, as you have recommended, align with the current laws around personal recordings and licences for on-demand services?

In my mind, a single copy saved on a server sounds more like a version of on-demand service rather than a personal recording.

Ms. Ann Mainville-Neeson: It's all about who is making that recording.

On an NPVR it's no different from someone who has recorded on their device at home, on their home PVR, except for the network provider, since we are also providers of on-demand content; therefore, we negotiate those rights and we pay for those rights, but that's in order to offer the programs to people who have not recorded and who decide to look through our menu and access some of the great content that we have to offer. In the case of an NPVR, this is someone who has chosen to record something, and they are doing so in a general cloud space.

Operators of that cloud question why they should have that excessive duplication, with so many copies of the same thing being stored. It's also not ecologically friendly to have so much storage of the same things, so it's simply a back office request in order to streamline and have that single copy. Only those who have selected the record would have access to that single recording, and we would have the metadata and whatnot, other information to ensure that if someone started to record five minutes late, they would only access that program starting five minutes late.

Mr. Dan Albas: The reason I ask is that these statutory reviews happen on a regular basis, although maybe not as quickly as some would want. However, that didn't quite answer the question, because, again, if you have one copy that's being passed out, it does sound like more of an on-demand service than like someone choosing to record something for their personal viewing later on.

Again, I just worry about some of the content holders who may form deals with Telus and other companies like yours, who may say you are violating the terms of the arrangement because it's less of a personal recording and more of an on-demand service.

Ms. Ann Mainville-Neeson: That's why we want to limit our proposal to that personal relationship with the recording. It's so the person who makes that recording is the only person who can access that recording, as opposed to an on-demand service whereby anyone who wants to watch a program can access it, the difference being that we're not proposing that we as network operators simply record everything for later access by people who have recorders, nor do we propose that people be able to have indefinite amounts of storage so that the user ends up recording everything.

We are proposing essentially replicating the home PVR on a network, but streamlining it so that you don't have as much waste. Waste is not conducive to innovation.

Mr. Dan Albas: Thank you.

Your second recommendation specifically talks about strengthening innovation in Canada by allowing new technologies and services to come to the market without taking much of a risk, or a huge risk.

Can you give us some concrete examples of these new technologies and services that you have in mind?

● (1615)

Ms. Ann Mainville-Neeson: For example, there's the NPVR; for example, there are new business models, which, as we mentioned with respect to notice and notice.... I'm trying to think of innovation on a more general perspective, but when we talk about notice and notice, we'd like automation, and more automation leads to potential errors. The error rate can never be brought down to absolute zero, which means that we'd be taking that risk by putting more automation into our notice and notice regime or execution. We're exposing ourselves to that risk, which is unfortunate, because we are facing increasing costs and an increasing number of notices to forward.

Mr. Dan Albas: We had testimony last week about more of a standardized notice and notice regime, as well as limiting what content can be included in that. You're in favour of that, then.

Ms. Ann Mainville-Neeson: Absolutely.

Mr. Dan Albas: You also say that grossly disproportionate damages have been assessed. Can you give us a concrete example?

Ms. Ann Mainville-Neeson: No, because in the instances of disproportionate damage, it's more about the risk of innovation not coming to market because of that fear, the idea being that under the act there is no limit.

It means that if we decide to implement something that ultimately ends up being non-compliant, something we implemented in good faith.... As we've heard from other testimony today or previously, applying and interpreting the Copyright Act is very complex, so the concern is more with that potential of people not bringing things to market because of the potential for great damages.

I'm not suggesting that this has actually occurred in the market, that there's an example of someone facing significant risk. Instead, it's the fact that things are not being brought to market at all, which is an even worse case for Canada.

Mr. Dan Albas: I recognize the point.

Let's maybe talk about innovation that is happening right now. There is a considerable amount of innovation on online platforms—for example, YouTube and Twitch. A number of users have often said they are putting forward content in good faith and have still been hit with copyright infringement notices.

Do you see that space as one that the law needs to better manage?

Ms. Ann Mainville-Neeson: It certainly is, on many fronts, whether you're looking at piracy or this notion that there are copyright infringement notices that are fraudulent or that are being abused for whatever reason, through phishing exercises, which cause security concerns. I think there are definitely concerns.

We receive hundreds of thousands of notices per month. Many of those may not be from actual copyright holders.

Mr. Dan Albas: That would be one aspect. There are some people who are utilizing the notice and notice regime for their own nefarious ends. I think that's something we should take note of.

Again, I specifically referenced YouTube and Twitch. A lot of young people are using those platforms. A lot of not-so-young people, I would say, utilize those platforms. This is your chance to talk about the way the law operates in terms of that.

As an Internet service provider, do you have any insight as to where we can make that regime better?

Ms. Ann Mainville-Neeson: Well, as an Internet service provider, we're distributing the content. These services are being used by our customers, but we don't have insight as to what notices of infringement YouTube might be receiving. YouTube will also receive some notices of infringement, as would the ISP. I think your question is better directed at those particular platforms.

The Chair: Thank you very much.

We're going to move to Mr. Angus.

You have seven minutes.

[*Translation*]

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

I want to thank the witnesses for their presentations. As a musician and writer, I fully understand the need to respect copyright and the important need for Parliament to implement legislation that will ensure a good environment for the creative community.

This subject requires me to be very clear, so I'll ask my questions in English.

[*English*]

Madame Dupré, in terms of getting revenue streams for musicians and songs, you mentioned YouTube. What is the regime right now for collecting royalties from YouTube?

Ms. Marie-Josée Dupré: I worked at SOCAN, the collective that manages the public performance of music. If I remember correctly, there are some licence fees that are paid by YouTube, but not necessarily for all of the user-generated content. These are experimental licences unless that has changed.

Right now, what we received as a decision from the European Parliament is that the statutes are voted on, and then each of the countries in the EU will have to make sure that they adjust their copyright acts so that all of these platforms have the obligation to pay licence fees. Even though the content is not theirs specifically, they have a responsibility as a broadcaster—I'm not using the right word—to make sure that they compensate the rights holders.

● (1620)

Mr. Charlie Angus: My hair is grey, and I'm old enough to remember that there were no glory years for musicians in copyright. We were always robbed.

One year I co-wrote the video of the year, and I told my wife, "This is our year, honey. We're going to get the big money", because we were in heavy rotation. My cheque was $25.

At that time, the cable networks that were running TV shows claimed they were not making money off of them and that they were offering a service to musicians. SOCAN fought that, and we changed the legislation. Then of course, cable networks went out of business.

When YouTube started, everyone said, "Well, they just got started in a garage, and they're young upstarts." Now they're part of the biggest corporate entity in the world, Google. Everybody I know shares music on YouTube. I live on YouTube.

SOCAN is able to go after hairstylists and little restaurants to pay copyright fees. Wouldn't it be better if we just had blanket copyright legislation so that for people who were posting songs or making videos out of songs, there was a blanket fee that could be distributed among artists, as we did with cable television and in other areas? Would that provide a guaranteed revenue stream for the use of music on YouTube?

Ms. Marie-Josée Dupré: I don't know if they will be able to get that. YouTube and all the digital services like Spotify or Google have networks around the world. For each and every country, they need to get their licences according to what's played in their countries, although at some point in time they may think of getting multi-territory licensing. I think it has been discussed in the past, but right now that's why each and every country has to jump in and make sure they protect their own interests in terms of what's going on with the consumers from their country.

Mr. Charlie Angus: Thank you.

Madam Messier, there are a number of competing interests or potential interests in terms of production, and Mr. Pelletier, I'd be interested in your thoughts as well.

With regard the new NAFTA agreement to extend copyright to 70 years after death, I've talked to filmmakers who are very concerned. They don't know sometimes who controls the film they want to use historically. Sometimes they're held under large corporate licences and they become very expensive, and it's very difficult to be sure you're going to be able to say, "I have the copyright to a film" if you're using historic film when you don't know. Are you concerned that this will affect the ability of the Canadian creative community to produce new works based on historic film and images?

[*Translation*]

Ms. Hélène Messier: Given the current Canadian system, I think the lack of a definition of what constitutes a film or audiovisual work is the source of the problem. It's not easy at this time to determine the owner of the copyright. It's therefore difficult to calculate the term of the copyright, whether the length is 50 years or 70 years. This situation is causing issues.

Mr. Gabriel Pelletier: I think that the ability to identify creators will help define the duration of their rights. It must be understood that, in Canada, copyright is associated with an individual and not a company. This is contrary to the United States, where the rights for commissioned works belong to companies. In Canada, the term of the copyright starts when the work is created by one or more individuals, and it continues until 50 years after their death.

● (1625)

[*English*]

Mr. Charlie Angus: Madame Mainville-Neeson, in terms of these notice and notice warnings that you're forced to send out all the time, I'm interested, because I got three of them this summer, three days in a row, for my apartment in Ottawa, where I hadn't been in a month. I didn't know if it was real. I don't know if somebody was trying to shake me down.

How are you able to ascertain accuracy when you're sending these out? I wasn't in my apartment for a month and nobody else was there, but I got three notices that I was apparently downloading films at my apartment. How do you separate consumers so that we can identify where serious piracy is taking place and where just maybe random algorithmic errors are taking place in terms of what they're tracking?

Ms. Ann Mainville-Neeson: All we can do is verify the information that's provided to us by the rights holder. That includes the time, date and IP address of the downloads. When all that information is accurate, we forward the notice, and we're obligated to do so.

I can understand it's a concern for users, and that's why we want to ensure there are new provisions that ensure that we can at least weed out some of the more nefarious ones, but there will always be notices that are provided that.... It's supposed to serve an educational purpose, and sometimes it just doesn't hit that mark.

Mr. Charlie Angus: Yes.

Thank you.

The Chair: We're going to move to Ms. Caesar-Chavannes.

You have seven minutes.

Mrs. Celina Caesar-Chavannes (Whitby, Lib.): Thank you.

Ms. Mainville-Neeson, you said during your testimony that innovation is essential to keeping the industry healthy. While I appreciate that, I just wanted you to describe how this innovation disruption has affected the interests of copyright holders in the last 10 years.

Ms. Ann Mainville-Neeson: Innovation and disruption do go hand in hand. We certainly believe in balance. The idea is not to balance only in favour of network operators, for example, but rather to ensure that we have the right legislative framework in place to promote innovation to the benefit of rights holders. Good innovation should benefit all the users, including both the rights holders and the intermediaries, such as ISPs or TV service providers.

Mrs. Celina Caesar-Chavannes: Has the Copyright Act restricted your ability at all to develop and continue to use current and emerging technology?

Ms. Ann Mainville-Neeson: Yes, it has. The examples we've provided were, for example, the NPVR, and other areas where we've been looking at different means of providing notices in order to attempt to address some of the concerns raised by Mr. Albas and Mr. Angus.

These are the types of things we're constantly looking at. The disproportionate and unbalanced sharing of risk between network operators and rights holders is working against innovation. We just don't bring things to market.

Mrs. Celina Caesar-Chavannes: Last week we had some other ISPs here with us. I understand that you're not vertically integrated like some of your counterparts, such as Rogers and Bell. One main argument made by the opponents of the safe harbours provision in the act is to challenge the dumb pipe theory.

Can you describe the extent to which the ISPs can identify content in the data they transmit?

Ms. Ann Mainville-Neeson: I think every ISP will have different means and different degrees of what's commonly called a deep packet inspection. Not all ISPs do that kind of work. To the extent that those vary in degrees, I would say that Telus is very much at the low end of that. There's very little ability to discover exactly what's being downloaded: a bit is a bit is a bit.

Mrs. Celina Caesar-Chavannes: Is there no capacity for Telus to do that?

● (1630)

Ms. Ann Mainville-Neeson: I wouldn't say no capacity, but it's not an area that we've generally gone to at this point.

Mrs. Celina Caesar-Chavannes: Thank you, Mr. Chair. I will pass to Mr. Lametti.

[*Translation*]

Mr. David Lametti (LaSalle—Émard—Verdun, Lib.): My question is for the four of you.

Ms. Cyr and Mr. Pelletier, you're asking us to change the initial balance between the writers and the directors, and we have an ecosystem for films—

Mr. Gabriel Pelletier: No.

Mr. David Lametti: With your permission, I'll simply ask my question, and then you can answer.

There is an initial balance in that the author assigns his or her rights by contract when his film is being produced. Ms. Messier and Ms. Beaudry described that ecosystem well, where certain risks are taken, but not by the authors.

In your opinion, all four of you, is there an injustice there, and if so, where is it?

Mr. Gabriel Pelletier: If I may—

Mr. David Lametti: Just a moment, please.

Why change that ecosystem? Is it not in keeping with the risks that are taken? Is anyone underpaid? To us, from the outside, that ecosystem seems to function well enough. I'm thinking of Xavier Dolan or Atom Egoyan, and things seem to be going rather well for them in Canada.

Mr. Gabriel Pelletier: I think your question is mainly for me, and I'd like to correct something: we don't want to change that ecosystem. Quite the opposite; we want to preserve it. At this time, authors give producers licences so that they may use their works. We don't want to change that.

We simply want to clarify the act to include a presumption of ownership. That means that absent contrary evidence like a contract with a producer or a claim to copyright by another creator, it is presumed that the scriptwriter and the director are at least authors of the work. That ambiguity needs to be cleared up in the act with regard to the presumption of ownership.

Under the act, the producer is presumed to be such if his name is mentioned in the credits. This wording, under the subtitle "Presumptions respecting copyright and ownership", could lead people to believe that the producers are the authors. However, that is not the case, and nothing in Canadian jurisprudence states that producers are authors.

The authors are people who use their talents and their judgment to create dramatic works. I respect the work of producers, who take financial risks, but I don't think that creating a budget is equivalent to creating a work of art.

The current system works and we do not want to change it.

Mr. David Lametti: Let us also hear from Ms. Messier or Ms. Beaudry.

Ms. Marie-Christine Beaudry: First, I want to specify that when we talk about cinematographic works, we are talking about audiovisual works.

Mr. David Lametti: Yes.

Ms. Marie-Christine Beaudry: I hear my colleague talking about feature films alone, and I understand since he directs feature films. However, we are discussing many other things here such as televised magazines, variety programs or reality television shows. Often, there is no scriptwriter. There may also be other directors who come in at the end of the development of the work. I'm saying that to highlight the fact that there are different types of works, and let's not forget that all of them fall under the "audiovisual work" definition.

Often, the producer starts the development process, whether we're talking about a variety show or a drama program. In that last case, he will work with the author, of course, who will have rights from his script, since this will be a distinct cinematographic work and he will be able to exploit it on the publishing side. Producers do not necessarily have all those rights.

The producer takes part in the development of the work and there are discussions, exchanges. We're talking here about dramas, but think about variety shows or TV magazines; the producer knows what the broadcaster wants, and he is the one who stays in contact with the latter and pilots the development of that work.

The director comes into the process at the production stage. By establishing and negotiating the production budget, we determine the scope of the work and its category: long series, long series of 30 or 60 minutes, filmed outside or not, and so on. All of these decisions will relate to the very content of the work, to its vision.

To say today that we have no impact on the creation of the work would be totally false. In the case of a full-length film, I recognize that the development of the work may be somewhat different. However, that is not the case every time, and we cannot ignore and not mention the involvement of the producer in the creative process.

● (1635)

Mr. David Lametti: Thank you very much.

Mr. Gabriel Pelletier: May I clarify something?

The Chair: Perhaps we could get back to it later, because we've gone past the allotted time.

[*English*]

Mr. Chong, you have five minutes.

[*Translation*]

Hon. Michael Chong (Wellington—Halton Hills, CPC): Thank you, Mr. Chair.

I have a question for the Société professionnelle des auteurs et des compositeurs du Québec.

The committee analysts did their work. According to Statistics Canada, music publishers' incomes in Canada increased from $148 million to $282 million between 2010 and 2015. That's a lot. During that same period, the average income of those who work full-time in the Canadian music industry increased for all occupations, except for that of Canadian and Quebec musicians and singers, whose average incomes went from $19,800 to $19,000; $800 less per year.

How do you explain that situation in Canada for that five-year period?

Ms. Marie-Josée Dupré: In the music publishing world, there are big players like Universal, Sony, and Warner-Chappell, and other small and medium ones. These publishers sign contracts with several creators. I'm not talking here about singers, but songwriters.

The contracts songwriters sign force them to transfer ownership of their works to the publishers. It is common practice in Canada—and even elsewhere in the world—for a songwriter to assign ownership of his works, which then no longer belong to him or her, in exchange for remuneration. In Canada, 50% of that remuneration goes to the publisher, and the other half goes to the songwriter. If you are the sole songwriter, you receive all of that 50%, but if there are two or more of you, that figure goes down.

Companies can thus increase their assets and their capital, but in every instance, the songwriter sees 50% of his income go to the publisher. If he's fortunate enough to also be a singer, his record company will also provide remuneration, but once again, that is only a small percentage. Unfortunately, the monies generated are chopped up in this way.

It has been said repeatedly that royalties paid to songwriters for the online plays of their works have never offset the loss of income they used to get from the sale of their compact disks, since those royalties have been completely divided up in the same way. And so their incomes can only stagnate or decline, and they weren't all that great to begin with. If the songwriter is also a singer, he is then in another category and may make more. For the creators, however, that is the situation.

In the days of compact disks, each song brought in 10¢ for the songwriters. Thus, a 10-song album generated a dollar for the creators, and half of that went to the publisher or publishers, and the other half to the songwriter or songwriters. Someone is losing out from this shift, and clearly it is neither the publishers nor the companies, but the music creators who are forced to assign ownership of their rights and be satisfied with the meagre incomes they are given.

● (1640)

Hon. Michael Chong: In your opinion, what can be done to remedy this? It's a problem: the revenues of the big companies are increasing substantially, but those of the singers and musicians are falling drastically.

Ms. Marie-Josée Dupré: Indeed.

We are currently looking at different entrepreneurship models. Many songwriters—many of whom are also singers nowadays—are turning to self-production in order to keep part of their rights and also earn as much money as possible.

Rather than transferring all of their rights, they give licences, but that practice is not yet current in the publishing world. As long as the situation does not change, the fate of songwriters will not truly improve.

However, as I said, if the private copy regime had evolved with technology, the millions of copies that are made on tablets and telephones, which have replaced the compact disk and the cassette—which were around when the regime was created—would generate more royalties, which would help the songwriters.

In the current state of affairs, you need millions of views or hits on YouTube or Spotify before you can generate royalties of $150. Where is justice in that for a music creator? Without their creative activity, no one would have had any work to develop. The singer is certainly important, but he or she would have had nothing to sing if the songwriter had not created the work. The producer of sound recordings could not have produced anything had the work not existed.

It seems people want to relegate the concept of creation to the back burner. For a 10-song album, only one dollar will be paid to the creator, despite a total sale price of $15, $16 or $20—albums may only cost between $10 and $15 these days, those that still sell. I'm sure we all agree that that is not enormous.

The Chair: Thank you very much.

[*English*]

Mr. Longfield, you have five minutes.

Mr. Lloyd Longfield (Guelph, Lib.): Thanks, Mr. Chair. Thanks to Mr. Chong across the way. We are in neighbouring ridings.

You're on the same question I had, so thank you to the chair for giving us a little bit more time with that answer. I want to build on that a little more with Ms. Dupré.

I was at the Guelph Youth Music Centre yesterday. Sue Smith got an award. She got her name up on the wall of honour. She does a lot of instruction with youth in Guelph. She couldn't pay Pete Townshend's fees to do musicals, so she created musicals herself. She has created over 500 characters in many musicals over the years with the kids.

You touched on the up-and-coming writers and how they have to register their work. Could you expand on how easy or hard that is for them to do, thinking of Sue Smith's work?

Ms. Marie-Josée Dupré: It is very hard to manage all the aspects of your career. Being a creator usually means that you're not necessarily an entrepreneur. However, you need to understand the meaning of all the contracts and the dealings you will have. You need to understand the impacts of all the dealings you will have with a record label and a music publisher, and they are mostly financial impacts. This is important.

At SPACQ, one of the goals we have is to help manage that aspect so that the young up-and-coming authors and composers can be more comfortable with all these aspects.

Mr. Lloyd Longfield: If I could build on that towards.... You made a comment about the Copyright Board. I asked a few meetings back about decisions from the Copyright Board taking a long time. In your opinion, does it have to do with resources, or is it maybe because we're not clear enough with the legislation?

I also wanted to suggest that the composition of the board should include musicians or other performers so that we get their perspectives.

Could you comment a little bit more on the Copyright Board, please?

● (1645)

Ms. Marie-Josée Dupré: To have a musician or author or composer on the board is a very interesting idea. However, you still need to have someone who is professional and who knows the business almost inside out to make sure they can bring some perspective to the board and the decision.

As for the lengthy decision process, maybe there are some resources that are deficient. Also, I think it's the process itself. Evidence is submitted; then there's a delay, and then the other parties submit evidence. It's about building up cases, and it's taking time.

I used to work at SOCAN in the licensing department. I was not directly involved with the Copyright Board. I remember when the cable tariff was proposed in 1990 and was first approved in 1996. I think the first Internet tariff was proposed in 1996 and the first decision was in 2004.

Mr. Lloyd Longfield: Okay.

Ms. Marie-Josée Dupré: It's really difficult for societies to make sure, and then you have to adjust to all the standards and stuff.

Mr. Lloyd Longfield: Right. It's going with the speed of business.

Thank you.

Mr. Pelletier, you made a comment that really piqued my interest. I was speaking with a filmmaker this weekend. He said that part of a film that used to be produced in Canada has now moved over to South Africa because of tax benefits. Then the rest of the film goes to Los Angeles, where some reworking is done, and then the finishing is done in Canada because of the tax benefits we have in Canada.

We're looking at copyright, but there's a bigger picture here of making money in Canada by being competitive and by providing whatever incentives.

Could you comment on the overall ecosystem we have?

Mr. Gabriel Pelletier: In Canada, the nationality of the copyright lies with the nationality of the producer, but the copyright itself is with the author.

In the situation you're describing, I think it might be an American production, since you say some money is going to Los Angeles.

Mr. Lloyd Longfield: That's right.

Mr. Gabriel Pelletier: Then the copyright must lie with an American company, probably.

Mr. Lloyd Longfield: Okay. Thank you.

My five minutes are up.

The Chair: Thank you very much.

We're going to move to Mr. Lloyd. You have five minutes.

Mr. Dane Lloyd (Sturgeon River—Parkland, CPC): Thank you, Chair.

Thank you for coming today. It's been very interesting, this whole study and having you here.

Mr. Pelletier, you said you're a producer?

Mr. Gabriel Pelletier: I'm a director.

Mr. Dane Lloyd: You're a director. Okay, there was a little bit of miscommunication. I heard you say producer earlier, and you said you received zero royalties, so I was curious how that worked. Since you're a director—

Mr. Gabriel Pelletier: No, I'm sure my producer receives some money—maybe not royalties, but....

Mr. Dane Lloyd: If you're not given royalties, how are directors compensated?

Mr. Gabriel Pelletier: We are paid a fee for our services originally, and we give out a licence for the original use of the film or television program. Then secondary use is where we have a problem getting paid.

An example is Xavier Dolan. If his film goes on television, he's not paid because he's represented by SACD. He's not paid as a director. He does—

Mr. Dane Lloyd: What's an example of an original use and then a secondary use for television?

Mr. Gabriel Pelletier: The original use would be in the theatres.

Mr. Dane Lloyd: Okay.

Mr. Gabriel Pelletier: Secondary uses are television or other platforms.

Mr. Dane Lloyd: Then it would be basically like a book author: they get paid for the initial sale of the book, but if somebody sells it used, they're not getting paid for that.

Mr. Gabriel Pelletier: Yes.

Directors whose works are sold outside the country—Xavier Dolan sells in France—get royalties.

● (1650)

Mr. Dane Lloyd: But just not in Canada.

Mr. Gabriel Pelletier: Not in Canada.

Mr. Dane Lloyd: I'm aware that actors—

Mr. Gabriel Pelletier: In his case, he gets royalties as a director and as a scriptwriter, because he does both.

Mr. Dane Lloyd: I'm aware that in the United States, actors are paid something and they're not called royalties. They're called residuals, I believe.

Mr. Gabriel Pelletier: I'm sorry; where?

Mr. Dane Lloyd: An actor in the United States, for example, gets paid a residual.

Mr. Gabriel Pelletier: Yes.

Mr. Dane Lloyd: Any time there's a rerun, they get a cheque in the mail.

Mr. Gabriel Pelletier: Yes.

Mr. Dane Lloyd: Is that currently the case in Canada? Do actors receive residuals?

Mr. Gabriel Pelletier: Yes, it's the same way. That's why in my films or television—because I have done television as well—the actors I direct all get

[*Translation*]

neighbouring rights.

[*English*]

They do get paid. I'm the only one who doesn't get paid for secondary use.

Mr. Dane Lloyd: The artists who make the cinematic soundtracks are also telling us that they're not getting any royalties.

Mr. Gabriel Pelletier: I'm not a musician, but they get reproduction rights and they do license their music to the director.

As I say, I'm paid for the original use for my services and the original licence, but it's collecting royalties for secondary uses that's a problem.

Mr. Dane Lloyd: Thank you. That's very illuminating.

My next questions are for Telus.

You're talking about PVRs. I've used a timed recording thing myself. I just want some clarification.

Every time an individual makes a recording, you maintain a copy of each individual's recording. What you would like this committee to recommend is that there would be just one recording that would be kept.

Is there a legal requirement that you are to keep every individual recording? Why should this committee recommend what you are asking?

Ms. Ann Mainville-Neeson: Under the act presently, in order to avoid liability as a network provider, we would have to store an individual copy. For each person who records, we store that individual copy.

We're suggesting that's extremely inefficient, and it would require excessive duplication of memory storage, which ultimately is not conducive to additional innovation, because it's costly—

Mr. Dane Lloyd: What is the liability? Can you describe the nature of the liability?

Ms. Ann Mainville-Neeson: Yes, and I might ask Antoine to take that question.

Mr. Antoine Malek (Senior Regulatory Legal Counsel, TELUS Communications Inc.): Yes, the issue is that the right belongs to the user. The user is making the recording but storing it on the network, and so they qualify for an exception that is commonly known as the time-shifting exception. The way it's written now, it's personal and based on your ability to create a discrete recording as though it were in your home or on your personal device. When you create it on the network, that doesn't change. You can't share it. It has to be used for your private purposes—

Mr. Dane Lloyd: It would be massively beneficial if we were to recommend time-shifting rights for companies such as yourselves. That would massively increase your efficiency, because you wouldn't have to keep every different copy; you could keep one united copy.

Mr. Antoine Malek: Yes. What we're asking is that if you have the one copy on the network and you can share that copy amongst users, it won't be considered a public communication but a private communication for private purposes, and that would bring it within that exception.

Mr. Dane Lloyd: My final question is on how that would impact the creators. Would it negatively impact the creators if we were to...?

Mr. Antoine Malek: It wouldn't. No.

Years ago, we had the debate on whether we should allow exceptions to enable this, and we decided yes, but we did it inefficiently. Creators are not deprived of anything that they have currently.

Ms. Ann Mainville-Neeson: We're not suggesting supplanting the whole video on demand mechanism. We are a video-on-demand provider, and we hope that people will continue to purchase things on video on demand as well.

With regard to the current right that exists for personal use to record, to the extent that it's more and more common to do so on a network rather than individual storage devices, we're merely suggesting that it be done efficiently.

Mr. Dane Lloyd: Thank you.

The Chair: Would it be cheaper?

Ms. Ann Mainville-Neeson: For us, yes. We might pass those costs along.

The Chair: I would like a little clarification.

At home, I have a PVR. I record everything, and I go home and watch it later. It's recorded on the hard drive; it's not recorded to the network.

● (1655)

Ms. Ann Mainville-Neeson: Correct.

The Chair: Then what are you referring to?

Ms. Ann Mainville-Neeson: We're suggesting that transition, because there is the technology now for you to be able to record directly to the network. The technology is there, but the innovation to do so has been very slow to come to market because of the associated risk for the network provider.

We're suggesting that if there were changes to the act to make it such that we wouldn't incur additional liability, we would bring that innovation to the market.

With regard to your own storage space that you would normally have on your individual hard drive, imagine that you had that up in the cloud, except as the cloud operator, rather than having all of those individual storage spaces, which could mean so much storage....

Of course, there is a cost to that, not only for the the network provider but also from an environmental perspective. The storage space needs cooling and all kinds of electricity usage, so there are various elements of inefficiency here that we're trying to address.

All the things that you store on your own hard drive at home, you would store in the cloud. The cloud operator would then streamline things in the back office. You wouldn't even know. If you record, you retrieve it more or less in the same way. Whether or not it's on your personal drive or in the cloud, it would be seamless to you. On the network side, seamless to the consumer, the network operator would put things together and would not have to save millions and millions of copies of the same thing.

There are ways that we can ensure, with metadata and other information that's saved from someone's individual recording, that if they came in five minutes late or five minutes early—however people wish to record—we'd only be delivering what it is that they've recorded. This type of information can be saved without saving a whole new copy of the same thing.

The Chair: Sorry; I have to clear this up in my own mind. What you're referring to sounds almost like a Netflix model.

Ms. Ann Mainville-Neeson: No. Netflix is different.

Netflix is more like our video-on-demand service, where we have negotiated rights and you as an individual haven't decided to record something.

Under the current Copyright Act, you are entitled to record something on your own device or on a network. Netflix or our video-on-demand service is taking that obligation away from you and offering you a service. If you forget to record or you don't want to be bothered to pre-record things, we will offer you the service—access to this library of great content—whether it's through Netflix or the individual video-on-demand services.

The difference there is that those rights are negotiated with the rights holders, and they act independently from the current right that exists now. You still have that option to record on the cloud, whether it's on the cloud or on your own personal hard drive. Those things currently exist independently.

All we're asking is that in the back office of our network operations, we not be forced to do things in such an inefficient way that it makes the service way more costly than it needs to be.

The Chair: Thank you.

We're going to move to Mr. Jowhari. You have five minutes.

Sorry; I did take away your time.

Mr. Majid Jowhari (Richmond Hill, Lib.): That's okay.

Thank you, Mr. Chair. Thank you to the witnesses.

Going back along the same line, I do have a box and I do record various programs. I often go and see them, and I decide when to erase the film or program I was watching to clear space so I can save more.

Now, with what you're suggesting, NPVR on network, do we still have that option of being able to watch a selected few and then decide whether our storage size is going to be...and to be able to review it or see it as often as we want?

Ms. Ann Mainville-Neeson: Yes, it's absolutely intended that you would have some designated amount of storage space in the cloud that you chose to purchase in the same way that the box that you've chosen had a specific size of storage space for your PVR. You would have, in the network, a similar size so that you then choose to make space or not.

The back office elements that I'm talking about here are seamless to you. As a consumer, you would then choose to record certain things. After you've reached your limit, you choose to delete them or not, in order to make space for more, or you purchase more space. We'd be very happy if you purchased more space, but that would be a different business model.

It is certainly not our intention that you would have unlimited recordings simply because we have a more efficient back-end system.

● (1700)

Mr. Majid Jowhari: All we are doing is we are moving our storage into a cloud.

Ms. Ann Mainville-Neeson: Yes.

Mr. Majid Jowhari: We are saying we want this much storage, and we still select which program we want to record. All you're saying is, "Allow me to streamline my back office and I will provide one copy of that, so when you select, it's going to be there as a place holder rather than your having to copy...." Okay, I understand that.

Okay, I'll go back to Mr. Pelletier. I'm confused. There was some discussion around author, creator and producer.

Also, Madam Messier, you are trying to say, at least the way I understood it, that the producers really need to negotiate their own compensation, and if they don't negotiate, there is really nothing left for them to benefit from when it goes to a different platform. Did I miss something?

Mr. Gabriel Pelletier: I was saying simply that we negotiate our rights and Mrs. Messier was saying that producers were authors, which I disagree with.

Mr. Majid Jowhari: Then help me understand. It's a cryptic thing.

[*Translation*]

Ms. Hélène Messier: I'd like to speak for myself.

According to established practice, the director and the scriptwriter receive an initial fee for their services. Afterwards, they negotiate rights on the secondary uses of the work in the collective agreement or their contract.

I think Ms. Beaudry wanted to add something about a statement that was made earlier.

Ms. Marie-Christine Beaudry: Yes.

For television, we pay royalties to the directors, even for the initial use. Those royalties come from the revenues we receive from the broadcasters. That is part of the basic licence that the directors give us. For television, it's a little different from what was explained about feature films.

It's important to emphasize that for feature films, the producer has investors, and the amounts he receives must first of all go to the distributors. The first revenues go to the distributors and to the venues that distribute the works. Afterwards, what the producer receives has to be given to the investors, such as the Canada Media Fund or Telefilm Canada.

When there is money left, it is shared between the screenwriters and the directors. It's a fact that the revenue generated by the producer will be given first to the granting organizations.

Mr. Gabriel Pelletier: I would like to correct something.

In our collective agreement with the AQPM, directors do not receive royalties paid at the outset out of the funds that went into a production. Once the original broadcasting licence is given, there are royalties on subsequent sales.

In fact, it is the ARRQ that collects the royalties. Generally, there are returns on those when works are sold abroad.

Ms. Marie-Christine Beaudry: With your permission, I'd like to correct something because I am currently working on this.

I'll give you the example of a program broadcast by CBC/Radio-Canada.

CBC/Radio-Canada acquired first-use rights for broadcasting programs or films on its airwaves—for subscription video broadcast on demand, SVOD, and for free video on demand. That is part of the initial licence and of the contract we have with the director.

However, a percentage is negotiated and remitted to the director out of any funds we receive from CBC/Radio-Canada, from either SVOD or free video on demand. We currently prepare distribution reports to that effect for the ARRQ. You may think that these are not very large amounts of money, but the producer himself does not receive enormous amounts either.

The Chair: Thank you very much.

[*English*]

Mr. Angus, we'll go back to you for two minutes.

Mr. Charlie Angus: Thank you.

I joined CAPAC when I was 17 and went on the road. That became SOCAN. I won't say how many years ago I did that. Over the years I've received revenues from television, book publishing and music, and I'm still involved.

I find the question with music, Madame Dupré, very interesting, because there have been some very good upsides from the digital revolution. The cost of recording dropped substantially. We used to spend almost all our money on lawyers' fees and we never saw a dime, because of all those recoupables they charged to our account. If the record companies didn't want to stock you, there went your product. Now you can stock it yourself online, so there's an upside.

The downside is the disappearance of live music across the country, with bands being told they have to use T-shirts to pay to tour now. Twenty years ago people would have laughed at that.

Then on the revenue streams, we've lost the private copying levy, the royalty mechanicals from radio, and musicians are suffering a continual drop in income. Now Spotify is the latest; there you get, I think, .0005¢ for every thousand plays or something.

I don't know of any other artists' sector that faces such uncertainty in its remuneration stream. There are good opportunities in the digital realm for musicians, but there are also still a lot of pitfalls. How would you describe the reality for working artists today in the music world? Where do we need to start finding some level of coherent remuneration?

● (1705)

Ms. Marie-Josée Dupré: Indeed the situation is not the best. Mostly, with the digital world, all the licence fees are now calculated per view. The number of views you need to reach to get some revenue is totally insane, but they see this as a one-on-one communication, as opposed to mass communication like radio and audiences at concerts and so on.

If the licence fees we get from those services are not adjusted to somewhat reflect what CDs used to be in the physical world, we'll never get there anyway. You said there was no live entertainment anymore. There still is, but people think that music is free. In a restaurant or a bar, they will pay for their food and beer, but when it comes to musicians, they say they're promoting them, so they shouldn't be paid for this. You just get the door and stuff like that. It's often the philosophy of free music.

Mr. Charlie Angus: We felt the same with previous transitions. Radio did not want to pay for music. They said they were offering a service. Radio did pay—

Ms. Marie-Josée Dupré: Yes.

Mr. Charlie Angus: —and it transformed the recording industry. We saw that with cable television paying when they weren't going to pay. What is stopping us being able to establish credible, but not restrictive, copyright licensing agreements with organizations like Spotify, with YouTube? Is it that we need an international movement? It seems to me that we always find these technological barriers, and then we have to fight, and that's when artists get remunerated, but we haven't seen that move into this next realm yet.

Ms. Marie-Josée Dupré: I don't know if any international move or coalition is possible.

As I said, there were talks some time ago about multi-territorial licensing. One digital service would get a licence from one collective. They would pay all the licence fees, and it would be distributed in the different societies and then obviously to the rights holder. Is this more efficient? Maybe it's a more efficient or easier process, but will we get more? What kind of value do we give...?

As you said, we don't physically distribute CDs anymore. All the costs have been reduced, but then there was no increase. I don't know how.... We will need some help from the different rights holders to stand together and make sure that they fight for their rights. I really don't have the solution to make sure that it goes back to 20 years ago, when everybody had a decent living as a musician. It's very difficult to think of any particular scheme that will be really efficient and

[*Translation*]

profitable.

● (1710)

[*English*]

The Chair: Thank you very much.

That's the challenge of this committee: to try to come up with some credible solutions.

We're going to go to the last two questions at five minutes each.

Go ahead, Mr. Graham.

Mr. David de Burgh Graham: Thank you.

I'm going to pick up where I left off an hour ago with Telus on FairPlay. Is it okay to pursue users of the Internet without a court order?

Ms. Ann Mainville-Neeson: We believe that the FairPlay application does provide for procedural fairness. That's what's really important. The court order process is simply to ensure that there is procedural fairness. We believe that there is certainly the possibility that you can create an independent agency that would provide that fair process.

Mr. David de Burgh Graham: You've harped quite a bit on the fact that Bell and Rogers are vertically integrated, and it's a concern that I share. I personally don't believe that companies should be media distributor, producer and Internet provider all at once, because I think there's a fundamental conflict of interest in those companies. Do you have any thoughts or comments on that and why Telus is not a vertically integrated company?

Ms. Ann Mainville-Neeson: Certainly we have expressed significant concerns with various elements of vertical integration, and it's more for another forum and another legislative review that is happening. We believe that the Broadcasting Act does need to be amended in order to be able to address the competitive issues.

Why is Telus not vertically integrated? Obviously, we'll all pursue our different strategies. We believe, since many years ago.... We want to unleash the power of the Internet and provide the best there is to offer. It's simply a question of strategy. To the extent that vertical integration can create some incentive and opportunities for anti-competitive conduct that can harm consumers, that issue needs to be addressed.

Mr. David de Burgh Graham: Can you dive a bit more into how it harms consumers?

Ms. Ann Mainville-Neeson: It's mostly from a broadcasting perspective. The broadcasting environment is such that we are required to offer the programming services that the vertically integrated companies own. They have every incentive to either foreclose competition by making certain services that are particularly popular unavailable to us—and we've had to fight through that with the CRTC in the past—or to increase their rivals' costs, such that for the wholesale rates that we would pay to offer the same programming services that they offer to their subscribers, we would have to pay more.

The rationale for doing that is clear. They want to raise our costs so that they can compete against us in various markets, not just in the broadcasting market but also in the various other ways that we compete, such as the wireless markets, the Internet space and television distribution. Also, of course, we all know that television is moving online. To the extent that you might say that Rogers Cable is not necessarily competitive with Telus in our markets, because we only offer TV in the west and in parts of Quebec, ultimately it does become competitive when they're offering their services online through, for example, Sportsnet Now, which is an over-the-top offering that can supplant your TV subscription.

Mr. David de Burgh Graham: Earlier we were talking about DPI, deep packet inspection. I used to work in the industry. Does it threaten net neutrality? What is Telus' position on net neutrality?

Ms. Ann Mainville-Neeson: Telus is a firm believer in net neutrality.

When I say we're a firm believer in net neutrality, I think a principle needs to be applied to some elements in such a way that it makes sense for consumers and for the country as a whole. Some elements—for example, security, privacy of information—are principles that sometimes compete with net neutrality. You need to have balance in applying all of these various principles, which are all equally important.

Mr. David de Burgh Graham: Well, if you give yourselves the right as an industry to inspect packets, to inspect traffic and traffic shape and so forth, do you not then give yourselves an obligation to monitor that traffic? If illegal traffic were to go through it, wouldn't you then have an obligation to react to that, because you've now taken on that role of judge of the traffic, as opposed to being just a common carrier?

● (1715)

Ms. Ann Mainville-Neeson: Traffic management practices are generally more commonly applied with respect to peak times and those types of things, as opposed to actually determining what kind of content is there or what kind of packets are being transmitted.

Mr. David de Burgh Graham: That's my point. It's a very important difference to get out there.

Ms. Ann Mainville-Neeson: It is. Certainly, I'm not suggesting that traffic management practices won't necessarily look at different types of content, but these are the types of practices that would be applied and reviewed by the CRTC.

Mr. David de Burgh Graham: Thank you. I've already been cut off.

The Chair: You're cut off now.

Now, for the final question of the day, we have Mr. Albas.

Mr. Dan Albas: Thank you, Mr. Chair, and again thank you to our witnesses today.

I'd like to go back to Telus, specifically since in your brief and in the subsequent discussion here today you talked a lot about notice and notice and what works in that regime and what doesn't seem to work.

I can appreciate when you say you have a lot of fraudulent notices or information that is incorrect but you have an obligation to pass it on. Do you have any hard data on how often you've received those? Is it one out of every 10, one out of 100, one out of every thousand?

Ms. Ann Mainville-Neeson: First of all, we might not be able to detect the fraudulent notices at all, right? I wouldn't be able to give you a number on whether we are receiving them, but the potential is there. That's our concern, which is why establishing things like the content and the form of the notices is extremely important and may address that.

As for the notices that we receive that may be too old or may not include all the.... We do research to find if we have any uploads at this IP address, at this date and this time, and how many of those aren't.... We do the work, but it turns out that it doesn't appear to be one of our customers. That does happen a lot. That's the reason automation becomes so important. When you're looking at hundreds of thousands of notices a month, we certainly don't have time to inspect them all in any great detail.

Mr. Dan Albas: We've heard suggestions from other ISPs around notice and notice, specifically about removing settlement offers and having a standardized form. We haven't heard yet about charging rights holders to forward those notices. Is Telus alone in wanting this change, or do you suspect that other companies would also desire to have it brought forward?

Ms. Ann Mainville-Neeson: We heard TekSavvy suggest it when they appeared last week. We're not suggesting that it be a cost recovery mechanism but simply that it add some type of cost. That's unlike the Norwich orders, where you have to do additional work in order to be able to find additional information beyond the notice and notice work that's done. There you're talking about cost recovery, and that's what Rogers went to the Supreme Court and obtained the right to do. We certainly support that aspect of cost recovery.

On a notice and notice regime, I think that in order to best balance rights holders and the interests of the innocent third parties here, the ISPs, at least adding some cost—not necessarily a cost recovery, but some cost—will at the very least deter any nefarious use, whether it's fraudulent, whether it's phishing. We're talking about different types of regimes for notice and notice and an element of cost.

Mr. Dan Albas: Okay.

Obviously, you viewed last week's meeting. In the meeting we also discussed the Federal Court's ability—not capacity, but ability—constitutionally to hear.... I shouldn't say “constitutionally”, but I mean its ability to rule on these matters. You may not be a part of the FairPlay coalition, but you do support it.

Ms. Ann Mainville-Neeson: Yes.

Mr. Dan Albas: Do you feel that the Federal Court right now does not have the clarity to be able to hear and to offer injunctive relief?

Ms. Ann Mainville-Neeson: No, that's not our suggestion at all. We merely suggest that piracy needs to be addressed in many different fora.

The Federal Court is certainly one area; in fact, any court can hear matters of copyright infringement. We believe that they have that ability and they have the expertise. To the extent that court processes may take longer than an administrative process, we believe there may be value in having an additional opportunity for rights holders, another place for rights holders to go.

Piracy is something that needs to be fought on many fronts, in our view.

Mr. Dan Albas: I appreciate that there are multiple different ways, but Shaw specifically cited that some clarification would be helpful. We're here not only to clarify things like notice and notice and whether it's reasonable to have a cloud-streaming, on-demand-like mechanism for some of the improvements that you want. However, specifically on the clarification at the Federal Court, do you think there is enough clarity right now?

● (1720)

Ms. Ann Mainville-Neeson: There's arguably never sufficient clarity, especially when it comes to copyright. I think that additional clarity could be useful. Is it absolutely necessary? Perhaps.

Mr. Antoine Malek: I'll just add to that.

I think what you might be referencing is the point that was made about section 36 of the Telecommunications Act, which stipulates that the CRTC needs to approve any blocking of a website. There is that potential that you have, as an ISP, of a court order telling you to block a website, and yet you can't do that without the CRTC authorizing it first. Some clarity is needed there. Yes, we do agree with that.

If the role of the CRTC and how it interplays with a court order could be clarified, it would be helpful for ISPs.

Mr. Dan Albas: Thank you.

I will share my time.

The Chair: Well, you had no time left, but go ahead.

Mr. David de Burgh Graham: I have just a quick question. You talked about site blocking. How would you do it? You talked earlier about DNS blocking, which is a completely ineffective system, so I'm just curious.

Ms. Ann Mainville-Neeson: Because we're not part of the FairPlay coalition, I don't think that we've really considered the various mechanisms for doing so. We've been speaking with our technical people, and there are various ways that have different pitfalls. Certainly over-blocking is a big concern. Blocking in the right way that actually is of value.... If we're only blocking something that can be easily overturned, then it's of no value.

It's a complicated question.

Mr. David de Burgh Graham: Fair enough. Thank you.

The Chair: On that note,

[*Translation*]

I thank you very much for all of your statements, interesting questions, and for your answers which were every bit as interesting. We have a lot of work ahead of us.

[*English*]

Thank you very much, everybody. We are adjourned for the day.