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**EVIDENCE**

**Monday, November 26, 2018**

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**Chair**

**Mr. Dan Ruimy**



## Standing Committee on Industry, Science and Technology

Monday, November 26, 2018

• (1530)

[English]

**The Chair (Mr. Dan Ruimy (Pitt Meadows—Maple Ridge, Lib.)):** I call the meeting to order. We are going to get started. We have a busy meeting ahead of us.

Welcome, everybody, to meeting 139, as we continue our legislative five-year review of the Copyright Act.

Today we have with us, as an individual, Jeff Price, chief executive officer and founder of Audiam Inc. We have, from Facebook, Kevin Chan, head of public policy, and Probir Mehta, head of global intellectual property policy—say that five times fast. We have, from Google Canada, Jason J. Kee, public policy and government relations counsel. Finally, from Spotify, we have Darren Schmidt, senior counsel.

Welcome, everybody. You will each have seven minutes to make your presentations. We'll go through all the presentations, and then we'll get into our questioning.

Just so all of our members are aware, Mr. Schmidt, from Spotify, will leave at five o'clock. If you have questions for Spotify, front-load them. Is that fair enough? Excellent.

We're going to start off with Mr. Price. You have seven minutes.

**Mr. Jeff Price (Chief Executive Officer and Founder, Audiam Inc., As an Individual):** Oops. I didn't even get my timer going.

**The Chair:** It's okay. I will cut you off.

**Mr. Jeff Price:** I assumed as much.

Thanks for having me.

My name is Jeff Price. I ran a record label called spinART Records for about 17 years, releasing bands like the Pixies, Echo and the Bunnymen, Ron Sexsmith, and even a Gordon Lightfoot record.

In 2005 I launched a company called TuneCore that quickly became the largest music distribution company in the world. I changed the global music industry business model. What I did was allow any artist anywhere in the world who recorded music to have access to distribute music and put it onto the shelf of digital music services where people would go to buy the music. Upon the sale of the music, I also changed how they were paid. I gave them 100% of the money. There was no record label between the artist and the retail shop. They were the record label. Anything that we were paid flowed through to them.

In addition, I allowed them to keep ownership of their own copyrights. The traditional music industry had to first editorially decide they were going to let you in, and then upon being let in, you would assign ownership of your copyrights to them, and then they would pay you about 12% of the money.

We democratized the music industry and let everybody in to put their music onto the digital shelves. When the music sold, they would get all of the money and they would keep ownership of their copyrights.

The company grew very rapidly. Within about a three-year period, the clients of TuneCore sold over \$800 million in gross music sales of their music—the “everybody else”. All of this money flowed through and went back to them. TuneCore was paid a simple upfront flat fee for its service, so we commoditized distribution while democratizing it.

A number of years into running the company, a very strange thing happened. We were distributing, every single month, between 100,000 to 150,000 new recordings. To provide some perspective on that, the Warner Music Group, in its heyday, was distributing about 3,600 new recordings a year. We were distributing 100,000 to 150,000 new copyrights every single month. We were distributing 50 years in the music industry in a month. These days it's over 250,000 new recordings a month coming from these do-it-yourselfers, these people who own their own copyrights and get all of their money coming back to them.

Four years into running the company, I began to think about the second separate royalty these people got, because it turns out they were two things. Here's an example: Sony records hired Whitney Houston to sing the song *I Will Always Love You*, which I will sing at the end of this—no, I won't—but Dolly Parton wrote the lyric and the melody. Those are the two separate and distinct copyrights. Every time that recording streamed or was downloaded, there were two separate licences and two separate distinct payments that had to be made, one to Sony for the recording and one to Dolly for the lyric and the melody. It turns out that the clients of TuneCore—the do-it-yourselfers—were both Sony records and Dolly Parton at the same time. Every time there's a download or a stream, there are two licences and two payments. TuneCore was only collecting the payment for the recordings, not for the lyric and melody, and it began to embark on a curious adventure. Where is the second royalty?

I discovered over \$100 million had been generated in the second royalty that they had never been paid because of inefficiencies in the system. There were no pipelines, no way to do this, and we began to recover that money.

Along the way, as we got to the end of my TuneCore tenure, I launched a second company in 2012. I left TuneCore and launched a company called Audiam. The \$100 million that hadn't been paid to the Dolly Partons of the world, the songwriters, never left my mind.

When Audiam was born—my new company—I thought we really needed to go to work for the Dolly Partons of the world, or the people who work for the Dolly Partons of the world, and ensure their music is licensed and being paid for by the streaming and other digital music services. That's what Audiam now does—it licenses and collects money for Bob Dylan, Metallica, Red Hot Chili Peppers, the people who wrote the songs, who sometimes are the same people who did the recording.

We discovered, in the United States and in Canada, massive infringement. The digital music services were using these compositions, these lyrics and melodies, without licences, and they were doing it without any payments either. We embarked on a way to help remove that friction in licence and work with many of the people I'm sitting here with.

But the thing that has really stuck with me that I want to drive home to you as a committee is that the majority of copyrights that are being produced, created, distributed today in music come from the “everybody else”. They come from outside of that traditional industry. Their market share is growing as far as revenue and market share are concerned, while the major music record labels' market share is declining. It's these people who are being impacted by what's happening today, because they're getting the larger market share. As you go forward in time, the volume of copyrights that is being created will continue to be propagated from the diaspora, the “everybody else”.

• (1535)

The really important point is that traditionally you would have a multinational corporation like Sony, one entity with three million copyrights; now you have three million individuals, each with one copyright. The way these people are impacted is contingent upon rulings, regulations, rates and so forth—copyright, and what should and shouldn't be licensed—but remember now it's about the individual as opposed to a multinational corporation, in many respects.

Two kids in their bedroom came to TuneCore, as one example of thousands. They wrote a song about sexting and sold over one million copies of this song around the world with no idea that they had earned these royalties. Their money ultimately was taken and given to the large music publishing companies—Universal, Warner and Sony—based on their market share, because they didn't even have the information to know that they earned it.

That's a quick summation of me and my company, and I suspect that's why I'm here today.

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

We're going to move to Facebook and Mr. Chan.

**Mr. Kevin Chan (Head of Public Policy, Facebook Inc.):** Thank you very much, sir.

Before I begin, I apologize. I thought I had eight minutes, so I probably will go a little long.

**The Chair:** He was six minutes, so we might allow for one minute over.

[*Translation*]

**Mr. Kevin Chan:** Thank you.

Mr. Chair and members of the Standing Committee on Industry, Science and Technology, on behalf of Facebook, I want to thank you for giving us the opportunity to speak to you today.

My name is Kevin Chan, and I'm the head of public policy at Facebook Canada. I'm joined by Probir Mehta, the head of global intellectual property policy.

At Facebook, we encourage creativity and the spread of culture online. We believe that, through Facebook, content creators from all walks of life, including musicians, sports leagues, publishers and television or film studios, are given new ways to share their content, attract the offline audience and promote their creativity.

Facebook also gives rights holders tools to protect and promote their content, while protecting the right to freedom of expression for all users.

[*English*]

I want to start by sharing some concrete examples of how we're working with artists, creators and cultural institutions across the country to promote and empower their work.

Many copyright holders have Facebook pages and use our tools to promote and expand the reach of their content. At Facebook Canada we have a partnerships team whose mandate is to work with publishers, artists and creators to help them maximize the value of the Facebook platform by reaching new audiences, engaging directly with fans and promoting their work here in Canada and around the world.

For the last two years, this team has led a partnership with the National Arts Centre, helping it fulfill its mandate of being an arts centre for all Canadians across the country. For the recent Canada 150 celebrations, Facebook was proud to have been the NAC's digital partner as its musicians and artists travelled across the country connecting with Canadians both physically and online.

To give you just one example, with respect to the NAC English Theatre's recent *Tartuffe* tour to Newfoundland, the sharing of some of the tour's content on Facebook allowed the NAC to greatly expand their footprint in the province, reaching over 395,000 Newfoundlanders online, or about 75% of the province's population.

We're also focused on supporting emerging creators, helping them engage and grow their community, manage their presence and build a business on Facebook. For three years we have supported emerging Canadian music artists through the Canadian Academy of Recording Arts and Sciences master class program, participating as mentors on how to reach new audiences on Facebook.

Finally, many cultural institutions are non-profit organizations with charitable status, and earlier this month we were very excited to have launched several new ways for charities in Canada to fundraise directly on Facebook. We make this service available without charging any fees and are thrilled that around the world over \$1 billion has already been raised in this way directly on Facebook. We are looking forward to having an equally positive impact in Canada.

● (1540)

[*Translation*]

Facebook takes the protection of rights holders' intellectual property seriously. To that end, Facebook has implemented a number of measures to help rights holders protect their rights through a rigorous global program to combat copyright infringement.

[*English*]

We have three pillars to our intellectual property program.

First, our terms of service and community standards are the foundation our platform is built on. They expressly prohibit users from posting content that infringes any third parties' IP rights or otherwise violates the law, and they state that users who post infringing content will face penalties up to and including having their accounts disabled.

Second, our global IP protection program provides rights holders with opportunities to report content that they believe is infringing. We have dedicated channels for rights holders to report instances of infringement, including via our online reporting forms available through our intellectual property help centre. Reports can be submitted for a variety of content types, including individual posts, videos, advertisements and even entire profiles and pages. These reports are processed by our IP operations team, which is a global team of specially trained IP professionals who provide 24-7 coverage in multiple languages, including English and French.

If a rights holder's report is complete and valid, the reported content is promptly removed, often within a few hours. We also implement a comprehensive repeat infringer policy, under which we disable Facebook profiles and pages that repeatedly or blatantly post infringing content. Users who have their content removed in response to a report are notified of that removal at the time it occurs. These users are also provided information regarding the report, including the name and email address of the rights holder that submitted the report in case the parties wish to resolve the matter directly.

Third, we continue to invest heavily in state-of-the-art tools that allow us to protect copyright at scale across our platform, even if no rights holder has reported any specific instances of infringement.

We have developed our own content management tool, Rights Manager, to help rights holders protect their copyrights on Facebook.

Participating rights holders can upload reference files, and when a match is found can decide what actions to take: blocking the video and thereby eliminating the need to continuously report matches as infringing, monitoring video metrics for the match, or reporting the video for removal.

For many years, we have also used Audible Magic, a third party service that maintains a database of audio content owned by content creators, to proactively detect content that contains the copyrighted material of third parties, including songs, movies and television shows. If a match is detected, that content is blocked, and the user that uploaded the content is notified of the block and given the opportunity to appeal if the user has the necessary rights.

In our transparency report released just a few weeks ago, we highlighted data covering the volume and nature of copyright reports we received, as well as the amount of content affected by those reports. During the first half of 2018, on Facebook and Instagram we took down nearly three million pieces of content based on nearly half a million copyright reports.

● (1545)

[*Translation*]

Lastly, Facebook believes that the copyright regime should represent everyone's interests. Regimes such as the one in Canada are flexible, and they promote innovation while protecting the intellectual property of rights holders.

Facebook hopes that the committee will continue to maintain the innovation-friendly regime of the Copyright Act, in order to promote the development of new content options and new ways for creators to launch their business and build a name for themselves.

[*English*]

Thank you again for the opportunity to appear before you. We would be pleased to take your questions.

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

We're going to move to Google Canada, with Jason Kee. You have up to seven minutes, please.

**Mr. Jason Kee (Public Policy and Government Relations Counsel, Google Canada):** Thank you, Mr. Chair. We appreciate the opportunity to participate in your review.

Google has over 1,000 employees across four offices in Canada, including over 600 engineers working on products used by billions of people worldwide, and ads and cloud teams helping Canadian businesses make the most of digital technology.

Canadian businesses and creators of all kinds use our products and services to connect with consumers and monetize their audiences. According to a recent economic impact study published by Deloitte, which I believe has been distributed to the committee, businesses, publishers and creators generated up to \$21 billion in economic activity last year alone, supporting hundreds of thousands of jobs.

The essence of Google's remuneration and revenue models is a partnership model. Creators such as publishers, producers and developers supply content, while we provide distribution and monetization, technical infrastructure, sales, payment systems, business support and other resources. We then share the resulting revenue, the majority of which goes to the creator every time.

Partnership means that we only earn revenue when our partners earn revenue. It is in our interests to ensure our partners' success and sustainability. This is why we invest significantly in technology, tools and resources to prevent piracy on our platforms. The Internet has enabled creators to connect, create and distribute their work like never before to build global audiences and sustainable revenue streams, but this new creative economy must ensure that creators can both share their content and make money from it, including cutting off those who would pirate that content.

Five key principles guide our substantial investments in fighting piracy: create more legitimate alternatives; follow the money; be efficient, effective and scalable; guard against abuse; and provide transparency.

The first principle is to create more and better legitimate alternatives. Piracy often arises when it is difficult for consumers to access legitimate content. By developing products that make that easy to do, Google helps to both drive revenue for creative industries and give consumers choice. For instance, the music industry has earned over \$6 billion in ad revenue from YouTube, including \$1.8 billion in the last year alone.

To do this, we offer a variety of services: ad-supported services like YouTube, subscriptions like Google Play Music and YouTube Premium, and transaction-based services like Google Play Movies & TV. We also support emerging forms of monetization, such as in-app purchases in Google Play Games, and YouTube memberships and Super Chat, which allow users to directly support their favourite creators. Also, we're finding new ways to allow creators to develop other revenue streams, such as merchandising, ticketing and brand sponsorships.

We want creators to diversify revenue and reduce dependence on ads or subscriptions. This not only helps them build sustainable creative businesses but also insulates them against the negative impacts of piracy.

The second principle is to follow the money. Sites dedicated to online piracy are trying to make money. We need to cut off that supply. Google enforces rigorous policies to prevent these bad actors from exploiting our ads and monetization systems. In 2017 we disapproved more than 10 million ads that we suspected of copyright infringement and removed some 7,000 websites from our AdSense program for copyright violations.

Third is to provide enforcement tools that are efficient, effective, and scalable. In Search, we have streamlined processes to allow

rights holders to submit removal notices. Since launching this tool, we've removed over three billion infringing URLs. We also factor in the volume of valid removal notices in our ranking of search results.

On YouTube, we've invested more than \$100 million in Content ID, our industry-leading copyright management system. Content ID allows rights holders to upload reference files and automatically compares those files against every upload on YouTube. When Content ID finds a match, the rights holder can block the video from being viewed, monetize the video by running ads against it or leave the video up and track its viewership statistics.

Over 9,000 partners use Content ID. They choose to monetize over 90% of the claims—and 95% in the case of music—and we've paid out over \$3 billion to these partners. Content ID is highly effective, managing over 98% of copyright issues on YouTube and 99.5% in the case of sound recordings.

These are just a few of the enforcement tools that we make available for creators and rights holders.

Principles four and five are to guard against abuse and provide transparency. Unfortunately, some do abuse our tools, making false claims in order to remove content they simply don't like. We invest substantial resources to address this and publish information on removal requests in our transparency report.

Google is generating more revenue for creators and rights holders and doing more to fight back against online piracy than it ever has before. Intermediary "safe harbours", such as the measures clarifying liability of network and hosting services, introduced in 2012, are essential to this.

Indeed, such protections are central to the very operation of the open Internet. If online services are liable for the activities of their users, then open platforms simply cannot function. The risk of liability would severely restrict their ability to allow user content onto their systems.

● (1550)

This would have profound effects on open communication online, severely impacting the emerging class of digital creators who rely on these platforms for their livelihood and curtailing the broad economic benefits that intermediaries generate.

Similarly, limitations and exceptions in the act, such as fair dealing, provide critical balancing by limiting the exclusive rights granted so as to encourage access to copyrighted works and allow for reasonable uses.

One of these uses is information analytics, also referred to as text and data mining. In order for machine learning systems to learn, they need data-based training examples, and it is often necessary for the data sets to be copied, processed and repurposed. In some cases, these data sets may include material protected by copyright, like training an automated text translation system using a corpus of books translated into multiple languages. Unless there is an exception to allow this technical copying, processing and storage, machine learning could infringe copyright, even though the algorithm is merely learning from the data and not interfering with any market for that data or impacting the use by the authors.

It is unclear whether this activity would fall within existing exceptions, putting the Canadian government's substantial investments in artificial intelligence and Canada's significant competitive advantage in this field at risk. We strongly recommend the inclusion of a flexible copyright exception that would permit these types of processes and give much-needed certainty.

I'm happy to discuss these issues with you in more detail and I look forward to your questions.

Thank you.

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

Finally, we go to Spotify. Mr. Schmidt, you have seven minutes.

**Mr. Darren Schmidt (Senior Counsel, Spotify):** Thank you for inviting Spotify to contribute to this committee's statutory review. My name is Darren Schmidt. I'm senior counsel at Spotify, responsible for content licensing in Canada and globally.

I'm delighted to talk to you about Spotify, and particularly about the benefits of our service to recording artists and songwriters, as well as their fans.

We've also been requested by this committee, as well as the Standing Committee on Canadian Heritage, to explain generally the various ways that we pay royalties to rights holders, recording artists and musicians.

First, let me introduce the company.

Spotify is a Swedish company that was created in Stockholm in 2006. Our service launched for the first time in 2008, and it was made available in Canada in 2014. Our mission was, and remains, "to unlock the potential of human creativity—by giving a million creative artists the opportunity to live off their art and billions of fans the opportunity to enjoy and be inspired" by these creators.

Spotify is now available in 78 markets, and it has more than 191 million active users every month and 87 million paying subscribers. Through August 2018, it has paid over 10 billion euros back to rights holders around the world.

Spotify has heavily invested in the Canadian music industry, and it supports the creators of music, whether they are songwriters, composers, recording artists or performers. Spotify has given Canadian artists great exposure via its playlists. Some of Canada's most popular weekly playlists on Spotify are Hot Hits Canada, with half a million followers, and New Music Friday Canada, with 250,000 followers. In fact, even Prime Minister Trudeau released a playlist on Spotify.

More than 10,000 unique Canadian artists have been promoted through Spotify's editorial and algorithmic programming in the past month alone. Spotify has identified over 400 Canadian artists with over a million streams just in this year to date, three-quarters of which also have what could be described as a hit song—that is, one track that has produced over a million global streams since Spotify launched.

In 2017, the Government of Canada and Spotify celebrated Canada's 150th anniversary with a focus on Canadian music, promoting influential Canadians' playlists across digital outlets. We inspired Canadians to celebrate this nation's birthday with music. The campaign was complemented with substantial advertising, digital media and on-platform support.

Just this fall, we launched a campaign specifically targeted at growing our francophone hip-hop audience, and it includes marketing and editorial partnerships with prominent blogs in Quebec.

While Spotify does not typically have a direct financial relationship with recording artists and songwriters, as I'll describe shortly, it knows that the music industry as a whole is growing again after a terrible run in the early 2000s. Canada, like many markets, entered a steep decline in revenues as piracy sites like Napster, Grokster and others took off. Broadly speaking, recorded music revenues nearly halved since their peak in the late 1990s, and in Canada it was no different.

However, things have changed much for the better. Not only is the global music industry back to growth, but so is music in Canada, and 2017 was the first year that revenue from music streaming accounted for over half of the overall music market. The IFPI—that's the global organization representing record companies—has reported that the music industry in Canada has had three successive years of growth. This is a remarkable achievement, given that revenue from streaming was negligible just five years ago. Spotify, since launching, has been a big part of that comeback story.

I want to turn now to providing some detail for this committee about how Spotify licenses its music and how those licenses result in payments to rights holders and creators.

By its nature, Spotify's service is one that relies on licenses from rights holders in order to get content on its service, rather than on user-generated content. As I believe the committee is aware, music has two separate copyrights associated with it, one for the composition and a separate one for the sound recording. The copyrights to the songs are typically held by music publishers, while the sound recordings are typically owned by record labels. Spotify obtains its licenses from both sides of this divide.

For the sound recordings, it obtains global rights from large and small record companies, as well as from—although rarely—some recording artists directly, to the extent that they control the rights on their own recordings.

With regard to the music publishing side—that is, for the songs underlying the recordings—the world is much more fragmented and difficult. This fragmentation has two primary causes.

First, unlike sound recordings, it's relatively common for a musical composition to be owned by several different entities. Consider the track *In My Feelings* by recording artist Drake. The copyright for that track is controlled by a single record label, Cash Money Records, distributed by Universal Music Group, my former employer. However, the song underlying that track has 16 different credited songwriters, along with five different music publishers, each controlling a different percentage of those rights. Here we have an example of per-work ownership fragmentation.

●(1555)

Second, depending on the territory, different kinds of entities or royalty collection societies control different kinds of rights. Canada is a good example. In Canada, Spotify has a licence with SOCAN for the public performance rights of the compositions, but the reproduction right, or the mechanical right, for those same compositions comes from other entities, primarily CSI, which is itself a joint venture between CMRRA and SODRAC, for now, along with some others.

Spotify pays SOCAN, CSI and others, and those entities in turn are responsible for distributing those royalties to rights holders, songwriters and music publishers. I should note that I'm leaving a lot out for the sake of brevity—primarily about how in Canada, unlike in some other territories, there is no blanket mechanical licence, which would be very helpful. It is my understanding that certain statutory changes are under consideration today, or will soon be under consideration, that could effectively remove the existing blanket licence for public performance. These issues, and the resulting increase in fragmentation they represent, make it more difficult to ensure that songwriters are identified and appropriately paid for their contributions.

There are a lot of other changes forthcoming in the market. For example, SODRAC has been acquired by SOCAN. These changes may substantially change the licensing landscape. In any event, the fact that Spotify pays entities who then distribute royalties to their members means that Spotify does not generally have visibility into the amount that an individual creator receives for their creative contribution. This is true in Canada and also in the rest of the world.

In summary, Spotify was a late entrant into Canada due to our determination to respect copyright and seek licences rather than rely on copyright safe harbours. Since launching in late 2014, our story, and that of Canadian music, has been one of success.

Today, millions of Canadians are choosing not to pirate music but to access it legally. This encapsulates the origins of Spotify. We had an innate belief that if we built a legal and superior alternative to stealing, artists and songwriters would thrive. That work has begun, and we still have a long way to grow.

Thank you for letting us contribute to this study. We look forward to answering your questions.

●(1600)

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

We're going to jump right into our questions. I remind you that Mr. Schmidt has to leave in an hour, so if you have a specific question for him, make sure to ask him up front.

We're going to start off with Mr. Longfield.

**Mr. Lloyd Longfield (Guelph, Lib.):** Thanks, Mr. Chair, and thank you all for coming to talk with us about this important study. We're primarily trying to figure out a way for the market to work so that creators get adequately compensated.

I'm really interested in Mr. Price's model. You mentioned flat fees, and then Mr. Schmidt also mentioned flat fees as a way of compensating creators. Having 100% going back to the creator was an interesting idea, but it made me wonder how your company gets paid in the process. Could you maybe drill in a bit about what a flat fee looks like?

**Mr. Jeff Price:** Sure.

**Mr. Lloyd Longfield:** How do you survive on your revenue stream? Tell us so we can follow.

**Mr. Jeff Price:** Well, I'm no longer with TuneCore. I left six years ago. I think of TuneCore or other entities like it as a kind of Federal Express, in that you pay them a fee to deliver a package. TuneCore generates its revenue just like Federal Express. They get paid a fee for a service that would distribute and place the music onto the services of Apple Music, Spotify, Deezer, Simfy, and others. It's a fee-for-service model, much like buying a pack of guitar strings.

**Mr. Lloyd Longfield:** Okay.

**Mr. Jeff Price:** What I find fascinating is that there has never been more revenue generated from music than there is today, but less of it is going back to the creators.

**Mr. Lloyd Longfield:** Right.

**Mr. Jeff Price:** Some numbers have been bandied about up here, and I want to provide perspective on those.

A million streams on Spotify generates in the United States—and this is somewhat commensurate in Canada—somewhere in the neighbourhood of \$200. That does not make a living.

What's interesting is the value of getting a million streams. It means you probably have at least 100,000 people streaming your music. How much would you pay as a technology company to hire someone to bring you 100,000 users? What is the financial value of that to an investor or an IPO?

This is unfortunately where we have a diverging of interests. Pandora has never made money. Spotify, with market capital over \$25 billion, has never made money. YouTube, before it was acquired for \$1 billion, never made money. The value of those entities was predicated on their market share. It's the musicians' music that attracted the users to utilize the technology, which was rewarded by finance and Wall Street in the form of IPOs and sales, and there's nothing wrong with that.

What I do have an issue with is when I hear these companies getting upwards of a trillion-dollar market cap, or a half-trillion-dollar market cap, who have aggregated the world under the umbrellas that we're sitting with here. Facebook Google, Spotify—all wonderful companies—have hundreds of millions, billions, of users aggregated under those umbrellas with market caps up in the tens or hundreds of billions, yet they're turning around and giving someone—this is a real royalty rate in the United States—\$0.0001 U.S. per stream on their ad-supported platform. Something's not right.

**Mr. Lloyd Longfield:** Yes, that's what we're hearing. That's why we wanted to get everybody to the table today. This is one of our most critical sessions, I think, to try to follow that money stream.

With regard to Google, we're talking about transparency. We're also saying that it's hard to find out how much artists are actually getting paid in terms of the revenue stream that goes to legitimate legal companies that are promoting them, through ad revenue and through a business model, and that doesn't get to the people who are creating the content in order to drive ad revenue.

Mr. Kee, in terms of transparency, how far do you go into the value chain?

**Mr. Jason Kee:** Essentially, we're based on a partnership model. I'll use the YouTube platform as an example, where essentially there's a clear revenue split. The individual channel owner—basically the creator—receives very detailed analytics around the specific performance of the individual video they posted, including where the revenue with respect to the advertising comes from and how that flows to them.

Part of the challenge we have with respect to transparency writ large is that if there's an individual creator, an individual musician, an individual who basically is creating a video, they may have access to that. If it's aggregated under another service where they're actually engaging that service to do this on their behalf, that information isn't necessarily flowing.

Part of the challenge we have collectively, I think, as an industry is that oftentimes there are large sums of money, basically streams, that are flowing into the music industry writ large, which is where I get these large numbers from, but then they're essentially transferring into a very complicated and opaque web of music licensing agreements that certainly we don't have visibility into, and frankly, neither does anybody else. We're into a particular situation where artists only see what they get at the far end of that process, which doesn't necessarily accord with what they're hearing from us.

• (1605)

**Mr. Lloyd Longfield:** Yes. They get good transparency on a fraction of the revenue stream that isn't enough for them to be in the

middle class and support themselves without having other revenue streams.

In terms of recommendations for us, I'll go back to you, Mr. Price. What do you see as an opportunity for us? I'm very interested in that, and in getting the bigger picture in terms of the split revenue between the creators of melodies and music and the performers who generate that revenue. Can you give us a global picture? How can we set up some type of regulatory system so that people get paid for what they're doing?

**Mr. Jeff Price:** First, to clarify, I certainly am impassioned with my feelings and my thoughts, but...these are not the enemy.

**Mr. Lloyd Longfield:** No, no.

**Mr. Jeff Price:** No, this is from me, because I can be very aggressive about that. I think what they've created is wonderful. The ubiquitousness of music creates a rare opportunity not only for consumers but also for technology companies and the creators themselves.

What I have a problem with is this free assumption that creators were put on this planet to create content for technology companies to utilize in order to achieve their business goals. The concept that we have to make it easier for them at the expense of the artists just doesn't resonate with me. I think the approach we need to take is an "artist first" approach. For example, let's extend that copyright to 70 years to get in line with the rest of the world, because now we're dealing with fathers to grandfathers to great-grandfathers through the accession of rights. Let's rule more quickly on what the rates are so that when these companies have to put together their P and Ls and people are determining how they can make a living doing this, they're able to figure out how much money they're making more quickly, ahead of time, as opposed to waiting five, six, or seven years before a ruling will come down.

I'm a big fan of the free market. I think government should remove itself from regulating music and allow there to be a true and straight-up negotiation. Frankly, that creates a symbiotic relationship, because they need them as much as the reverse. Through that balance you end up with the right tension, which will then allow for the right royalty rates to emerge.

**Mr. Lloyd Longfield:** Thank you very much.

**The Chair:** Thank you.

Mr. Albas, you have seven minutes.

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

To the witnesses, excuse me, but I am briefly putting forward a motion. I'll certainly come back to you as quickly as possible.

Mr. Chair, I am putting forward and seeking unanimous consent for the following motion:

That the Standing Committee on Industry, Science and Technology, pursuant to Standing Order 108(2), undertake a study of no less than 4 meetings to investigate the impacts of the announced closure of the General Motors plant in Oshawa, and its impacts on the wider economy and province of Ontario.

I'd like you to test and see whether there's unanimous consent for us to see that motion move forward.

**The Chair:** Just to be clear, generally you require 48 hours, so this is a notice of motion. You're—

**Mr. Dan Albas:** No. I am asking for unanimous consent now.

**The Chair:** I'm explaining that. Generally it's 48 hours. That would be a notice of motion. However, you are asking for unanimous consent to do what, exactly, right now?

**Mr. Dan Albas:** Again, it's to undertake a study of no less than four meetings to investigate the impacts of the announced closure of the General Motors plant in Oshawa.

**The Chair:** You're asking for unanimous consent to move the motion. That's where we stand.

Is there any debate?

Go ahead, Mr. Longfield.

**Mr. Lloyd Longfield:** I wouldn't support it, since we're just about to start an emergency debate in the House tonight. We don't know the results of that debate or even, frankly, what we're dealing with yet. I wouldn't support it.

**The Chair:** Thank you.

**Mr. Dan Albas:** In that case, I will move a formal notice of motion:

That the Standing Committee on Industry, Science and Technology, pursuant to Standing Order 108(2), undertake a study of no less than 4 meetings to investigate the impacts of the announced closure of the General Motors plant in Oshawa and its impacts on the wider economy and province of Ontario.

**The Chair:** I'll pass that in with the notice of motion, and you can go ahead with your time.

**Mr. Dan Albas:** Thank you again to the witnesses for coming in and being part of our study.

I'd like to start with you, Mr. Schmidt.

Obviously, we've heard from many witnesses that they make so little money from Spotify royalties that it may as well be nothing. The claim is that only the biggest artists make any money from Spotify. Does your platform pay a standard per-stream royalty to all artists?

**Mr. Darren Schmidt:** There is no standard royalty. As I described in my opening statement, we have licence agreements with rights holders, which means rights holders on the sound recording side of the spectrum and the music publishing side of the spectrum.

• (1610)

**Mr. Dan Albas:** In your opening comments, you also mentioned that a particular song may have multiple different rights holders, particularly on the composition side. Again, without having an example in mind, originally I wrote down that Drake makes more money because more people listen to his music. Is that fundamentally still the case?

**Mr. Darren Schmidt:** Without talking about Drake in particular, I think it's fair to say that if lots more people are listening to some

piece of music versus another, the first one would make more money. That's correct.

**Mr. Dan Albas:** If you were to raise the per-stream royalties to increase what smaller artists get, it would radically increase what the larger artists would get as well. Is that correct?

**Mr. Darren Schmidt:** I think there's a misunderstanding here in the idea that we have a per-stream royalty at all. For the most part, that's not true.

We have hundreds of licence agreements. I have to generalize somewhat because they're all somewhat different, but there are certain commonalities in that for the most part, we're talking about revenue-sharing agreements that don't typically include per-stream rates. When people talk about per-stream rates, they're usually backing into that rate after the fact: They see that there are a number of streams on the service, they see a payout, and they do a simple calculation as if that's the per-stream rate. That isn't how we do it.

It really is a function of how much revenue we're bringing in, both on our premium service, which obviously brings in a lot more revenue, and our free service, which brings in less. About 90% of our revenue comes in from our premium service. I think it's reported in the Financial Press that we pay out 65%-70% of our gross revenue to rights holders. That's one reason, as Mr. Price mentioned, that at present Spotify is not profitable.

**Mr. Dan Albas:** I know you have to generalize in some cases, because there are a lot of complexities to your business. Would an increase in royalty payouts generally make you have to increase the subscription cost for Canadian consumers? That's the point I'm trying to get to: Would changing that model cost more for Canadian consumers?

**Mr. Darren Schmidt:** Could you restate the question a little bit? I'm not sure I follow the if and then.

**Mr. Dan Albas:** I do recognize that there are different rights holders, and you might have a collective that might collect more in a certain case or an artist who made a direct contract with you, which isn't often. What I'm trying to say is, if you have a higher stream cost for a particular song, does that inevitably mean...? If we were to give more to a smaller artist, that would also mean that the larger artist would demand more income as well and therefore increase the cost.

We keep hearing over and over that—and Mr. Price referenced it earlier—there's more money to be made in this space, but it seems the people, the artists themselves, are getting less.

Again, I'm trying to ask...if we suggest smaller artists be remunerated more in some way, will there be a greater cost to the final consumer in that case? I don't see the big producers or the ones who receive more revenues wanting to see their revenues go to someone else.

**Mr. Darren Schmidt:** It is possible that what you're talking about would result in greater cost to consumers. We don't tend to look at it that way.

The way we look at it is that despite having 87 million paying subscribers on the service today, we're in the very beginning of what's happening. More money coming into the revenue share pool, as I call it, means more subscribers to the service. If you have more subscribers to the service and the same number of artists for that money to be split among, that's more money to the artists.

**Mr. Dan Albas:** Okay.

I'd like to go to Mr. Kee.

Many witness have specifically suggested that we should remove the safe harbour provisions in order to force companies like yours to be liable for having infringing content on your platform.

In a world where 65 years of content are uploaded to YouTube every single day, could your business operate without safe harbour?

**Mr. Jason Kee:** No.

**Mr. Dan Albas:** Okay.

I understand the liability for content that a platform itself uploads, but anyone can create a YouTube account and upload any music video or any other infringing product. Your Content ID system will probably flag that, but we know that system has problems. I've heard about them.

Is the concept of user-driven content incompatible with platform liability?

• (1615)

**Mr. Jason Kee:** I wouldn't agree with that.

Number one, it's worth noting that on the music side, we're actually a licence platform. We have thousands of licence agreements with collectives, publishers and labels worldwide. They feed what we call "YouTube main", the general online video platform, as well as some of the specific music-related services we have, such as Google Play Music or YouTube Music. We're operating in a licensed environment there.

Second, with respect to the broader user-generated content, despite the fact that we had the benefit of the safe harbour, which allowed us to operate the business, it still didn't stop us from implementing our Content ID system in order to basically manage that content.

I think it's one of the most powerful copyright management tools on the the planet. It allows all rights holders of any class, whether music or any other type, to monetize content uploaded by users and make revenue, or, if they choose, they can block it and take it off the platform if they want to drive revenue to other platforms. They can do that as well. That certainly didn't stop us from introducing it and working with partners so they could monetize.

User-generated content aspects are critical to an open Internet. This is the whole point. We have any number of very successful music artists—lately it's been Shawn Mendes—who essentially made their mark on the platform, and if it weren't for open platforms like this, they might never have been discovered. Justin Bieber is another classic example.

**Mr. Dan Albas:** Thank you.

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

[*Translation*]

Mr. Nantel, you have seven minutes.

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

I wanted to ask Mr. Price a question, first and foremost, since we're talking about copyright. It would be good to discuss the topic with a creator, then to move on to user rights. Since Mr. Schmidt must leave before 5 p.m., I want to make sure that I can talk to him.

When I was part of the Standing Committee on Canadian Heritage, I had the opportunity to hear you speak by video conference from New York. I don't know whether you can answer my question. It concerned figures shared by an artist, songwriter and producer who was well aware of the value of these things. I'm referring to the brother of Pascale Bussi eres, David Bussi eres, a member of Alfa Rococo. He had a very successful piece that was played extensively on the radio. I don't have the exact figures on hand, but I know that he earned about \$17,000. The piece was a hit about three years ago. I was wondering about the fees paid by Spotify. The fees amounted to \$11, as opposed to \$17,000 for commercial radio. That's a very clear example. How can this be explained when it was the same piece and about the same period?

Streaming platforms such as Spotify are the dominant model. That's the issue, as Mr. Price said. Everyone here is wonderful. All your products are wonderful. My girlfriend has just subscribed to Spotify, and she loves it. She finds it much better than Apple Music. That's not the issue. As Mr. Price pointed out, the issue is that the people who provide content can no longer make a living off it. I don't know whether you see how clearly these two amounts illustrate the issue. It's the same period, the same type of success and the same type of listeners. In Quebec, on the radio, he earned \$17,000, whereas on Spotify, he earned \$11.

How can you explain this?

[*English*]

**Mr. Darren Schmidt:** To start with, I want to apologize if you did not get a response to this question after our first committee hearing. We sent a letter to the committee. I don't know if you saw it. We sent a detailed response to this question, among others. I don't have that response handy, that letter, but we do have that—

**Mr. Pierre Nantel:** Okay.

**Mr. Darren Schmidt:** —so now, I'm sorry to say, I need to operate on some memory about what was said—

**Mr. Pierre Nantel:** Just like me, and I hope yours is better than mine.

**Voices:** Oh, oh!

**Mr. Darren Schmidt:** I want to stress that I don't know the mechanics, unfortunately, of how radio airplay gets paid in Canada. All I know is how Spotify pays. Also, I should say that we don't typically have relationships directly.... I know this is frustrating to hear. I don't know what happens in the value chain from when we pay the rights holder, the copyright owner—in this case, it might have been a record label or some other entity—and they then pay the artist.

That artist might have an unrecovered advance. That often happens in the record label—

•(1620)

**Mr. Pierre Nantel:** I can tell you right away that this is not the case. As I told you, this is a very articulate, well-managed team. He has his own publishing and he has his manager, but the deal is clearly not there. When we're comparing \$11 and \$17,000, I guess we've made the point.

I would probably put this to Mr. Price. This situation can be less dramatic for bigger artists with bigger markets who can still make a living out of it, and probably a very good living, but even an artist like the one who sang *Happy* in the *Despicable Me* movie....

What's his name again?

**Mr. Jeff Price:** It's Pharrell.

[Translation]

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

[English]

It's Pharrell. Pharrell Wilson...?

**Mr. Jeff Price:** I just know him as Pharrell.

**Mr. Pierre Nantel:** Anyway, he complained so much about getting, in my approximation, about \$300,000 for that song. It is ridiculous.

Twenty years ago that same type of worldwide hit, which made everybody dance in the street and feel happy, would have brought in something like \$3 million for him, which should be very normal, because he enlightened the lives of everyone, which is the beauty of music.

Let me make it clear. I will check out that submission that you sent on this question. I can't wait to see it, because clearly this is something that....

You're tough to hate, because you have a great product. It's the same for Facebook and the same for Google. We all know that Google is in the top five of the most loved brands in the States, on both the Republican and Democratic sides. You can't be against Google. I use it all the time, but the reality is that in some markets, as I've said many times to you, we are not a northern domestic market; we are a bubble of France for whom copyright is super-important, just as it is in France.

I need to make sure that Mr. Price gets to say something, because in Quebec we have a very articulated industry where we know each other very well and we have a large importance for local content in our consumption of television or music. For us, we see the big difference.

Mr. Price, as an American artist composing and being so involved everywhere, would you agree that there's a mystery deal that has been done in the micro-pennies that are paid to artists? How on earth can a publishing house sign such deals with the streaming services?

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

**Mr. Pierre Nantel:** You'll stay. He won't.

**Mr. Jeff Price:** The short version is that it's because of regulations from the government and the acceptance by the traditional music industry. It's created a flawed system. That is combined with the fact that—forgive me—the product isn't being sold at the right price point. I'm sorry, but \$10 a month for 35 million songs...? Most people don't want 35 million songs, and it's too low a price.

Is that bad for consumers? Maybe it is for those who want to pay less money to have access to music, but you can't squeeze blood from a rock. If you want to have more money, you need to charge the appropriate price for the product.

Everybody wins then. They'll be profitable and the artists will make more money. Sure, you'll have a smaller consumer base utilizing the service, but so what?

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

Before we move on to our next questioner, Mr. Schmidt, we all have a burning desire to see this letter, so if you could forward this letter to our clerk, that would be great.

**Mr. Darren Schmidt:** I will, absolutely.

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

Mr. Graham, you have seven minutes.

**Mr. David de Burgh Graham (Laurentides—Labelle, Lib.):** Thank you.

Mr. Chan, it's nice to see you again. I know we had you at PROC this spring because we were discussing Facebook's impact on elections, and now you're here discussing Facebook's impact on the creative economy writ large. I guess Facebook has quite a bit of impact in general.

I want to talk a lot about Content ID and Facebook's equivalent. In September, a pianist named James Rhodes uploaded to Facebook a video of himself playing Bach. Facebook's copyright filters triggered the content, and it was removed. He had a great deal of difficulty getting it restored. Even at life plus 70 years, the Bach he had played would have been out of copyright by about 198 years. I'm wondering what we can do to avoid abuses, and what you are doing to avoid abuses in the system. As far as I can tell, it's a system that assumes guilt, and then you have to prove innocence.

That applies to Mr. Kee as well, for the Content ID system.

•(1625)

**Mr. Kevin Chan:** I'm sorry, but I just want to confirm, sir. You're referring to a piece of Bach that was uploaded, and then—

**Mr. David de Burgh Graham:** That's right. James Rhodes played Bach on his piano and uploaded the video to Facebook, and Facebook's Content ID equivalent—I don't know what you call it—

**Mr. Kevin Chan:** It's Rights Manager.

**Mr. David de Burgh Graham:** —triggered and said, “I'm sorry; Sony owns the copyright on Bach,” which is patently false.

**Mr. Kevin Chan:** That's interesting. I'm not familiar with that particular example. I think you are right that—well, *grosso modo*, how it works is that for any reported piece of content, as I mentioned in the opening statement, certainly an individual at Facebook would review that report and ensure that, first, the information's complete for the reporting, and then that it's a legitimate or a valid request for removal.

**Mr. David de Burgh Graham:** How many reports do these people have to go through in a day?

**Mr. Kevin Chan:** As I said, we had close to half a million reports, I think it was, in the first half of 2018, and that resulted in about three million copyright takedowns globally. I think there are some other things that we do have to complement that, which are our automated systems. Potentially, again, not knowing the specific case, I couldn't say, but—

**Mr. David de Burgh Graham:** It's just an example. I've seen this kind of case many times, coming across my Facebook feed, of all places.

**Mr. Kevin Chan:** Right. Potentially, this could be an automated system example. I would obviously also want to add—and I'll turn it over to Probir in case you have something to add, Probir—that the concern for us is always, as you point out, sir, false positives. We want to be tough to ensure that we are protecting the rights of rights holders, but on the flip side—and that's why I mentioned it—as a platform, we always want to be careful about how we balance this. You don't want to be so aggressive that you accidentally take down something legitimate. I would never say that we're perfect, but again, not knowing the specific case, I couldn't give you a satisfying answer on this one.

I don't know, Probir, if you have some thoughts on it.

**Mr. Probir Mehta (Head of Global Intellectual Property Policy, Facebook Inc.):** Thanks very much.

I would add that with every system, we're always looking to make it better. The engineers and the personnel who work on our systems are constantly sitting down with rights holders and users to try to....

Again, if I understand this correctly, if it was Rights Manager, this is a system that relies on input and feedback. I'm not familiar with the specific case, but again, as with everything, we're constantly trying to make it better.

**Mr. David de Burgh Graham:** Can anybody in the world, and this applies, again, to Mr. Kee....

I don't know if you have any comments, Mr. Kee, on the previous question before I go to the next one.

**Mr. Jason Kee:** I would like to just quickly comment on that.

You actually highlight a challenge that we have when we implement systems like this. They certainly go well above and beyond our minimum requirements under United States, European or

even Canadian copyright law. We have a court challenge in terms of balancing those rights. In the case of Content ID, that's actually why we have an appeal system, the idea being that if something gets claimed that shouldn't be claimed, you appeal it, and then ideally the claim will be released.

In this case, it should never have been claimed in the first instance —

**Mr. David de Burgh Graham:** But it's still a “guilty until proven innocent” system for both companies.

**Mr. Jason Kee:** In terms of the assumption that was being made because a match was being made, that's correct.

**Mr. David de Burgh Graham:** Can anybody in the world upload their...?

Mr. Chen, does Facebook have a name for Content ID, so I don't have to keep referring to Content ID?

**Mr. Kevin Chan:** It's Rights Manager.

**Mr. David de Burgh Graham:** Rights Manager, Content ID—great; I have two terms. Thank you.

Can anybody in the world upload their content to these two systems, or is it only companies or larger copyright holders that can do so?

**Mr. Jason Kee:** I'll start.

Actually, only larger companies can, because it is an extraordinarily powerful tool. It requires quite a bit of proactive management. We actually have 9,000 Content ID partners. Generally these are larger entities that have large libraries of content that require this kind of protection, and they also have the dedicated resources to manage it properly, especially because you can control the way the system manages for each individual territory in a very nuanced kind of way.

We also have other tools that are available at other levels and are available for other creators—for example, independent creators—or they can work through, frankly, Audiam, for example, which can actually manage the Content ID system on their behalf.

**Mr. David de Burgh Graham:** By having only 9,000 creators—and I'm assuming it's fairly similar for you, Mr. Chan, from what you said here—if it's only 9,000 creators who are permitted to submit to the system, does that not necessarily hurt the smaller producers?

**Mr. Kevin Chan:** Sir, if I may, I'll just refer to my colleagues. We have a slight nuance for rights management.

**Mr. David de Burgh Graham:** We like nuance.

**Mr. Probir Mehta:** It's application-based, to enter into the Rights Manager system. It's typically large, commercially minded rights holder groups, but also we have recently been testing for smaller creators as well. However, again, ultimately it's a needs-based assessment.

**Mr. David de Burgh Graham:** Do these systems currently handle Canadian fair dealing exceptions in their enforcement?

**Mr. Jason Kee:** Essentially, no, effectively because fair dealing is a contextual test that requires analysis on each individual case. On any automated system, no matter how good the algorithm, no matter how sophisticated the machine learning that we're applying—and we are doing that—basically, we'll never be able to ascertain that. This is why it's critically important that it has an appeal system: it's so if a video that is a clear case of fair dealing is allowed and then gets caught by the system, they can appeal that decision. It will basically be determined and released.

• (1630)

**Mr. David de Burgh Graham:** Then in both of your situations, why isn't the system set up to say, "You have had a flag; please respond within 24 hours, and then we'll take it down", to make it a system where one is innocent until proven guilty instead of guilty until proven innocent?

**Mr. Jason Kee:** In some instances, that does happen. It depends on what policy the rights holder has chosen to enact and how they've selected to do so.

**Mr. Kevin Chan:** Yes. I would bring you back, sir, to what I mentioned earlier in the opening statement about how we have individuals who review all the reports, and that's precisely to try to get the balance right.

I think, though, this concept runs into challenges when we're talking about something that's at scale. When you have a service that is global in nature and you have millions of pieces of content, if not more, being uploaded on a daily basis, then you do want to make sure you're doing things to better protect rights holders. This is a way for us to kind of get at the simplest or easiest things to engage with.

I agree with you that context is important, and that's why we have individuals who review every report that's sent to us.

**Mr. David de Burgh Graham:** I'm out of time. Thank you.

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

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

**Mr. Dan Albas:** Thank you. I'm actually going to take up the line of questioning of MP Graham. I'm going to start with Mr. Kee.

Mr. Kee, there is a group of people who do reaction videos. They film their reaction to a new music video that comes out, or a new movie or whatnot. There are quite a few people who like to hear and see these reaction videos, but obviously the Content ID system that YouTube employs often will flag that content and take it down. Obviously, these things are allowed under the Copyright Modernization Act that happened here in Canada in 2012, under which reaction videos were allowed.

In regard to how YouTube—and Google itself, I guess—flags and takes these down, doesn't that raise questions about whether the system you're utilizing is complying with the law or in fact just taking down content that people are spontaneously generating themselves?

**Mr. Jason Kee:** Well, number one, I would be reticent to say any individual example is a clear case of fair dealing, because that would be a case-by-case instance. For example, it's theoretically possible

that a react video may use a sizeable portion of the original content. As a consequence, it may not actually be an example of fair dealing.

However, you raise a fair point with respect to how we balance those individual rights. This is again why the appeals process is critically important. What happens is this: If it is appealed and if the rights holder decides they are not going to release this claim, then the individual user who got flagged incorrectly can then reject that, in which case the video is permitted and the rights holder would have to file a formal takedown notice to remove that video. At that point it goes to a counter-notice provision, because we therefore have a dispute between two rights holders that we actually have to let them sort out between themselves.

**Mr. Dan Albas:** It's interesting that you talk about this appeal process, because my office has been reaching out to content creators to hear their concerns, and some of the feedback we've had is contrary.

We heard from a creator who paid for a licensed audio clip to use in a video. They used the clip legally with a licence and got a copyright strike. Another creator, a music label, had used the same sound clip in another work, and the system detected the same sound and took down the video for infringement. They appealed but were told their only recourse was to sue the label. They paid for the proper royalties, did things right and were still unable to upload their video unless they sued a major corporation.

If we're going to believe that your automatic system functions well, you have to address these kinds of instances. Why is there no actual person you can appeal to in these kinds of cases, or is this just a case of people not understanding your system?

**Mr. Jason Kee:** Again, it is difficult to comment on a specific example. I am a bit surprised by the outcome, simply because to get to that, you have to go through a formal counter-notice whereby you are provided the opportunity to formally submit a response saying that the takedown request is incorrect, at which point the default goes to the claimant and it would be restored without the necessity of engaging in a lawsuit.

Again, it's hard to comment on that theoretically or hypothetically.

• (1635)

**Mr. Dan Albas:** I would point out that when people are operating in the space and know their business quite well and are paying out all the costs and whatnot, including making sure their tariff is covered, the expectation is that they would be able to meaningfully deal with this.

To simply dismiss as a hypothetical that these things are happening.... I recognize the issue, but perhaps I could talk to the individuals in question and maybe encourage them to raise it to you, because a lot of content creators are not making it through your systems, and that needs to be addressed.

**Mr. Jason Kee:** I think it's a fair system.

To the point that Kevin raised, we're dealing with these issues at scale—again, 400 hours of content are uploaded to YouTube every minute—and as a result it's a massive system that needs to be dealt with on an automated basis at the front end.

That said, once you've gone through an appeals process, there are opportunities to interact with individuals, especially through the appeals, so please, as I said, I invite you to put them in touch, because I'd like to understand the specifics that happened here.

**Mr. Dan Albas:** Okay, that's fair. Thank you.

How much time do I have, Mr. Chair?

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

**Mr. Dan Albas:** Okay, then I have a quick one for Mr. Kee.

We've heard from many witnesses that they make very little from views of ad-supported content on YouTube. There are stories of needing millions of views just to get \$150.

I don't expect you'll tell us your ad rates, but are you receiving much more per view from advertisers and only paying pennies, or are the per-view ad rates equivalently small?

**Mr. Jason Kee:** We're on a purely revenue-sharing basis. Essentially there's a proportional share that happens between the creator and the platform, so we're receiving only a proportion of what they are receiving.

It isn't on a per-view basis, because not every video will have an ad shown against it, and depending on the specifics of where their ad is being seen—it also works through an auction system—there is a high degree of variability in the actual rate they'll see.

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

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

**Mr. Terry Sheehan (Sault Ste. Marie, Lib.):** Thank you to all of you for the presentations.

On May 8, 2018, the Fédération nationale des communications, FNC, which represents workers in Canadian communication and cultural industries, stated that Facebook and Google absorb a large majority of advertising revenues that previously went to newspapers and other news outlets, which has deprived the news industry of helping to sustain itself.

Along similar lines, News Media Canada referred to news aggregators, or your company operators, as free riders.

As part of their submission, FNC suggested creating a new category of copyright work, a journalistic work, which would provide journalists a collective administered right for remuneration for the dissemination of their works on the Internet.

If such a right existed, would it oblige Google, Facebook and other online service providers to pay royalties for news articles? How might this affect your operation?

Article 11 of the European Union's proposed directive on copyright in the digital single market would affirm the copyright of publishers for digital use of press publications. Would this include the publication or distribution of publications on Facebook and

Google News? How would we ensure compliance with this new law? It was proposed.

I don't know if you're familiar with it, but it certainly would elevate and perhaps help the news agencies that are being shared on your platforms.

**Mr. Kevin Chan:** I'm happy to take that, sir. Thank you.

I actually did, in fact, spend a day with the FNC, with their president and a few other people, at a recent conference in Montreal with respect to misinformation and digital literacy, and that proposal was in fact shared with me.

The conversation we had about it for us boils down to there being a misunderstanding of the way that published content—in this case, let's say news articles—is shared on Facebook.

As you probably know, Facebook itself is not putting news articles onto Facebook. It gets on Facebook in one of two ways. One is that the publisher itself—let's say it's La Presse or Radio-Canada or The Globe and Mail or the CBC—chooses to put published content on Facebook, or an individual, a user, decides to share something onto the platform. What I shared with colleagues in Montreal was that I'm at a bit of a loss as to how such a mechanism would work if, at the end of the day, platforms are not the ones that are actually putting individual pieces of content on the platform, and that it's actually individuals or publishers. You can imagine very quickly that if the system is based on how much somebody happens to put on a particular service, then it just seems as though we would not be—

● (1640)

**Mr. Terry Sheehan:** I get that—sorry to interrupt—but in earlier testimony, you mentioned that other people also put things on your platform, which you sometimes flag and take down. I'm just saying that as an example.

**Mr. Kevin Chan:** Okay, I see, sir.

That's right. I think for the content we're talking about, rights holder content, if it shouldn't be on Facebook—we've talked a lot about music this afternoon—it would be taken down.

Obviously if a publisher had, let's say, a firewall around their content on the website, and then somehow somebody nonetheless was able to share their content on Facebook, we would obviously want to make sure we were in compliance and we would take down that content. In this case, when people are able to share news articles on Facebook, what I'm saying is that they have allowed for that sharing. They've allowed for people to take a hyperlink or a URL and put that somewhere else—for example, on Facebook. That actually, incidentally, sir, drives a lot of traffic to their sites.

I do want to say one other thing, if I may. We do take our responsibility seriously with respect to the news ecosystem. We know that many Canadians do, in fact, get at least some of their news from Facebook, so we are investing in partnerships. For example, we have a partnership with Ryerson University, with their School of Journalism, as well as with the Digital Media Zone, in which we're working with entrepreneurs to see what kind of innovative business models may emerge for the news ecosystem. That's the kind of work we're engaged with. We just finished with the graduating class of 2018. There are five start-ups that I think are going to make a really good run of it as businesses.

Those are the things we're looking at. I think the challenge with the proposal that I've heard is that it kind of relies on publishers and users to decide how much a particular piece of content is shared. Any kind of business model that's based on that would be at odds, I think, with how sharing actually works.

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

We're going to move back to Mr. Albas for seven minutes.

**Mr. Dan Albas:** Thank you again, Mr. Chairman.

Thank you to all the witnesses.

Mr. Kee, I'm going to keep going back, because it seems a lot of the feedback I've had from people is mainly about YouTube.

Obviously, we're reviewing the Copyright Act. Many people will video themselves playing a video game and then stream that, and there seems to be a bit of a grey zone. Do you believe it would be helpful for Parliament to put an exemption in for that kind of activity? There currently exists one for mash-ups and for content creators to put their mash-ups out. Do you think that is something that would give a little bit more certainty to that practice?

**Mr. Jason Kee:** To be honest, I wouldn't necessarily want to comment on it. There would be certain classes of creators that would benefit from that, primarily game creators. On the other hand, you would have video game companies that may feel very differently about it. My understanding is that—and bear in mind, as Mr. Nantel will know, that I actually used to work for the video game industry—they have, generally speaking, a fairly permissive attitude towards this particular type of activity, largely because when a video game creator is making a video of them playing the game, it's not competing with the actual game itself, and they actually view it as marketing.

**Mr. Dan Albas:** I'm not asking about video game developers, though. As a platform, what is your perspective? People are taking their content—the video game they play, their reactions to it, their friends playing on it—and then loading it up onto your YouTube system. Do you think platform certainty would be helpful with regard to the practice?

**Mr. Jason Kee:** Basically, Google doesn't have a view on it, simply because it's a question of whether or not there's an exception that allows gaming creators to benefit from utilizing that class of work themselves versus whether or not you're removing the ability of the games industry itself to benefit from this activity.

**Mr. Dan Albas:** Mr. Chan, do you have any suggestions on this?

**Mr. Kevin Chan:** No, sir, we don't really have a comment on it.

**Mr. Dan Albas:** In that case, I'd like to ask about the new European rules that make platforms liable for infringement.

Could either Facebook, through Mr. Chan, or Google, through Mr. Kee, point out some of these new rules and whether or not your platforms can operate under those conditions? We've had a number of witnesses come forward to this committee asking for similar provisions. I believe the CEO or someone quite high up at YouTube suggested that it's a very difficult environment to be working under.

Mr. Chan, maybe you can go first.

● (1645)

**Mr. Kevin Chan:** I would just say, once again, that our enforcement of any kind of illicit or infringing content is pretty good where it stands. You'll know, sir, that in terms of music content, at this point we are removing that content when it is detected or when people report it and it's a valid request.

If your question is with respect to ideas about undoing intermediary liability protections, I think that is indeed challenging. I think it's challenging because without those kinds of protections in place, platforms that are able to host a myriad of content—not just rights holder content, but including people's free speech—would be at risk. I think that is just not the type of tradition from which we approach these things here in Canada. If these sorts of things were to be pushed to their logical end, I think you would find that platforms of scale would be very challenged and would in fact reduce the ability for, in this case, artists and rights holders to be able to reach large audiences.

**Mr. Jason Kee:** We would share that view. We've certainly been flagging some of the challenges with the current articulation of article 13.

It's worthwhile noting that the specifics of article 13 itself are still in the process of being determined. Negotiations are happening between the three areas of the European Union. It's more in terms of what the potential implications are. That is actually what motivated Susan Wojcicki to write an op-ed. It was mostly to alert the creative community to the concerns.

Primarily from a YouTube perspective in particular, the challenge would be that if the platform is liable for all content on the platform, we can only host content that we are absolutely assured is completely cleared. For the vast majority of YouTube creators, that's very difficult to assure.

You raised a number of good examples, during the course of this discussion, of the many different copyright elements that can exist in terms of the video and in terms of who actually has copyright ownership over what. Even in the case of music, sometimes the ownership is not necessarily clear. There could be any number of songwriters involved, and so forth. That would make it very, very challenging for us to operate. It would certainly adversely impact the small and emerging creators, who don't have large legal teams and can't provide the assurances of legal clearance, more than it would affect the larger operators.

**Mr. Dan Albas:** Okay. Thank you.

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

Ms. Caesar-Chavannes, you have five minutes.

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

I'll focus my questions on Google and Spotify.

First I'll go to you, Mr. Schmidt, because I'm a premium Spotify user. A few months ago, my subscription went up two dollars. I'm sure a lot of people's subscriptions went up two dollars. Do the two dollars go toward paying royalties to Canadian creators?

**Mr. Darren Schmidt:** What territory is this in?

**Mrs. Celina Caesar-Chavannes:** Ontario.

**Mr. Darren Schmidt:** Well, first of all, I wasn't aware that it went up two dollars. You just told me something I didn't know.

When prices go up, as they do in various territories around the world at various times due to inflation and other reasons, that revenue is accounted for in our licence agreements as part of the revenue pool. The answer to your question is yes, a portion of any current price increase ends up going to creators. More accurately, though, it goes to the rights holders with whom we have licence agreements. We have to assume that some of that goes down to creators, but they have those relationships with those creators; we don't.

**Mrs. Celina Caesar-Chavannes:** Okay.

You said that you started in Canada in 2014, right? Why did it take so long?

**Mr. Darren Schmidt:** I wasn't at Spotify then, but I do know anecdotally that the licensing landscape in Canada was difficult at the time, particularly—

**Mrs. Celina Caesar-Chavannes:** Can you explain what that means?

**Mr. Darren Schmidt:** —on the music publishing side of things. I think I talked in my opening statement about the issue of fragmentation of rights.

On the mechanical rights side in particular, it's difficult in Canada to get a full coverage of rights when you're licensing from an entity like CSI which, I think practically speaking, only controls perhaps 70% or 80% of the market. It's that long tail that becomes your problem. You need to find who controls what and get licensing agreements in place, to the extent that you can.

Sometimes it's unknown whom you should approach to get licences, because there's a matching problem. How do you know, for any particular musical composition, which sound recording it matches to? It's a much more difficult problem than people realize. It's a worldwide problem, and it's been a big problem in the U.S. as well.

I think that explains, for the most part, what took us so long to get into Canada.

• (1650)

**Mrs. Celina Caesar-Chavannes:** We've had some testimony from previous witnesses who said that the royalty rate for semi-interactive and non-interactive webcasting for copyrighted works in Canada is almost 11 times lower than the equivalent rate in the United States.

To Google or to Spotify, does the Canadian rate constitute fair and equitable compensation for creators?

**Mr. Darren Schmidt:** I'll go.

That surprises me. I'm not sure I understand that data point. Did you say it's 11 times lower than the equivalent rate in the U.S.?

**Mrs. Celina Caesar-Chavannes:** The royalty rate is, yes.

**Mr. Darren Schmidt:** I think you might be talking about Re: Sound, which we don't utilize.

**Mr. Jason Kee:** My understanding is that specifically was a tariff rate. I believe it's tariff 8 that set that rate.

For us, in part because of the challenges we experienced with respect to the Copyright Board, we didn't necessarily rely on the tariff rates very frequently. We would negotiate our own arrangements with the collectives. As a consequence, that actual rate didn't apply to the majority of our services. My understanding is that it certainly doesn't at this point.

**Mrs. Celina Caesar-Chavannes:** Is it the same with...?

**Mr. Darren Schmidt:** It's the same with Spotify.

**Mrs. Celina Caesar-Chavannes:** At the beginning, Mr. Price said a number of points, which he gave all companies across the board some credit for. He said that you guys have really good companies, but the percentage that was allocated to creators was 0.000-something; I can't remember how many zeroes he used.

Do you have any rebuttals or comments to some of the statements that Mr. Price made? Were they fair, accurate?

**Mr. Jason Kee:** Well, I think he flagged a great number of the many challenges that artists are facing. Some of this has to do with fundamental changes that have happened to the underlying economics of the music industry over the past 20 years.

Jeff raised a very fair point with respect to the sustainability, given the price point. The reason that the price point is what it is—actually, right now it's the market rate—is that was a response to ongoing piracy from 20 years ago, when no one was paying anything. This led to the development of the download economy, primarily driven by Apple, which led to the emergence of the streaming economy and so on.

We're in a situation in which there's been a great deal of consumer surplus, where consumers benefit from access to these massive libraries of music, but that's now the consumer expectation. Moving away from that too aggressively would be a real challenge, and essentially we have a much greater number of artists who are taking from a smaller pot. That's creating some challenges.

One of the things we are very focused on with YouTube in particular is ensuring that we can activate alternative revenue streams for artists, recognizing that sometimes royalty rates alone are not necessarily going to help them. This is by means of things like—and this is the bulk of the revenue, frankly, that YouTube creators tend to make—what we call “off-platform”. They're doing brand sponsorship deals. They will have a brand that will sponsor their videos and they will do, say, a series of six videos. It's very much more lucrative for them than the advertising revenue.

**Mrs. Celina Caesar-Chavannes:** Do you help them with that?

**Mr. Jason Kee:** A lot of them will do it on their own.

We've actually now deployed a system that we call FameBit, which is a brand matchmaking service. We'll match the creators with brands—many of whom are our clients on the advertising side—to basically help them with that.

We're also deploying things like memberships, whereby individual users can simply do a monthly subscription to a creator to give them monthly support. We're implementing merchandising and ticketing options that will automatically display if they have a show coming up so that there are tickets available to that show. Creators can diversify their revenue streams so that they're no longer reliant on a single stream but have a multitude of streams to help build sustainable businesses.

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

[Translation]

Mr. Nantel, you have two minutes.

**Mr. Pierre Nantel:** I'll ask Mr. Chan a question about Facebook.

When a television show or report is broadcast on Facebook, clearly the media that paid to produce it doesn't receive any advertising revenue. It's seen as a form of sharing by the user. At least, that's how I explain it.

Don't you think that the media that share content on your platforms would like to receive a portion of the advertising revenue that you generate?

• (1655)

**Mr. Kevin Chan:** Thank you for the question.

[English]

Do you mean that when a broadcaster puts a show of their own volition on Facebook, should we not think about ways to compensate them for that?

**Mr. Pierre Nantel:** Since the audience is there and since they may feel that they want to be seen like that demo guy who plays a song and wants to be discovered by an L.A. producer.... Then we have CBC putting a series on your thing and there would be zero revenue.

**Mr. Kevin Chan:** Without alluding to too many specifics of the future, I think you're right that what we want to do is find new ways

of compensating various entities that have presences on Facebook. I think around the world we have experimented with things like ad breaks for videos, almost like a digital version of a commercial break. I think over time as we refine this model, this experiment, we certainly hope to be able to present a more robust suite of compensation options for producers.

I don't know, Probir, if you have anything to add on that.

**Mr. Probir Mehta:** I would also point out that one of the functionalities of Facebook is to complement these offline business models. I think my colleague from Google mentioned this. In a lot of ways you find users connecting and sharing around a shared viewing event on TV, whether it's sports, whether it's an awards night. It actually, in many cases, has increased engagement offline. I wouldn't look at it as a zero-sum game; I would look at it as a win-win opportunity.

**Mr. Pierre Nantel:** Yes, but on the other hand we know that if it was just sharing, it's sharing and it's visibility, but you also sell advertising and so you're eating the pie.

On this, didn't you voluntarily agree that in mid-2019, you're going to add GST to your transactions, even though you're not forced to do it by the government?

**Mr. Kevin Chan:** That's correct. What we have indicated is that by the end of 2019 we will move to what's called “a local reseller model”, where we are going to have a base of operations in Canada such that the taxes that we pay, based on revenue that we make in Canada from the sales team in Canada, will be transparent and people will know exactly what we take in and what taxes we pay.

**Mr. Pierre Nantel:** Would all advertising bought in Canada be going through this advertising sales team in Canada?

**Mr. Kevin Chan:** I'd have to check on the precise mechanics of it, but certainly the sales team in Toronto—

**Mr. Pierre Nantel:** It will be adding GST.

**Mr. Kevin Chan:** Yes. Because we're moving to this model, it means that it becomes subject to a value-added tax like the HST or the PST.

[Translation]

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

[English]

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

We still have some time, so we're going to go to the second round.

Mr. Longfield, you have seven minutes.

**Mr. Lloyd Longfield:** Thank you. I'll share some of my time with Mr. Graham.

I want to start off with Facebook. As I'm listening to this conversation, which has been excellent, I'm going back in time to when I used to buy records in the 1970s and 1960s. We knew that to buy content, you went to the record store and you purchased what you wanted. You might share it with a good friend and you'd put your name on it so that you knew it was yours, and you would chase your friend to get the album back. Sometimes you got it back and sometimes you didn't.

The sale was for a particular piece. Now we have the Internet taking the place of the record store. We have a business model that's very different.

Mr. Price asked a very good question at the end of one of his testimonies. If we clamp down on this, we would limit the distribution of content, but so what? People would have to purchase. The business model would go back to the way it used to work. I could be cynical and say it didn't work that well for creators back then either, because they got ripped off on contracts and they had management.... The creators have always been on the last end of the stick.

In terms of the business model, as we look at how we get money to the creators through this existing business model, we looked at the EU and they've been doing some things around legislation. We've looked at Australia. They're doing some things around legislation. You're a global company and it's a global problem. Is there anything you can suggest to us in terms of recommendations on how we get value to the creators for the products we consume?

• (1700)

**Mr. Kevin Chan:** I think first and foremost, as I alluded to at the beginning, Facebook is a platform where largely people can get discovered and they can find fans, new fans, and that actually is of tremendous value not just to artists and creators but to NGOs, including also politicians, as you may know, on the platform.

Far be it from us to say what the committee should do on these sorts of questions, but I can say that for us on the platform, we do recognize the need to build new tools to allow for artists and creators to be able to monetize. Right now in Canada, in music, basically our issue with how we deal with it is largely on the enforcement side. If there is copyrighted content on the platform, we will take it down. We want to get to a space where we're able to help artists get remunerated for that sort of stuff, but that is, I think, down the line.

Probir, do you want to talk a bit about that?

**Mr. Probir Mehta:** I think what's animating our view is to first understand all the aspects of the music ecosystem. You have some here today. You've heard from others.

Really, the marketplace is shifting in such great ways. For example, what the European Union is doing is based on an assessment three or four years ago, and the world has changed in a lot of positive ways. From our perspective, any new regulation or rule you look at should take into account all the different pieces of the ecosystem, but it should also look to enshrine voluntary approaches whereby different parts of the ecosystem are coming together to promote content, figure out new technologies to smooth out the transaction costs, and things like that.

That's what I think is at greatest risk when you have regulatory processes: not allowing for these types of flexible approaches. Right now Canada has a flexible but robust system that we certainly support.

**Mr. Lloyd Longfield:** Yes, and you mentioned the democratic aspect of the platform. It's a great way for us to showcase our communities and the work that's going on in our communities. You're not the bad guys here. It's just that we'd like to see how we can support our artists so they can get paid fair value for what they produce.

**Mr. David de Burgh Graham:** With two minutes left in this round, I wanted to tie up some loose ends from earlier when I talked to Mr. Kee, Mr. Chan and Mr. Mehta about the content management systems you have.

You talked about having IP experts who review all the requests that come in. I'd like to get a sense of the quantity. How many people are processing how many requests per day? Are these people taking the time to look at two or three requests in a day, or do they have 400 and they have to get through to the end of the whole collection before they leave?

**Mr. Kevin Chan:** Again, in our transparency report that we just published a few weeks ago, we do spell out in detail the number of requests we're getting. I think you can see it at [facebook.com/transparency](https://facebook.com/transparency). I think that's the URL. It's something like that.

Globally, we had about half a million requests, and that led to about three million pieces of copyright—

**Mr. David de Burgh Graham:** How did half a million requests result in three million...?

**Mr. Kevin Chan:** It could be multiple requests, or one request where we find multiple copies on the platform.

**Mr. Probir Mehta:** Yes. In fact, as Kevin noted in his opening remarks, you can report multiple posts. You can report groups, videos, texts. We want to make it as user-friendly and frictionless as possible, so in one report you can have multiple listings. Again, that is something that all gets processed by our global IP team.

**Mr. David de Burgh Graham:** Okay.

Mr. Kee, you mentioned that you had found three billion infringing URLs earlier. That's across how many domains? Do you have any idea? One domain can have millions of URLs.

**Mr. Jason Kee:** I'd have to double-check on that. It's quite a number, but it's basically several hundred thousand domains.

**Mr. David de Burgh Graham:** I think I'm out of time.

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

**Mr. David de Burgh Graham:** I have a very quick one for you that I will let you think about, but you might not get a chance to answer.

For Google and Facebook especially, when HTML 4.01 transitional was the standard for the Internet, everything more or less worked across platforms. Now a lot of the social media companies and Google are no longer platform-independent, so when you go to Facebook on a BlackBerry or on an iPhone, you get a completely different experience in each place. Are we going to come back to a standards-based system, or are we going to keep having this diversion of capacity, depending on what device you're using?

• (1705)

**The Chair:** Be very quick.

**Mr. Kevin Chan:** We will double-check on our end, but I have to admit that one of our strengths actually has been that we have sort of a one-interface process at Facebook. Regardless of whether you access it on an iPad or a phone or your desktop, it is going to be the same experience for the user or for the page across our platform.

If you mean interoperability between various platforms, certainly we've invested a lot of time and energy to allow for individuals to be able to download all their information and take it with them elsewhere if they see fit.

**The Chair:** Thank you.

Mr. Albas, you have seven minutes.

**Mr. Dan Albas:** Thank you, Mr. Chair.

With regard to some of the comments Mr. Kee made earlier today about the difficulties of contextualizing, I guess through your Content ID filters into fair dealing, you referenced that it's very difficult for that system, so even though we create laws, the system itself is the one that's going to have to recognize and adapt. That may involve appeals and whatnot. It might involve technological review, but also perhaps personal review.

Mr. Kee, what are some things this committee can do to make life better for those content creators so they can upload the content they have made that's original or that they have paid for through various tariffs, so we can see more of that content being supported and not bound up either in appeals or through those technological guards? What things can we do to make the system better for them?

**Mr. Jason Kee:** To be honest, this is really a matter of how the platforms operate individually. Your line of questioning is highlighting the tension that inherently exists, since on the one hand we invest literally hundreds of millions of dollars in effective enforcement so that rights holders can properly administer their copyright across our platforms, while on the other hand we also have other classes of creators who are basically more in the user class, who utilize other people's copyright in the course of creating their own. Essentially, we have to manage all of this.

Copyright is an extremely complex beast. Again, Jeff alluded to this in his opening remarks with respect to the number of creators. Every single time you create something, you vest a copyright in that whether or not you're actually utilizing somebody else's copyright in that process. Navigating this extremely complex web is extremely challenging and requires a balancing of the various interests. On the one hand, we have a copyright management system; on the other hand, we have an appeals process to balance off those kinds of issues.

Essentially, from a legislative standpoint, this is something that's very much between the individual platforms and the users and creators who utilize those platforms. The best thing the committee can do is to look at things to ensure we have a competitive environment with a number of competing platforms in order to exert discipline on all of the platforms so that if one platform has a copyright management system that is being overly aggressive, there will be alternatives for them to look to.

**Mr. Dan Albas:** How do you create that space when you have Googles and Facebooks that are dominating in their size and scope? I don't want to incriminate or anything, but that's one of the arguments I hear: that they have become so big that no one can compete with them.

**Mr. Jason Kee:** There are actually quite a number of competitors that exist out there when we consider that Dailymotion and others are looking to compete in the space in their own individualized ways.

To be honest with you, Facebook and Google are actually fierce competitors in this space, especially as each of us is expanding into different kinds of related areas, such as Instagram TV, etc., etc., where basically creators have a number of different options available to them, which also is what helps the platform stay healthy.

**Mr. Dan Albas:** I haven't heard of Dailymotion, but when you give one example, and then say "etc., etc.", are there other ones?

**Mr. Jason Kee:** Yes. To be honest with you, I'm blanking at the moment. I would be happy to provide you with more examples of platforms that exist in a number of different territories.

**Mr. Dan Albas:** Okay. That's fair.

Mr. Price, my line of questioning has been mainly towards some of the other witnesses. My first question is very tough: Old Pixies or new Pixies?

**Mr. Jeff Price:** Old.

**Mr. Dan Albas:** You and I are in the same.... I have to say that. I'm pleased to hear that.

We've heard at this committee, and it was in one of the analyst's reports, that one of the main complaints is that Spotify will contract directly with the money for labels to access catalogues, and then none of that money goes back to artists.

Isn't that an issue that artists have with labels themselves? Isn't your own experience proof of that?

• (1710)

**Mr. Jeff Price:** Yes, which is why the disintermediation of the label is so fascinating.

One of the biggest challenges I've had sitting here is being quiet. To be honest, there were so many times I wanted to jump in and say, "Wait."

Remember from the do-it-yourself perspective that these are artists who are their own record labels. There is no middleman between them and their money in regard to the revenue for the sound recording.

With all due respect, the statement that there is no direct licence between some of the digital services and Canadian songwriters is patently false, depending upon what country you're in. In the United States, the DSPs—digital service providers—are required to go directly to the owners of the lyric and melody to get a licence with them directly and pay them directly every single month on the 20th of the month for the revenue they earned from the previous month.

There are plenty of mechanisms in place to assure they can figure out who has what split. The number one way they can do this is by saying, “We won't make the sound recording live until you tell us, record label!”, and I can assure you that the record label will move heaven and earth to figure out who's supposed to get what money, because they need that sound recording live because it's their whole economic ecosystem.

In order to get artists paid—I've been thinking a lot about this—frankly, number one, artists need education. They don't understand what rights they have and what rights they don't have. They don't understand the difference between a sound recording and a musical composition. Let's start there.

Now let's move to the idea that you can't escheat someone's money, that you can't take someone's money and give it to somebody else who doesn't own the copyright; we just passed a law in the United States that now allows that to happen to Canadian citizens. If you're unaware of the Music Modernization Act, it says that your revenue can now sit in the United States in a newly formed organization called the mechanical licensing collective. If you don't understand in Canada and you become a member of that organization, your money can now be legally taken from you. You can't have black boxes anymore.

We just landed a rover on Mars today, for God's sake, and we can't figure out who owns copyrights? Come on.

When you move into how difficult it is to license, I agree—it is difficult. You know what? The music industry is hard. It's hard to learn how to play an instrument. It's hard to learn how to market and promote yourself and tour. It's hard to build Google. It's hard to build Facebook. This is a difficult industry, but that doesn't mean that we should turn around and take the people who create the stuff and say, “We're going to make you our employees so that we can accomplish our goals.”

I'm sorry, I'm getting off on a little bit of a tangent. It's just that some of the things I've been hearing I fundamentally disagree with.

So remove the black boxes, hold onto the money till the copyright holder is found, educate the artist community so they understand what rights they possess and where they can go to enforce those rights to collect their money, and then ensure that the DSPs using the music follow the laws. If you don't have the licence, don't use the music, and if you don't know whether you have the licence, you don't have one, so don't use it.

Thank you.

**Mr. Dan Albas:** Thank you.

**The Chair:** I'm glad we let you loose.

[*Translation*]

Mr. Nantel, you have seven minutes.

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

[*English*]

Thank you.

I think it is super-important that we hear the creators' point of view. We all know there are consumers. In French, we say *droit d'auteur* and in English it is the right to copy, and the *droit d'auteur* is completely the opposite.

I want to clarify something here, because in reading the analysts' document, your position right now.... I'm going to switch to French.

[*Translation*]

You've just told us how it should work and reminded us that we need a licence to use copyrighted content.

If a song is played on YouTube or Spotify, it's understood that the song involves a recording, a producer or a company, a label or an artist. In other words, the song is associated with a phonographic copyright symbol and another intellectual property symbol on the packaging, a “P & C” in musical jargon. It costs money to use the master tape. Once the money has been paid, will the owner of the master tape pay the copyright fees to the people who composed and wrote the song?

[*English*]

**Mr. Jeff Price:** I now know what you sound like as a French woman, by the way.

**Voices:** Oh, oh!

**Mr. Jeff Price:** To answer that question—

**Mr. Pierre Nantel:** It's much better, I guess.

**Mr. Jeff Price:** —in the United States, we did have something like that. It's called the pass-through. The burden was on the record label or the distributor. They would be required to get the licence from the Dolly Partons and then also to remit payment to them.

The music publishing community in the States pushed heavily against that because it was a layer between them and the money, and they had no way to audit that sort of middleman. We pushed aggressively to remove that middleman with streaming services in the United States. The U.S., as you're aware, is very different, for some reason, from the rest of the world, even with mechanical royalties, these Dolly Parton royalties. I'm a big proponent of not having the pass-through. I believe that if you're going to use someone else's stuff to make money, which is totally fine, you have to know whose stuff you're using, get a licence, and make a payment.

• (1715)

**Mr. Pierre Nantel:** In this case it means songwriter, composer and production owner of the master tape?

**Mr. Jeff Price:** Yes, it's the birth of the sound recording to the music services—Spotify, Google Play and even Facebook. Facebook is not, by the way, a music service; Google Play is, Spotify is, but Facebook is not. It's a distribution. The place that sends the sound recording to the Spotifys of the world or the Google Plays or the Apple Musics has the unique opportunity to provide the suite of information necessary, because that's its birth.

Frankly, the digital services, in my opinion, should make a requirement in the technical specifications that when the information is sent to them, they should include not only the information around the sound recording—for instance, it's the Beatles recording *Let It Be* off the *Let It Be* album—but they should also simultaneously include who wrote it: John Lennon, Paul McCartney and the name of the entity that works for them if they hired one to do it. Now you have the full suite of information right there. If it doesn't come in, then don't make the recording live.

I'll harken back to the political talking point that will solve about 90% of these problems that I keep hearing about—which, frankly, are not true. If you ask somebody if they know what songs you wrote—Bob Dylan's my client—he says these are the songs he wrote. If you go to the kid in Toronto, they will tell you what songs they wrote. They know; it's just no one's asked them for it.

There is a benefit to collection agencies working on behalf, because it reduces friction to licensing for these organization. It allows scale, and I'm a big fan of that.

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

[Translation]

Mr. Chan, you mentioned earlier that you have a local team at the advertising sales office in Toronto. I'm sure that many people who know about public finances—which isn't the case for me—reacted strongly when they clearly heard that Canadian companies were required to collect taxes, but American companies weren't required to do so. It's still heresy, but it isn't your fault. It's our fault. It's up to us, the government, to resolve the situation.

Mr. Kee, Mr. Sheehan mentioned earlier that the Fédération nationale des communications, journalists' associations and cultural groups were complaining that your company now collects 50% to 80% of online advertising sales revenue. We're talking only about the information industry here. This situation has led to the loss of several thousand jobs.

I had a great-grandfather who worked in the ice box business. When the refrigerators and freezers arrived, he wasn't happy. He wanted us to continue chopping ice in the river and placing it in ice boxes. He lost his business. That's normal.

Our current news media may be less trendy and less modern than your company. However, in the past, advertising sales have enabled these media companies to hire many people. About 130,000 people work in the media industry in the area of advertising sales. If you've claimed 50% of these sales, how many jobs have you created in Canada?

[English]

**Mr. Jason Kee:** I don't think I can answer the question.

**Mr. Pierre Nantel:** I'll ask you in English.

Mr. Chan said he now has a sales team to advertise in Canada. He has employees and an office with people in it. Overall, the Coalition for Culture and Media is totally right. You are now grabbing at least 50% of the advertising money on the Internet; some say 80%. If all these jobs are jeopardized by this lack of revenue....

My grandfather said he was not selling any more ice because the guys working for you and your ice box and stuff are now working for a refrigerator company. It's okay; times change.

How about you? By your presence and your very useful tools, you are grabbing 50% of the advertising market on the web. Are you creating that many jobs in Canada?

• (1720)

**Mr. Jason Kee:** Our systems don't work in direct employment. I can't comment on the revenue, the relative market share, but we have a wide variety of advertising tools available. A number of publishers like The Globe and Mail and the National Post and so forth use our advertising infrastructure. They have a revenue share of 70%-80%—

**Mr. Pierre Nantel:** You're so good at it, Mr. Kee. You're so good at it.

**Mr. Jason Kee:** They actually—

**Mr. Pierre Nantel:** My question is not that.

**Mr. Jason Kee:** What I'm saying is that they actually earn revenue from us, and we also are deploying a number of different programs, including the Google News initiative—

**Mr. Pierre Nantel:** I want to have a clearer conversation. Some say that you grab—and I've seen this many times—80% of the Internet advertising sales, you and Facebook. I've seen that. Maybe they are going too far. Let's say it's 50%. I think we can agree on this minimum.

In this new consumer tendency to go and check the Internet advertising and check on Facebook—“Oh, I see that”—we consumers are reacting. You are not forcing anyone, but you are changing the habits of advertisers.

What I'm wondering is whether you are creating a good number of jobs as important as the losses of jobs we see in the old world—in the newspaper world and the regular TV world. How many jobs has Google created in Canada over the last 10 years?

**The Chair:** I'm going to have to jump in, because you're way over time.

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

**The Chair:** If you have a five-second answer, let's go for that.

**Mr. Pierre Nantel:** Can we ask for an answer in writing?

**Mr. Jason Kee:** I'm happy to provide the full Deloitte economic impact report, which says it's several hundred thousand jobs we've created through these systems.

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

**The Chair:** If you can submit that to the clerk, that would be—

**Mr. Jason Kee:** I think it's already been circulated, but I'll send it again.

**The Chair:** That's the link we sent to everybody? Okay, great. We already sent it.

For the final question, we have Mr. Sheehan.

**Mr. Terry Sheehan:** Thank you very much.

We're undertaking a statutory review of copyright, which happens every five years. It's a very important review. We gather information and send our report to the minister. The minister then responds.

Going last, I would frame the question in this way. What recommendations could this committee make to the minister that will support small—call them small—and medium-sized content creators in Canada, artists in Canada, and at the same time make sure that we are not doing anything to harm the innovative economy, which has been growing by leaps and bounds in the last five years as part of our innovation agenda?

Does anybody want to go first? Facebook?

**Mr. Kevin Chan:** I guess it's going to be me.

As I concluded in the opening statement, we do appreciate the fact that Canada actually has a pretty robust and balanced copyright system. We think that the balance is struck pretty well between rights holders and users and folks who want to innovate with content, and we would urge the committee to continue down the path of having a flexible system.

Beyond the specifics of the framework, in terms of the smaller emerging artists, I think one of the biggest challenges they have faced, from what I understand, is this question of discovery and being able to find new audiences or to find people who discover them because they like what they're doing. Sometimes it can be very niche and very specific. A platform like Facebook, which is a discovery platform, actually enables that. The ability of creators and artists to have a presence on Facebook and be able to connect directly with people is a very powerful thing. For the Internet writ large, this is how that ecosystem has worked. Being able to continue to have frameworks that allow for an open and innovative Internet is a very good thing for emerging creators.

I don't know, Probir, if you have some thoughts on that....

• (1725)

**Mr. Terry Sheehan:** Thank you.

**Mr. Jason Kee:** I basically support that. I flagged in my opening remarks specific information with respect to the exception around artificial intelligence or machine learning, just because it's not clear in the current act if that's permitted.

A number of companies and the Canadian government itself have invested hundreds of millions of dollars into basically developing that area and making sure that we as Canadians have a substantial competitive advantage in that area. To basically maintain that against the extent that it's potentially hampered by copyright is something that I think the committee needs to look at.

I think one of the biggest challenges that you have as a committee—and this touches on a lot of the issues that Jeff was talking about—is that I don't necessarily see copyright as the primary vehicle to resolve these. It's actually a bit of a cumbersome tool that allows you.... The discussions are about taking away intermediary liability or not, and there are profound consequences by actually engaging in those.

A lot of the discussion is about how we don't actually have accurate information with respect to the rights holders. How can we administer that? How are we actually setting the royalty rates, and how are people being paid? How are the platforms engaging in this process?

In my own view, it's actually an issue better addressed through collaborative and co-operative approaches, with the various stakeholders sitting at a table and working through it, often facilitated by the government. It's not something that a legislative response is necessarily going to assist without invoking tremendous unintended consequences and causing tremendous collateral damage.

**Mr. Terry Sheehan:** Jeff, do you have any last words?

**Mr. Jeff Price:** Number one, we have to get away from the philosophy of black boxes and guesstimates. We live in a world of technology; the information can be known. Money that is generated should be held until given to the appropriate copyright owner and should no longer be split up and handed out based on market share.

Number two, there has to be education for the creators. They have to understand the value of what they're creating and how to monetize that.

The third one is a bit of a radical statement, and it's based on my experience: Copyright owners need to have a lever that they can use to enforce their rights in the event that their rights are infringed upon. In the United States, we have statutory damages, which still persist despite the passage of the MMA. That leverage enables a copyright holder to stand up to a multi-billion-dollar corporate behemoth and say, "You can't do that." If you take away the right of those who create—copyright holders—to pursue that damage, then there's no recourse for them. It is a bit of a radical statement, and it flies against some of the statements made here, which would like less regulation and more blanket licensing.

However, I keep falling back on this: None of us would be here if not for the creation of the content that is driving people to these megacompanies. That's okay, but get a license and make a payment or don't use it.

**Mr. Terry Sheehan:** I want to thank you all for that great testimony. There's a lot for us to think about.

**The Chair:** Did you want to add something?

**Mr. Kevin Chan:** I just want to say that I misspoke about the URL for the transparency report. Just for the record, it's [transparency.facebook.com](https://transparency.facebook.com). There you'll find the latest copyright data.

**The Chair:** That takes us to the conclusion of today. I wish we had more time; it would have been quite useful.

I want to thank our panel for coming in today, being patient, answering our questions and certainly giving us a lot to think about.

On that note, thank you, everybody. The meeting is adjourned.

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