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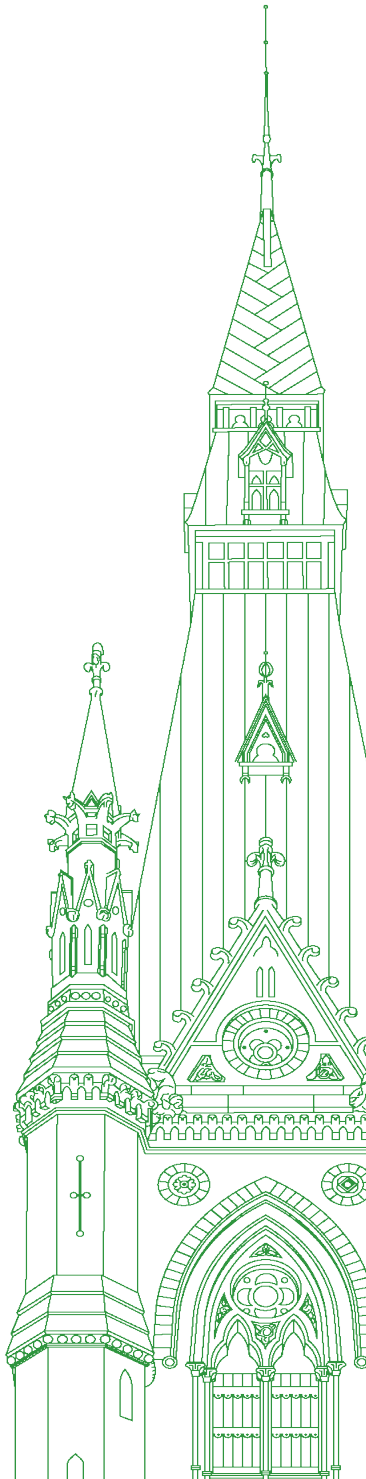

Chair: Mr. Scott Simms

Standing Committee on Canadian Heritage

Monday, May 17, 2021

● (1430)

[*English*]

The Chair (Mr. Scott Simms (Coast of Bays—Central—Notre Dame, Lib.)): I call the meeting to order.

Hello, everyone, and welcome back.

This is our 34th meeting of the Standing Committee on Canadian Heritage.

We are in the midst of doing clause-by-clause study of Bill C-10. As you know, of course, we took a little bit of a break to go on to other activities, including a motion that was passed to allow guests to come in and to also receive a document from the Department of Justice.

We also passed a motion to invite the Minister of Justice. Once again, I'd like to bring to everybody's attention—you probably know by now, through social media—that we did receive confirmation that Mr. Lametti will attend the Standing Committee on Canadian Heritage tomorrow, May 18, at 2:30 p.m. Eastern Time, for one hour, alongside the deputy minister and the other officials who were present last Friday.

Minister Guilbeault will also be attending. We didn't extend the invitation to him, but I didn't think you would mind if he tagged along and was involved in the proceedings as well. Nevertheless, if you do have a problem with that, you can simply not ask him a question, I guess. Perhaps that's how it goes.

That's for tomorrow. As you've just read, he's coming in for an hour. I want you to think about this for just a few moments, and we can discuss this later. Both ministers will be in, and we have what was required from the Department of Justice, so once that is complete, we can start clause-by-clause study again right afterward. That could be as soon as the second hour tomorrow or on Wednesday, as we have another meeting then. I will let you think about that for a while, and we can discuss it again later.

That said, the other part of the motion was to invite an expert panel, the membership to be based on suggestions from each of the parties represented officially on the Standing Committee of Canadian Heritage.

We have, suggested from the Liberal caucus, Ms. Janet Yale. If you remember, she is from the Broadcasting and Telecommunications Legislative Review Panel. She is the chair of it.

Welcome, Ms. Yale.

Also, from the Conservatives, we're welcoming back Dr. Michael Geist, who is the Canada research chair in Internet and e-commerce law in the faculty of law at the University of Ottawa.

From the Bloc Québécois, we have Mr. Pierre Trudel, professor, public law research centre at the Université de Montréal.

Welcome back as well.

Finally, from the NDP, from the Canadian Independent Music Association and by no means a stranger to this committee, as he was a former member of this committee not too long ago—I was sitting next to him, and I don't want to give my age as well as his—we welcome the president and chief executive officer, Andrew Cash.

You know how this goes. We're going to start this right away. We're not going to break; we're going to do a full two hours, if you wish. There will be lots of time for questioning, but I assume everybody's going to want a bio-break in there somewhere. With your permission, I will find a spot in approximately one hour from now to take that break, and then we'll come back to resume.

Let us first start out with Ms. Yale. Of course, these are opening remarks. You can go up to five minutes, but we ask that you not go beyond five minutes for the sake of our committee.

Ms. Yale, the floor is yours.

● (1435)

Ms. Janet Yale (Chair, Broadcasting and Telecommunications Legislative Review Panel): Thank you, Mr. Chair.

Thank you all for the invitation to be here today. My panel colleague Pierre Trudel and I are very pleased to provide our perspective on Bill C-10.

We endorse the federal government's efforts to update the legislative framework governing the broadcasting system to include both media streaming services and sharing platforms. This approach is consistent with our report, which recognized the realities of a borderless online world in which Canadians will seek to access media content based on personal interest, irrespective of platform or technology.

Bill C-10 would ensure that these new online streaming services, including Netflix, Disney+ and Amazon Prime, as well as sharing platforms like YouTube, are required to make an appropriate contribution to Canadian cultural content. These online services derive significant revenues from Canadian audiences from both advertising and subscription revenues, yet face no obligation to contribute. To imagine that in 2021 we would permit these platforms to make money from Canadian audiences, Canadian consumers and Canadian creativity without any corresponding contribution defies logic, particularly when our system imposes obligations on traditional broadcasters that are now much smaller, less powerful and less prosperous.

In our report, we recommended, as a matter of competitive fairness, that online undertakings be included in updated broadcasting legislation. Our report also made it clear that these regulatory obligations should be restricted to the platforms—that is, if we use the language of the law, to undertakings. Individual creators should remain untouched by regulation, and that is exactly what Bill C-10 proposes.

Let me say it again: Bill C-10 imposes regulatory burdens and the obligation to contribute to Canada's creators only on the undertakings such as the big streaming and sharing platforms, not on individual creators.

I will put it another way. Programs consist of audio and audiovisual content. TV shows, songs, podcasts, postings and that programming—all those programs—exist beyond regulation and will remain beyond regulation. Individuals who create content, whether amateur or professional, and audiences large and small are not affected by Bill C-10 when they upload their programming, share it or even sell it to a streaming service. No one is going to police that content, tell them what they can say or compel them to pay dues.

What Bill C-10 does require—and, from my perspective, thank goodness we are finally taking this step—is that the undertakings—the YouTubes, Disney-pluses and Netflixes of the world that share that content and make money from distributing content—must operate by a set of rules and contribute some amount of the revenues they are harvesting from Canadians to the production of Canadian content.

Finally, to those who argue that Bill C-10 fails to protect user-generated content, we say that is just wrong. Proposed section 2.1 specifically provides that exemption already. New amendments that have been tabled make this exclusion even clearer. Therefore, to persist in creating this illusory scare against freedom of expression is either to misunderstand the legislation, in my view, or to intentionally seek to mislead people for some other purpose.

I will finish by saying this: Legislation, of course, is complex, and broadcasting policy and its regulation can be very technical. Devils do lurk in details, and that is why the scrutiny of this committee is so important. However, what's at stake here isn't hard to understand: We need to make provision for the reality of these immense and hugely powerful online platforms. We need to ensure that they give to, not just take from, Canadian creators and Canadian audiences. We need to update a broadcasting framework that was last amended before the world was even online. We need what is set out in Bill C-10, with all its provisions and all its protections. We urge the government to pass this legislation as quickly as possible.

Thank you.

The Chair: Thank you.

Dr. Geist, you have five minutes, please.

Dr. Michael Geist (Canada Research Chair in Internet and E-Commerce Law, Faculty of Law, University of Ottawa, As an Individual): Thank you very much, Mr. Chair.

As you know, my name is Michael Geist. I appear in a personal capacity, representing only my own views. I always start with that statement, but it feels particularly necessary in this instance, given the misinformation and conspiracy theories that some have floated and that Minister Guilbeault has disappointingly retweeted.

As I am sure you are aware, I have been quite critical of Bill C-10. I would like to reiterate that criticism of the bill is not criticism of public support for culture or of regulation of technology companies. I think public support for culture is needed, and I think there are ways to ensure money for creator programs this year and not in five years, as in this bill.

Further, I am puzzled and discouraged by the lack of interest in Bill C-11, which would move toward modernizing Canada’s privacy rules to help address concerns about how these companies collect and use our data. The bill would also mandate algorithmic transparency, which is much needed and far different from government-mandated algorithmic outcomes.

I’ll confine my opening remarks to the charter-related questions and widespread concerns about the regulation of user-generated content, but would welcome questions on any aspect of the bill.

There is simply no debating that following the removal of proposed section 4.1, the bill now applies to user-generated content, since all audiovisual content is treated as a program under the act. You have heard experts say that and department officials say that. The attempts to deflect from that simple reality by pointing to proposed section 2.1 to argue that users are not regulated is deceptive and does not speak to the issue of regulating the content of users.

I will speak to the freedom of expression implications in a moment, but I want to pause to note that no one, literally no other country, uses broadcast regulation to regulate user-generated content in this way. There are good reasons that all other countries reject this approach. It is not that they don't love their creators and want to avoid regulating Internet companies; it is that regulating user-generated content in this manner is entirely unworkable, a risk to net neutrality and a threat to freedom of expression. For example, the European Union, which is not shy about regulation, distinguishes between streaming services such as Netflix and video-sharing services such as TikTok or YouTube, with no equivalent regulations such as those found in Bill C-10 for user-generated content.

From a charter perspective, the statement issued by the Department of Justice last week simply does not contain analysis or discussion about how the regulation of user-generated content as a program intersects with the charter. There is similarly no discussion about whether this might constitute a violation that could be justified, no discussion on the implications of deprioritizing speech, no discussion on the use of terms such as "social media service" that are not even defined in the bill, and no discussion of the implementation issues that could require Canadians to disclose personal location-based information in order to comply with the new, ill-defined requirements.

In my view, the prioritization or deprioritization of speech by the government through the CRTC necessarily implicates freedom of expression. The charter statement should have acknowledged this reality and grappled with the question of whether it is saved by section 1. I do not believe it is.

First, the bill as drafted, with section 4.1 in it, was the attempt to minimally impair those speech rights. With it removed, the bill no longer does so.

Second, the discoverability policy objective is not enough to save the impairment of free speech rights. There is no evidence that there is a discoverability problem with user-generated content.

Ms. Yale's panel, which notably appears to have lost its unanimity, recommended discoverability but cited no relevant evidence to support claims that there is an issue with user-generated content.

Third, the objective of making YouTube pay some additional amount to support music creation is not enough to save the impairment of free speech rights either. This isn't about compensation, because the works are already licensed. This is about paying some additional fees, given concerns that section 4.1 would have broadly exempted YouTube. I am not convinced that was the case, as services such as YouTube Music Premium might well have been captured. I am not alone on that. Canadian Heritage officials thought so too in a memo they wrote to the minister. In fact, it was such a non-issue that Mr. Cash's organization did not even specifically cite the provision or raise the issue in the brief that it submitted to this committee.

I find it remarkable that the minister and the charter statement effectively tell Canadians that they should trust the CRTC to appropriately address free speech rights but are unwilling to do the same with respect to how section 4.1 would be interpreted.

Let me conclude by noting that if a choice must be made between some additional payments by a streaming service and regulating the free speech rights of Canadians, I would have thought that standing behind freedom of expression would be an easy choice to make, and I have been genuinely shaken to find that my government thinks otherwise.

● (1440)

I look forward to your questions.

[*Translation*]

The Chair: Thank you, Dr. Geist.

Mr. Trudel, you have the floor for the next five minutes.

Mr. Pierre Trudel (Professor, Public Law Research Centre, Université de Montréal, As an Individual): Mr. Chair and members of the Standing Committee on Canadian Heritage, good afternoon.

I'm a law professor, and I've been teaching the Broadcasting Act since 1979. I was the research director of the Caplan-Sauvageau committee, which produced the 1991 Broadcasting Act. As my colleague Janet Yale pointed out, I was involved in the work of the Broadcasting and Telecommunications Legislative Review Panel.

As noted in the notice from the Department of Justice, which was tabled a few days ago, Bill C-10, amends the Broadcasting Act, which does not authorize measures to be taken against individuals with respect to the content they create and decide to put online. Above all, the act already clearly provides that all measures put in place to regulate broadcasting activities must respect freedom of expression.

Moreover, the Broadcasting Act has never authorized the CRTC to censor specific content. The CRTC's entire practice over the past 50 years is a testament to that. Furthermore, the Broadcasting Act requires that the CRTC refrain from regulating broadcasting in a manner that violates freedom of expression. It's hard to imagine a broader exclusion than that. It is an exclusion that requires a prohibition on interpreting the act in a way that empowers the CRTC to take action and create regulations or orders that violate freedom of expression.

In addition, as you know, the act provides that the CRTC shall refrain from regulating any activity that does not have a demonstrable impact on the achievement of Canadian broadcasting policy. In fact, the Broadcasting Act is enabling legislation. There are no specifics in the act. It is enabling legislation that empowers the CRTC to put in place rules adapted to the circumstances of each company so that they organize their activities in a way that contributes to the achievement of Canadian broadcasting policy objectives, as set out in section 3 of the act.

Therefore, Bill C-10 does not need to expand exclusions for any type of content. Rather, it is a recognition that Bill C-10 already excludes measures that could be suspected of infringing on freedom of expression and ensures that the Broadcasting Act applies to all companies that transmit programming, including on the Internet, which is the primary purpose of Bill C-10.

With regard to these online companies that determine content and that, it's important to remember, already regulate content that is offered to individuals through processes based on algorithms or artificial intelligence technologies, Bill C-10 strengthens the guarantees of fundamental rights for all Canadians. It empowers the CRTC to compel companies to provide information on the logic behind these algorithmic devices, which does not currently exist. It enables the CRTC to put measures in place to ensure that Canadians are offered programming that reflects the principles, values and objectives set out in section 3 of the Broadcasting Act.

Nothing in the Broadcasting Act as it is proposed to be amended would allow the CRTC to impose on anyone programs that they do not want to hear or see, let alone allow the CRTC to censor content on platforms.

Rather, the act provides individuals with a real opportunity for choice. There is currently no guarantee that online companies are offering Canadians a real and meaningful choice that reflects Canadian values as codified in the Broadcasting Act.

There has been a constant since the early years of radio, and that is a tension between those who believe that broadcasting undertakings should be left to market forces alone and those who—rightly, in my view—believe that intervention is required to ensure the effective availability of programming that is the product of Canadians' creative activity.

● (1445)

Bill C-10 is part of this continuum, which has allowed Canadians to have media that offers the best the world has to offer, while also giving prominence to the works of Canadian creators, including creators from minority and indigenous or first nations communities.

Thank you.

● (1450)

The Chair: Thank you, Mr. Trudel.

[*English*]

Mr. Cash, you have five minutes, please.

Mr. Andrew Cash (President and Chief Executive Officer, Canadian Independent Music Association): Mr. Chair, honourable members of the committee and fellow panellists, good afternoon.

My name is Andrew Cash, and I'm the president and CEO of the Canadian Independent Music Association. It is a pleasure to be back at committee.

Let's start by getting one thing off the table. Digital platforms like Netflix, Spotify and YouTube are incredible. They represent phenomenal opportunities for Canadian arts and culture creators.

It's been said that being in the music business is a great way to get rich and a lousy way to make a living. The pandemic has put this maxim in stark focus. Many artists and musicians lived below the poverty line before the pandemic, but the pandemic has made things much, much worse. Travel and gathering restrictions have meant no touring, no live shows and no income at all.

The pandemic has also underlined the systemic inequities in the market that have led to diminished compensation for creators. This imbalance has put the promise of a stable middle-class sector of artists and arts and culture workers further and further out of reach for this country. The sector is in crisis.

CIMA commissioned Nordicity to do a report on the impact of COVID. It found that the independent music sector saw a drop in revenue of $233 million, live music saw a drop in income of 79%, independent sound recording and publishing companies saw a 41% decline in revenue, and thousands of jobs were lost. That was just in the first nine months of the pandemic.

We don't expect to return to pre-COVID levels of revenue until 2023 or 2024 at best, but as we move towards recovery, we must address the elephant in the room: Digital giants doing business in Canada make lots of money off Canadians but pay fractions of a cent to content creators, and they operate here without any accountability or regulatory obligations, including to fairly contribute to the arts and culture ecosystem.

Really? Are we okay with this?

Given the numbers that I've laid out before you today, if there ever were a time when we needed you to stand up for the little guy, it's right now. Do you really want to go back to your ridings and say to your constituents, “Yes, I voted to protect big tech. I voted to allow them to continue raking in the profits, taking profits out of the country and not contributing a dime in return.”? Unless things have dramatically changed since I was an elected politician, I don't think you want to be doing that. In fact, many of you, from all parties, have pointed out that this inequitable playing field is wrong and that we have to do something about it.

CanCon regulations were created 50 years ago and helped establish a domestic industry within a domestic market. We wanted to protect and nurture French-language creators who were surrounded on all sides by English-language cultural content and English-language creators who were competing on all sides with the massive giant next door. Well, today our arts and culture marketplace is no longer a domestic one. Digital platforms have transformed the way content is consumed. Today the marketplace is global. Today we need a modernized system to grow our domestic industry into one that will thrive in the global market.

This bill, flawed though it is, could point us towards new modes of discoverability, towards new investments in our artists and our arts and culture entrepreneurs, and towards information transparency and accountability from big tech companies that simply doesn't exist right now.

CIMA believes that the bill as amended did not infringe on individuals' rights and freedoms. That belief was affirmed by last week's charter statement and further proposed amendments. However, let's be clear: We would oppose any measure that puts those rights at risk. Artists have long been at the forefront of fighting for civil liberties and freedom of expression against monolithic power structures. Our work quite literally depends on civil liberty and the protection of freedom of expression.

Bill C-10 couldn't [*Technical difficulty—Editor*] bad videos. What it could do, though, is begin to make a real difference in the lives of musicians, content creators, entrepreneurs and [*Technical difficulty—Editor*] across the country. It has the potential to move the creative sector from precarity towards middle-class stability, unlocking innovation and creating a global presence for the sector.

● (1455)

That's why I implore you today to continue your work in amending Bill C-10 as expediently as possible in order to pass it through Parliament before the end of the spring session.

Thank you.

The Chair: Thank you, Mr. Cash.

I have just a couple of housekeeping items, folks. Dr. Geist, we had some popping on your microphone. Could you put the microphone between your nose and your mouth?

That's it. You've got it right there.

There is one other thing. I also want to welcome Mr. Manly. Mr. Manly from the Green Party is here with us today. If you're watching from afar, our four political parties are permanent members on this committee. Mr. Manly is from the Green Party. The rules state that the Green Party is not an officially recognized party, but members can take part by asking questions, getting involved in debate or proposing amendments. They can't vote on them or move motions of that nature, but they can participate.

That said, Mr. Manly—and I'm sure my committee will agree—has been quite active thus far on amendments. For that reason, as part of the chair's discretion, Mr. Manly, I'm going to put you in as number five on the first round. I'm going to give you between three and five minutes. I'll give you a rough number. After that, I'm afraid you'll have to turn to some of your colleagues to get more time than that. I'll put it at the end of the first round. We'll go from Ms. McPherson to you, and I'll give you between three and five minutes on that round.

Off we go, folks.

To start with, I have two names: Ms. Harder and Mr. Waugh. Do you want to share three minutes each, or Ms. Harder, would you like to start and then throw it to Mr. Waugh when you're ready?

We'll go with the latter.

Ms. Harder, you have six minutes at your discretion.

Ms. Rachael Harder (Lethbridge, CPC): Awesome. Thank you so much, Chair.

My question is for Dr. Geist.

Ms. Yale, the minister and all of the other witnesses on this panel today have tried to make the claim that our freedom of speech is not being attacked by this bill. In fact, they claim that it's not even impacted, and that somehow content can be moved up or down in the queue without impacting other content. It would be my observation that in order for some information to be bumped up and made more discoverable, other information must be bumped down. I just don't see how it's possible for that not to be the case. When that is the case, it means that there's a mechanism being used to regulate and curate what I can and cannot see, which then would be a form of censorship.

Mr. Geist, I'm wondering if you can comment or elaborate on this further.

Dr. Michael Geist: I think you've highlighted what is the nub for so many experts that have spoken out on this issue.

First off, let's be clear: User-generated content, when we are speaking of the content, is regulated. It's absurd to simply suggest that you're exempted or the CRTC is bound by some other policy objectives. We are putting it into the basket of regulation. We would never dream of saying the CRTC would or should regulate things like our own letters or our blog posts, but this is a core expression for millions of Canadians, and we are saying that it is treated as a program like any other, and subject to regulation. That's number one.

When you layer on top of that—as the Liberals' proposed amendment does—discoverability requirements, what you are saying is that the government, through its regulator, gets to determine what gets prioritized. It is not about any specific piece of content per se, but it's going to make choices, elevating some and deprioritizing others. That clearly has an impact on individual Canadians' expressive rights. It's doing so in an environment that frankly is completely unworkable, when you think about this from a user-generated content perspective. The notion that somehow this increases choice at a time when there is unlimited choice for user-generated content is frankly just absurd.

● (1500)

Ms. Rachael Harder: Thank you.

I'll give the rest of my time to Kevin Waugh.

Mr. Kevin Waugh (Saskatoon—Grasswood, CPC): Thank you.

I'm going to continue with Dr. Geist.

I was at the original news conference on the Yale report. The chair had talked about levelling the playing field. We've often heard for the last several months about levelling the playing field. You say that's not the case.

Maybe you could just talk about that. “Level the playing field” is an expression that this government has used since it introduced this bill in November.

Dr. Michael Geist: It does. Ms. Yale often talks about like for like, as if we need to treat all of these players in the same fashion.

What we ought to recognize is that the existing broadcast sector enjoys a whole series of regulatory advantages, worth hundreds of millions of dollars, that are not available to streaming services. It's things like simultaneous substitution, whereby they substitute out commercials worth hundreds of millions of dollars. It's the must-carry rule so that you have to carry certain channels, which are otherwise unavailable. It's foreign investment and ownership restrictions. There are a whole series of measures that actually don't make this like for like.

Now listen: That's not to suggest that there ought not to be a regulatory environment for online undertakings. What I would say, though, is that trying to treat them in the same fashion as this bill does has rendered it fundamentally flawed, and this committee ought to know it better than anyone. It has had witness after witness say they're concerned about things like changing Canadian ownership requirements, changing the prioritization of performers, changing Canadian intellectual property, and all of that is a function of trying to treat online in precisely the same fashion as conventional broadcasters.

Mr. Kevin Waugh: You have been pretty vocal on Twitter and other social media about this. You've said to scrap this bill and start over. Others on this committee want this bill to proceed.

It's been 30-plus years now since we've updated the Broadcasting Act. We all realize that this act has to be modified at some point. Could you talk about scrapping it and what you would put in there instead of what we have in front of us today?

Dr. Michael Geist: Sure.

I would start by noting that I think we've seen the flaws. Even Mr. Cash acknowledged that it's a flawed piece of legislation, and we now have the government contradicting its own departmental officials again and again on things that were directly included in government memos from the heritage department to the minister with advice on some of these issues.

It's a flawed piece of legislation. The concerns are real and legitimate, raised by an incredible number of people, including people who have been some of the biggest critics of tech companies in the country.

I would suggest that we need to get this right, because we don't change our legislation that frequently. Clearly, it runs sometimes for decades. At the same time, we need to ensure that there is money for creators for precisely the kinds of reasons Mr. Cash identified.

What I would say is that the starting point is tax dollars. The government has already announced it wants to increase the taxes on tech companies. It should take some of that tax money and allocate it directly to the various creator programs. In doing so, there could be money this year, at a time when there really is that need for money, as opposed to the way it will play out with this bill. It is undoubtedly going to take years before the CRTC finishes with the litigation that is inevitable to ensue. Nobody is going to see a dime coming out of this legislation for years. There's a mechanism both to get the legislation right and to ensure that creators get money and get it quickly.

Mr. Kevin Waugh: I must have a few seconds left.

There is an open letter, I see, to the Prime Minister.

Mr. Chair, do I still have 30 seconds left, or am I done?

The Chair: I'll let you ask your question very quickly.

Mr. Kevin Waugh: There is an open letter about Canadian Internet policy, and technical professionals put it out. It's about the future of free and open Internet. Could you comment on that? It's a letter sent to the Prime Minister today.

Dr. Michael Geist: It is, and I'm proud to have signed that letter.

I think one of the most shameful aspects of this debate over the last few weeks has been the continual attempt to suggest that somehow it's just people who are speaking on behalf of tech companies or who aren't critical or who don't want to see any Internet regulation who have concerns over Bill C-10.

That letter has been signed by some of the fiercest critics and biggest experts around tech policy, including Ron Deibert, Bianca Wylie, Nasma Ahmed and Lex Gill. These are people Canadians have learned to trust, people who have expressed real concerns about the tech companies. They've look at Bill C-10 and they've looked at government policy around the Internet and said that they're very concerned about the direction we're headed.

● (1505)

The Chair: Thank you, Dr. Geist. I appreciate that.

Now, folks, there's one thing I want to point out. In a normal setting, when we're all together, sometimes our witnesses would like to be recognized to say something.

I notice Ms. Yale has her hand up virtually, and she wishes to discuss that; however, I have to say that when we give the members of the committee the full six minutes, it is theirs alone. I only ask that colleagues be cognizant if someone may have their hand up or not. You don't have to go to that person, but just know that they will be recognized. Once that colleague stops asking questions, we're going to lower the hands, and then we'll start again.

That being said, we now go to Ms. Dabrusin for six minutes, please.

Ms. Julie Dabrusin (Toronto—Danforth, Lib.): Thank you, Mr. Chair.

In fact, I noticed that Janet Yale had her hand up and seemed to want to respond to some of the aspects that were touched upon by Dr. Geist on discoverability and the like.

Perhaps we could start there, with your ability to respond.

Ms. Janet Yale: Thank you very much. I want to make just two or three quick points.

The first is that programs aren't regulated; undertakings are. When Dr. Geist says that if it's a program, it's regulated, it's not a program unless it's offered by an undertaking. Online undertakings are the only ones that are subject to regulation. It's not people who make programs. It's really that clear. Point number one is that a program isn't regulated; only an undertaking is regulated, whether it's a streaming platform or a social media platform.

Secondly, on discoverability, the way Dr. Geist described it would have you think that the algorithms that are operated by the likes of Amazon and Netflix are just mathematically pure, uncontaminated by commercial considerations, and that everything you see is driven completely in an agnostic way by consumer preferences. Well, I can tell you personally that when I've bought things on Amazon or I've chosen a show on Netflix, before I know it, I have pushed to me all kinds of things that have nothing to do with my preferences or taste but everything to do with the things that the provider in question is trying to push.

Once we acknowledge that algorithms are not agnostic, then it's really a question of whether cultural policy has a role to play in a world of so many choices and unlimited amounts of content in ensuring that we know what Canadian choices might be available. That's just the simple principle of discoverability, and it's not about interfering with freedom of choice. It's about promotion of Canadian choices. Nobody has to watch it if they don't want to watch it. There are actually no restrictions on freedom of choice whatsoever.

Those would be my thoughts, but I'm happy to answer any other questions you may have.

Ms. Julie Dabrusin: Thanks.

[*Translation*]

I'd like to give Professor Trudel time to add something to what Dr. Geist said.

Mr. Pierre Trudel: It is essential to understand that the algorithms used to direct the flow of content on the Internet are not neutral. These are default regulations, default rules. At the moment, there is absolutely no guarantee that these default regulations, which are based solely on the commercial choices of commercial enterprises, do not involve biases or possible violations of fundamental rights. If we want to get into the area of conjecture, we must also take that into account.

At present, Canadians have no guarantee that their choices are not being directed in the same undemocratic way that they could possibly be if the multiple scenarios that have been discussed were to become reality. If the CRTC ever decides to violate the Broadcasting Act by imposing regulations that contravene the Canadian Charter of Rights and Freedoms, our freedoms would be at risk. This is a very distant possibility.

Right now, there are some very real contingencies. The practices of the companies that dominate the online platforms in a monopolistic way can, with impunity, without anyone looking at them, infringe on our fundamental rights. That is the real issue with respect to fundamental rights. It is in this sense that Bill C-10 would strengthen the protection of our fundamental rights.

Unfortunately, there is no protection on the Internet at the moment. Our rights aren't protected. Our rights to access content relevant to us and our rights not to be spied on when we make choices aren't guaranteed. Government regulations can guarantee them.

● (1510)

Ms. Julie Dabrusin: Thank you very much.

[*English*]

I only have a minute left. I will go back to Janet Yale, please.

There's been some conversation about how much consultation went into preparing for this bill. Could you just quickly talk about the number of consultations and the stakeholders you spoke with in preparing your report, which formed the backdrop to preparing Bill C-10?

Ms. Janet Yale: Thank you for that question.

In fact, we went to great lengths to go coast to coast to coast to meet with people. We reached out proactively. We made it clear that we were ready, willing and able to meet with anyone, with any stakeholders—minority language groups, indigenous communities and all the different stakeholders—from all sides of the debate. We spent about six months just doing consultations to make sure we heard how the organizations, how the stakeholders and how the consumer groups were feeling challenged about the current environment and that we heard their recommendations for how we should go forward.

We didn't start deliberating until after written and oral consultations that took us from, I would say, August until January of 2018 through to early 2019, when we began our deliberations in earnest.

The Chair: Thank you, Ms. Yale.

[*Translation*]

Mr. Champoux, you have six minutes.

Mr. Martin Champoux (Drummond, BQ): Thank you very much, Mr. Chair.

I'd like to thank the witnesses for being with us today. Their visit was highly anticipated. I'm grateful to them, and I thank them for their availability.

I'll start with Mr. Trudel.

Mr. Trudel, a few moments ago, you talked about the fact that, as things stand, we are still much less protected. Privacy, freedom of expression and, at the very least, freedom of choice of content are less protected. Bill C-10 has no intention of infringing on this.

Do you think the bill will improve things or will the status quo be maintained?

Mr. Pierre Trudel: I believe that Bill C-10, which seeks to amend the Broadcasting Act, will ensure that the resulting legislation will better protect the rights of Canadian citizens and consumers. As for the possibility of allowing the CRTC to take a look at algorithmic processes, it's always important to remember that it's not a body that censors content behind closed doors. It's a body that regulates certain activities through a public process to which everyone is invited.

During these processes, the CRTC could invite the major platforms to explain how the algorithms and other processes they use to administer the flow of various content work. It could ask them to explain how these are compatible with Canadian values and how they are not likely to be subservient to undeclared commercial interests. It could also ask them to explain how consistent they are with Canadian values, which are different from American values. I"m thinking of equality and diversity, among other things. Most importantly, it could ask them to explain to what extent algorithms provide real proposals to Canadians and how they can be organized in such a way that they reflect the values found in the Broadcasting Act.

For example, they could give visibility to cultural productions from minority groups, as well as the rich production of Canada's indigenous peoples or racialized people. In short, with an amendment to the Broadcasting Act, such as the one proposed here, the act would promote freedom of expression rather than censorship. In a sense, it would encourage companies to promote Canadian creativity, while leaving consumers free to consume what they want.

Online, no one thinks for a second that you can force someone to watch what they don't want to watch. This issue has long been settled. However, what is often hard to find on platforms is cultural products that reflect Canadian creativity or the productions of creators from Canada's linguistic or cultural minorities. That is what is currently missing on the platforms. That's why Canada has managed to set up an audiovisual or media system that is very open to the world and that has never practised censorship, as some seem to claim.

On the contrary, not only do we have access to everything in the world, but we also have access to the productions of our creators. That's the difference. That's why I think it's an act that increases our fundamental rights—

● (1515)

Mr. Martin Champoux: Mr. Trudel, I'm going to interrupt you because I want to bring you back to the issue you just raised, which is censorship.

Basically, the purpose of all of you being here today is to try to sweep this issue under the rug so that we can continue to do important work on this bill. I completely agree with you that it is absolutely necessary to protect culture. However, the fact that section 4.1 is no longer being created has raised concerns among some people and groups. Other amendments are coming, including section 2.1, which does not seem to be enough to convince people. Generally speaking, when you talk to us about Bill C-10, you see absolutely no risk to freedom of expression. However, let's suppose that, in an extrapolated scenario, the CRTC ends up making decisions that go against freedom of expression.

First, could such a scenario occur, and in what context? Second, what would be the remedies for it?

I think there are defence mechanisms, in all of this.

Mr. Pierre Trudel: Absolutely.

If the CRTC made such a decision, it would be done through a public process. There would be a call for public comment. It would invite all Canadians to come and give their views on the action it was considering. Then it would take those actions. It would issue an order or a regulation. This regulation or order could be challenged under the provisions that are already in the Broadcasting Act.

One of the first challenges that would come to mind is that the CRTC would have interpreted the act in a way that contradicts freedom of expression. This seems to me to be a particularly remote or unthinkable hypothesis, since, for this to happen, the CRTC would have to have ignored all of these provisions.

The Chair: Thank you.

Mr. Martin Champoux: Thank you, Mr. Trudel. We'll come back to this.

[*English*]

The Chair: You have no idea how much I truly appreciate your enthusiasm after being on this committee for a long time, but I have to leave it at that, as we also have to follow the clock here.

We now go to Ms. McPherson.

● (1520)

Ms. Rachael Harder: Mr. Chair, I would like to raise a point of order.

The Chair: One moment. Ms. Harder has a point of order.

Ms. Rachael Harder: Thank you.

Mr. Chair, I'm just looking for clarification. I understand that you've given the Green Party member some time to ask questions. It's my understanding that this is permitted only if another member who is a permanent member on this committee agrees to share their time.

The Chair: Actually, Ms. Harder, under normal circumstances I've done that, yes, but I've also seen precedents in which we've allowed discretion for other members to be involved. I have not given Mr. Manly any time thus far in the Bill C-10 deliberations. However, he's been very active in proposing amendments, and I thought it would be at the chair's discretion to say, “Yes, go ahead.”

He's only getting the one question—certainly no more than five minutes—and there are precedents for that, Ms. Harder.

Thank you very much.

Ms. Rachael Harder: Thank you.

The Chair: Ms. McPherson, you have six minutes, please.

Ms. Heather McPherson (Edmonton Strathcona, NDP): Thank you, Mr. Chair.

I'd like to thank all of the witnesses for joining us today.

Obviously our goal here is to create broadcasting legislation that protects Canadians' freedom of expression and also levels the playing field and makes the web giants contribute to our broadcasting landscape. I appreciate that you've all come here to share your expertise, because I think we're all trying to get to a place where we can work collaboratively, hear from experts, get the best information possible and create the best legislation going forward.

I know we all recognize that the legislation before us needs some work and needs some attention, so I thank you for being with us here today and helping make this bill or future legislation as good as it possibly can be for our broadcasters and for our artists and our creative sector.

I'm going to start by asking a few questions of Mr. Cash.

Mr. Cash, you spoke about the impact and the importance of the independent music industry for our local culture and our economic development. Could you speak a little bit more about that, please?

Mr. Andrew Cash: Thank you so much for the question.

You know, roughly 80% of all the players in the music scene, in the music sector writ large in Canada, are solo self-employed or solo operators. They are running, in a sense, small businesses. There are some larger entities, of course, but that's the reality. Their combined efforts and their combined risk....

By the way, there is a lot of risk, not just on one's financial resources but also on one's physical and mental health, in being in this business. There is a real need for people like you to really understand what we're doing and how we do it. People don't really know how the music they're listening to in their earbuds got there. They don't how it was made and who made it. That is one of the reasons that a bill like Bill C-10 is so important.

As I said in my opening remarks, COVID really has laid bare the vulnerabilities in the system. It would be one thing if this were pre-Internet, but the fact of the matter is that these massive companies are interacting with our arts and culture sector. They essentially need the content, and not just Canadian content but the content of all creators around the world. They need it in order to make their platforms roll. Too often it is especially the artists and the small independent Canadian-owned companies that get swept under.

There's one other thing that's important to note here when you're asking about the Canadian independent music scene. We're talking about Canadian-owned companies. We're not talking about multinational entities. We're talking about people who live and work in your communities, people who are developing intellectual property and many times are successfully exporting that to markets beyond our borders and bringing that revenue back to Canada.

We look at Bill C-10 as a way of really improving that and adding to that.

● (1525)

Ms. Heather McPherson: Thank you. That's wonderful.

One concern that's come up as we talk about Bill C-10, of course, is the need for freedom of expression to be protected. Of course, this is something for which, as you will know, the NDP has pushed for a very long time. I think artists probably more than any other group of people would defend freedom of expression. It's at the heart of their reason for being.

Could you tell us more about the economic reality for artists in your industry and why they want web giants to pay their fair share while fully, of course, respecting the freedom of expression and the ability of people to publish content of their choice on the Internet?

Mr. Andrew Cash: Right now, the way the Internet sector is working for music is that few companies, few artists, have any leverage in negotiating with YouTube. The music's generally up already. The choice is between licensing and getting a lousy return on that licensing or getting no money at all. That is really a stark choice for entrepreneurs, absolutely, but for the artists themselves, it presents a huge problem.

I'm not going to say that it's all terrible news for artists. As I said right off the top, these platforms represent enormous opportunity, but we have to get it right. Part of getting it right is bringing these massive companies, the biggest companies in the history of time, under some kind of regulatory system whereby they can be accountable to the people of Canada.

Ms. Heather McPherson: And contributing to our artistic sector, of course.

Mr. Andrew Cash: Yes—100%.

Ms. Heather McPherson: You probably know this, but Edmonton Strathcona has an enormous number of artists. I can't wait until we can have live shows again and we can see some of our artists.

Thank you very much for what you've done to encourage artists. Thank you for your testimony today.

Mr. Chair, I believe that is my time. Is that correct?

The Chair: It's close enough. You have just enough time to say “hello.”

Ms. Heather McPherson: Hello.

The Chair: Done.

Mr. Manly, I'll say you have up to five minutes.

Mr. Paul Manly (Nanaimo—Ladysmith, GP): Thank you, Mr. Chair.

Thank you to the witnesses for appearing today. This is a very interesting debate on a very important bill. I've worked in the broadcasting industry in multiple different ways. I was a professional musician as well, so this is very near and dear to me.

To start, I want to ask Mr. Trudel if he approved of the removal of proposed section 4.1.

Then I would like to ask you, Mr. Trudel, about net neutrality and how the algorithms affect the concept of net neutrality in terms of the Canadian law on net neutrality. I understand the concepts of throttling, but how do the algorithms affect the law on net neutrality?

[*Translation*]

Mr. Pierre Trudel: I am among those who believe that section 4.1 was unnecessary. It was confusing because the act already provides all the necessary safeguards to ensure that the regulation of the broadcasting system in Canada is done in full respect of freedom of expression. In addition, the CRTC is obliged to limit its action to those undertakings whose activities and actions have a discernible impact on the achievement of Canadian broadcasting policy. Therefore, section 4.1 was rightly removed as unnecessary, in my view. In fact, I wrote about it in an article in *Le Devoir*.

The algorithm is interesting. Algorithms, currently, regardless of how they work, determine which types of content will be more visible than others.

Whether it's traditional broadcasting or online broadcasting, a fundamental feature of broadcast media regulation in all countries is that there are laws that necessarily balance the commercial interests of companies with other interests that must be accommodated. In traditional broadcasting, this has taken the form of rules limiting the commercial activity of radio or television stations, limiting advertising time, for example. In the case of online broadcasting networks or undertakings, it is foreseeable that the CRTC will develop new ways of ensuring that balance between commercial imperatives and other objectives that broadcasting legislation has always sought to uphold throughout Canadian broadcasting history.

What sets Canada apart from many other countries in the world is that we have a radio and communications system that is more than just a conduit for the delivery of material based on strictly commercial or business logic. So it's this type of—

● (1530)

[*English*]

Mr. Paul Manly: I want to just take a moment to ask Mr. Geist the same question about the concept of net neutrality and how algorithms work.

Are they are just feeding us commercial content? How is having Canadian content rules and discoverability as part of that algorithm going to be different? How do these things affect net neutrality and the law on net neutrality?

Dr. Michael Geist: I appreciate the question.

First, for those who are not aware, net neutrality speaks to the need to treat all content in an equal fashion, regardless of source or destination. That's been a core principle, I thought, of successive governments, although it seemed like the heritage minister expressed some doubt on it, at least in one media interview around that issue.

Quite frankly, we just heard from Professor Trudel. He said that algorithms determine the type of content that is visible. That speaks exactly to the concerns around net neutrality and the notion that an algorithm can in fact undermine those net neutrality principles.

If it is being done at the behest of a government, which is precisely what is being proposed under this bill, the CRTC will be making those determinations. That is where the speech implications and the concerns from a net neutrality perspective arise. That is, I repeat, precisely why no country in the world does this. Nobody thinks it is appropriate to have a government make these kinds of choices about what gets prioritized or not prioritized with respect to content.

The algorithmic transparency that Professor Trudel mentioned is something entirely separate. In fact, it is something that is absolutely necessary from a regulatory perspective and is even included in Bill C-11, which the government, for whatever reason, has largely buried and hasn't moved forward.

It's not about whether we regulate algorithms; it's about whether the CRTC and the government use those algorithms to determine or prioritize or de-prioritize what we can see.

The Chair: Thank you, Dr. Geist.

Mr. Paul Manly: Thank you.

The Chair: We will now move on to our second round, everybody.

[*Translation*]

Mr. Rayes, you have five minutes.

Mr. Alain Rayes (Richmond—Arthabaska, CPC): Thank you, Mr. Chair.

Mr. Trudel, I'd like to ask you a fairly direct question, and I'd like a fairly brief answer.

You've spoke several times about the CRTC as an effective regulatory body, which will ensure that it is a bulwark against the questions of many experts regarding freedom of expression.

However, in *Le Devoir* this morning—you even quoted a letter you sent to the same newspaper—former CRTC officials express an opinion completely opposite to your current reading of Bill C-10. These former CRTC officials are Timothy Denton, CRTC commissioner from 2009 to 2013; Konrad von Finckenstein, CRTC president from 2007 to 2012; Peter Menzies, the CRTC's vice-president of telecommunications from 2013 to 2018; Michel Morin, the CRTC's national commissioner from 2008 to 2012; and Philip Palmer, legal counsel at the Department of Justice and senior counsel at the Department of Communications from 1987 to 1994.

Could it be that experts have opinions that are different from yours and that hold water. These are people who were on the ground.

Do these people have any credibility, yes or no?

Mr. Pierre Trudel: I don't comment on the credibility of competence of individuals.

What I see, however, is that the CRTC is governed by legislation. Its decisions throughout its history have been upheld by the courts. The most famous decision that could be invoked by people who think that the CRTC is a censorship bureau or inquisition tribunal is the decision not to renew the licence of a Quebec City radio station in 2004. The Federal Court confirmed that the CRTC properly applied the rules and did not violate freedom of expression. That has been confirmed by the Supreme Court.

● (1535)

Mr. Alain Rayes: You mentioning the CRTC a lot, but CRTC actors raised a red flag this morning because they feel that they're seeing a one-size-fits-all discourse in the public realm. These people, who were enforcing this legislation, say that it's not working.

Excuse me, I want to finish my comment because my next question is for another witness. I only have five minutes.

I want to show you that there are different discourses. These people have the right to speak, and they have the right to have a voice in the Canadian Parliament.

With that said, I will allow Dr. Geist to explain to us the difference between section 2.1 and section 4.1. The Minister keeps telling us that under section 2.1, everything is protected and user content will not be put at risk. At the same time, Mr. Trudel refers to section 4.1 as a source of confusion, saying that ultimately it should not have existed.

Dr. Geist, as a law professor and a great defender of freedom of expression, can you give us your perspective on that?

[*English*]

Dr. Michael Geist: Sure, I'd be happy to.

I find it quite remarkable that we get some witnesses saying that it doesn't mean anything at all and we get others saying that it should be removed. Presumably, then, there was a problem with it.

Here's the bottom-line reality as I see it, as many other experts see it and as the department saw it, including in comments made directly to this committee and in memos written to the heritage minister that are now available under the Access to Information Act.

First, proposed new section 2.1 speaks, as we've heard, directly to regulating online undertakings. It is true that we are not going to treat a million TikTok users as equivalent to CTV or other broadcasters. They won't have to appear before the CRTC, which makes a whole lot of sense, because they are not broadcasters.

However, there's been some concern even around that. Of course we had the heritage minister mention the number of viewers or followers you have might pull you into that scope, and some creator groups have suggested that this ought to be the standard that is used. It doesn't appear to me, however, that this is what proposed new section 2.1 would do.

What proposed new section 4.1 sought to do was ensure that the programs themselves, the content, would not be treated as something potentially subject to regulation by the CRTC.

There was not significant confusion. There were, to be sure, any number of different online services that would have to go before the CRTC to determine whether the content on their service was captured by this measure. These would include some of the YouTube services. It certainly was within the realm of possibility that those would be captured.

If we are such big fans of the CRTC's getting it right, I would have thought we would have confidence that we could both safeguard and protect user-generated content and that critical form of expression and also have confidence in the CRTC to get it right in determining where the application of the law might lie.

[*Translation*]

Mr. Alain Rayes: Thank you, Dr. Geist.

I have one last very quick question to ask you.

Can we be both for net neutrality, as stated by Mr. Guilbeault, Ms. Joly, Mr. Lametti and Mr. Bains in various speeches, and support the bill as amended?

Can both of these things be stated at the same time?

[*English*]

Dr. Michael Geist: I don't believe that the bill, as currently drafted, much less some of the plans that we know the government has talked about with respect to website blocking, is consistent with net neutrality.

We should be clear. Canada has been looked to as a leader in this space, as a leading voice on net neutrality. It even has sometimes sought to distinguish itself from the United States and others that have taken a step back from net neutrality. To pass this legislation and give the government the right to prioritize or de-prioritize speech severely undermines our credibility as a voice for net neutrality.

The Chair: Dr. Geist, thank you very much.

Now we move on to Ms. Ien.

Folks, before we go to Ms. Ien, earlier I mentioned a short health break. Do we still want one?

We do. Okay, we'll do one very shortly, after Ms. Ien.

Go ahead, Ms. Ien.

Ms. Marci Ien (Toronto Centre, Lib.): Mr. Chair, thank you so very much.

Thank you to our witnesses for joining us today in what has been an excellent discussion.

I'd like to go to Ms. Yale first.

Ms. Yale, I want to pick up on net neutrality, because we've been hearing a lot about that for the past several minutes. Does this bill risk net neutrality? As pointed out, Canada has been a leader with regard to net neutrality.

● (1540)

Ms. Janet Yale: Thank you for the question.

Obviously, from my perspective, it does not risk compromising net neutrality. Net neutrality has to do with the ability of primarily telecommunications carriers, in their carriage function, to ensure that they don't advantage or disadvantage particular content. If you think about online Internet services that are offered, if you're a Bell or Rogers customer, you have to make sure that your online subscription to Disney isn't better serviced than your online subscription to Crave or to a different streaming service. The principle of net neutrality is that carriers should be agnostic about the way in which they make sure that content starts at point A and gets delivered to point B without interference, throttling or blocking. In our report, we were very clear that the principle of net neutrality is fundamental.

It's quite a different thing to talk about cultural policy objectives, as my colleague Mr. Trudel described. If we believe in cultural policy, we make choices, whether it's on traditional broadcasters having obligations about what shows you watch at what time of day or whether it's cable companies having carriage requirements. The fact that these are now distributed on the Internet doesn't change the fundamental question as to whether or not, for our values and cultural policy purposes, there should be a requirement—in a world, as we say in our report, of fantastic choices and borderless access to content—for Canadians to be aware of the choices that are available to them that are Canadian. I don't see that as being in any way in conflict with the principle of net neutrality. It really is a completely separate subject, in my view.

Ms. Marci Ien: Thank you, Ms. Yale.

I have another question for you. Dr. Geist has said that with the removal of proposed section 4.1, the bill now threatens user-generated content and freedom of speech. In your expert opinion, what would you say to those Canadian citizens who are concerned about that?

Ms. Janet Yale: First I would say that there is nothing in the bill as amended, with the exclusion of proposed section 4.1, that threatens free speech.

I've tried to make it clear in my comments thus far in this meeting that users put content on, say, a social media platform. For sure that content may be under the legal definition of a “program”, but as I've said before, programs aren't regulated, so if you are a blogger or someone who makes podcasts, that's content for sure, but how is it distributed? It's distributed because you do an arrangement with Spotify or you do an arrangement with YouTube, and it's carried on those platforms.

The platforms are the online undertakings that would be regulated, not the creators of the content, whether they're users or whether they're amateurs or professionals. You are free to put up anything you want, whether you monetize it or not, whether you get advertising or subscription revenues or not. It's not covered by Bill C-10. It's the online undertakings that are, and users are not operating online undertakings. They're not regulated.

In my view, there is no threat to freedom of speech, freedom of expression or the ability to put out anything you want on any platform you like without fear that your content could be moderated or regulated in any way.

Ms. Marci Ien: Ms. Yale, thank you.

Mr. Chair, how am I doing for time?

The Chair: You have 17 seconds, ma'am.

Ms. Marci Ien: Then I will just say thank you so much for that.

The Chair: I'm sure a lot of people will thank you, because that brings us to our break.

Folks, once you come back online, please turn your video on so that I can see that we're ready. Meanwhile I ask you to be no more than five minutes, please.

Let's suspend for five minutes.

● (1540)

_____(Pause)_____

● (1550)

The Chair: Welcome back, everyone.

We're now going to go straight to the next person.

[*Translation*]

Mr. Champoux, you have the floor for two and a half minutes.

Mr. Martin Champoux: Thank you, Mr. Chair.

I'd like to ask Dr. Geist a question.

I see you have every reason in the world to oppose this bill.

With respect to the possible infringement on freedom of expression, which is the subject of our meeting today, is there any language that could be used in this bill that would reassure you and allow us to resolve the issue and continue our work?

[*English*]

Dr. Michael Geist: Thanks for that.

On this specific issue, I don't think there is any doubt that we need to put proposed section 4.1 back in or exclude all scope of regulation of this kind of content. That would include discoverability, which does go, without question—as we've heard even from Professor Trudel—to choices and then ultimately to net neutrality.

[*Translation*]

Mr. Martin Champoux: Mr. Trudel, what is your opinion on that? I know you're not worried about the infringement of freedom of expression, but do you think an amendment should be made to clarify all this, out of conscience and to reassure people who are concerned?

Mr. Pierre Trudel: First, I would like to make one correction.

Internet neutrality applies to the network in terms of the service, the pipes. Internet neutrality is not about platforms. The literature around the world deals with Internet neutrality in terms of the Internet connection, the pipes. It does not apply to Google or to YouTube, which are companies.

If I am a doctor practising medicine online, I am still bound by the rules that govern the practice of medicine. If I am punished as a result or if I am prohibited from doing certain things, the issue is not with Internet neutrality. The same applies to broadcasting or to content being sent by the platforms. So the claim that Internet neutrality is affected seems to me to have no basis.

Internet neutrality prevents those supplying connectivity from blocking or favouring certain content. Service providers are not the targets of the bill. The YouTube and Spotify platforms of the world are. The principle of Internet neutrality has never been thought to apply to companies such as those.

Mr. Martin Champoux: Thank you, Mr. Trudel.

Mr. Chair, I think my time is up.

[*English*]

The Chair: Ms. McPherson, you have two minutes and 30 seconds.

Ms. Heather McPherson: Thank you, Mr. Chair.

We've been focusing a lot on the risks Bill C-10 puts forward and concerns that people—experts—have raised about freedom of expression.

I wonder if I could ask one quick question, Mr. Cash, of you in terms of the potential of Bill C-10. If a version of Bill C-10 is passed that does provide support for our artistic community, could you talk a little bit about the growing international marketplace and how it could impact the sector if Bill C-10 was passed?

Mr. Andrew Cash: There's no question that the sector is changing, and it's changing based on a global market. Canadian entrepreneurs, Canadian artists and the entire independent music sector could be poised to play a significant role in our country's post-COVID economic recovery, one that's centred around creating good middle-class green jobs, developing Canadian-owned intellectual property by artists and entrepreneurs who have the know-how and the experience to export at scale to every market on the planet, quite frankly.

The needs of the sector could very much be helped by the injection of support into the sector that Bill C-10 promises. We need to work quickly to get this through because we have a lot of work to do at the CRTC to make sure this happens.

● (1555)

Ms. Heather McPherson: Thank you.

I'm going to ask some questions—I probably don't have a ton of time—of Mr. Geist.

Mr. Geist, my colleague Mr. Champoux has just asked what we could do to make Bill C-10 something that you would be able to support. You speak about taking out that proposed section 4.1.

My concern is that we need to find a way to do this broadcasting legislation. We know it's 30 years overdue. What are the things, aside from that one, that you would like to see us do to ensure this legislation does what we've asked it to do in terms of levelling the playing field, protecting our artistic sector and our broadcasting sector, and also in terms of protecting freedom of expression?

Dr. Michael Geist: As I mentioned earlier today, my view is that the legislation is flawed on a number of levels. Frankly, if the goals you just articulated are important ones, my view, especially on the finance side, is that the best thing we can do is make sure that money is made available quickly. We can do that through things like the digital services tax and other related tax measures.

I think that in many ways we have to go back and take a harder look at some of the approaches that are contained in this bill. I'm struggling a little bit with even some of the comments that I've heard today.

On this notion, for example, of net neutrality, which is a core principle that ought to be protected, we've had now both Ms. Yale and Professor Trudel say it has nothing to do with that. Their own report specifically notes that there are other emerging issues that go beyond classical Internet access and have much in common with the goals of net neutrality. I don't know if that was written by some of the members who aren't standing with them anymore and have broken away from the BTLR, but nevertheless it's clear that these are issues we need to be thinking about.

The Chair: Thank you, Dr. Geist.

We will go to Mr. Aitchison and Mr. Shields. Again, I have both of you here. Would you like to split that time?

Mr. Aitchison, do you want to use your discretion on that?

Mr. Scott Aitchison (Parry Sound—Muskoka, CPC): Thank you, Mr. Chair.

Actually, I'd first like to ask if it's possible for us to consider extending the time. This is a really valuable conversation. We have some very intelligent, educated people here, and I think we should ask them more questions.

The Chair: How about we deal with that as we get closer to the allotted time? That would be 4:30 p.m. Eastern Time. Usually it's implied consent that we shut down at that time. However, if we are in the middle of something, we can extend it a bit.

In the meantime, I will try to find out if that's possible, because I have to check the logistics of the room and so on and so forth—with your blessing, of course.

Mr. Aitchison, I'll go to you. When you're ready, you can hand it over to your colleague Mr. Shields.

Mr. Scott Aitchison: Thank you very much. That is what I intend to do.

I want to focus very specifically on comments that you made, Ms. Yale and Dr. Geist. What I'm struggling with understanding is how, if you regulate the online platforms—the media and the forums by which individual Canadians create content and share them with the world—you are not indirectly regulating the content creators themselves. You made the point that you're regulating the platforms and not the content creators, but you are indirectly regulating the content creators, are you not?

I'd like Dr. Geist and Ms. Yale to speak to that, please.

Ms. Janet Yale: Michael, do you want to go first?

Dr. Michael Geist: Go ahead.

Ms. Janet Yale: All right.

What I've tried to do is draw that distinction. Maybe I haven't done it clearly. The later amendments make it clear that the only thing that will be regulated with respect to platforms.... Let's keep the streaming services aside, because I think the controversy now seems to be more about the social media platforms than the streaming services.

Streaming services, as curators, purchase and create the content that they then package and make available to you. If a producer creates a show that is then offered on Netflix, it's generated by a creator, but I don't think we're talking about that in the same way as what we think of on YouTube as user-generated content where people make things—podcasts, songs, dances, whatever—and then post them to a platform. They're user-generated. They're not contracted directly by a streaming service. The platforms are available to people to put things on at their discretion.

That discretion doesn't change. People can post whatever they want on social media platforms. There's no regulation. The more recent amendments that Minister Guilbeault spoke to said that there would only be three things that could be done vis-à-vis those platforms—only three. There's been a real contraction of the regulation-making power of the CRTC vis-à-vis those platforms.

The three things are that, first, they have to provide information about their revenues, whether advertising or subscriptions. Two, those revenues are used to calculate what their levy will be, or their spending requirement, as the case may be. It's just how much you are making in Canada and what the appropriate amount is to make as a contribution. The third piece is what we've been calling discoverability, which is how to make the Canadian creative content visible.

That's it. I have a hard time seeing how that's regulation of the content. It just isn't.

● (1600)

Mr. Scott Aitchison: Okay. Thanks. We're running out of time, though, so I want to go to Dr. Geist, if you don't mind. Thank you very much.

Dr. Michael Geist: Thanks for that.

It absolutely is, and I think you get it exactly right. What we effectively have is now an outsourcing of that regulation to the tech platforms, which actually provides Canadians with even less protection. It's government doing indirectly what it would think would be difficult to do directly, which is regulate the discoverability of that content.

Let's even leave aside the notion of how we would even figure that out. If I do a video with my siblings who live in the United States and in other countries, is that Canadian content? Is that not Canadian content? We have a hard time figuring out what constitutes Canadian content for certified productions. Suddenly now we're going to ask the CRTC to decide which cat video constitutes Canadian content and which one doesn't. When you ask the government to decide what gets prioritized and what does not, that is absolutely regulation. Deputizing tech platforms to enforce those government edicts in many respects is even worse, because they aren't subject to some of the same kinds of restrictions.

Mr. Scott Aitchison: Thank you.

I have a million more questions, but I think I need to go to Mr. Shields now.

The Chair: Mr. Shields, you have 10 seconds.

Mr. Scott Aitchison: Oh, really? I'm sorry.

The Chair: Have one very quick question, Mr. Shields; otherwise, we are going to go back to the Conservatives after Mr. Louis.

Mr. Martin Shields (Bow River, CPC): Ms. Yale, do you back all 97 recommendations that you had in the Yale report?

Ms. Janet Yale: Of course, and I would note that those 97 recommendations are unanimous recommendations of the entire committee.

Mr. Martin Shields: Thank you.

That would mean that you would then back members of that board—

The Chair: Thank you, Mr. Shields.

Mr. Martin Shields: Thank you.

The Chair: I was being rather generous with the 10 seconds.

After Mr. Louis, as I mentioned, we are going back to the Conservative slot one more time. It looks like we are going to get into that third round, folks, so we'll judge it accordingly.

Mr. Louis, you have five minutes, please.

Mr. Tim Louis (Kitchener—Conestoga, Lib.): Thank you very much, Mr. Chair.

Thank you to our witnesses. I appreciate you all being here for this wonderful discussion.

I will start with Ms. Yale, because I believe there was a bit of confusion.

We talked about concerns for freedom of speech. You mentioned previously that there's nothing in this bill that threatens freedom of speech. You talk about users putting content online. Even if they are podcasts, they're still called programs. That's fine, but they're still carried on those platforms, and the platforms are the online undertakings that will be regulated. I believe there's a bit of confusion between Canadian artists and Canadian content regarding discoverability.

Can you expand on that and maybe clear this up, being the expert that you are?

Ms. Janet Yale: I think you've really well characterized the distinction I've been drawing between programs and undertakings. I think the issue of discoverability is not a new one; it's just that the context of being online and the context of being on social media platforms is a new one in the sense of what it means to promote and create visibility for Canadian content on these platforms.

The way in which we've done it in traditional media is different than the way we're going to do it, I would posit, in the context of social media. It may be as simple as making sure that among.... If you think of Spotify, there could be Canadian playlists. When it comes to social media platforms, how we ensure that there are Canadian choices among the vast array of choices that you have in front of you is, I think, the appropriate one for a regulator to make over time.

You can't crystalize those sorts of things in legislation, because we couldn't have contemplated the Internet when the Broadcasting Act was put in place, and we couldn't imagine the evolution of the business models for streaming services and social media platforms either. It is the very job of the regulator to figure out what is appropriate at a particular point in time, because as circumstances and business models change, so too would the need for regulatory adaptation. I think flexibility is key in such a rapidly changing environment.

● (1605)

Mr. Tim Louis: I appreciate your saying that. I appreciate your bringing up playlists, because, as an artist, I understand how Canadian artists face challenges in competing with American conglomerates and resources. The Broadcasting Act has always ensured that Canadian artists have the resources to grow to become visible locally, nationally and internationally. I feel that when Canadians go online—for example, on YouTube or someplace that has a playlist—they have a hard time discovering any Canadian artists on these platforms. That's a concern for me. I know it's a concern for our Canadian artists and the whole culture sector. Our artists are the voices of Canadians. I don't think that those online should be solely exposed to American culture.

You have written, “As originally drafted, the Bill left open the possibility that some platforms, such as YouTube, might be able to avoid its obligations to make appropriate contributions. That oversight has now been remedied and we welcome that correction.”

Could you explain your comments in more detail? It's around proposed section 4.1, that balance between supporting our artists and protecting our own free speech.

Ms. Janet Yale: Exactly, and I think the removal of proposed section 4.1 makes it clear that social media platforms are within the scope of Bill C-10, which might have been unclear before that.

As I've said, it is my view that because the user-generated content, which is still covered by clause 2.1, is exempt from regulation, I believe there is no threat to freedom of speech and that users will continue to be as free, once Bill C-10 is passed, to put whatever content they want online or on social media platforms as they are today.

Mr. Tim Louis: Thank you.

Maybe I'll turn to Mr. Cash. I know I only have a minute, but I just want to say thank you. I've been a member of CIMA for a number of years, so I appreciate your advocacy for all artists out there. You mentioned that 80% of the music sector is self-employed. I've been one of them my entire life.

Can you explain to everyone the reduced income that happened with the shift to digital? Even CD off-sales would [*Technical difficulty—Editor*] live, would cover artists—or traditional radio play. Can you explain to everyone the amount of revenue that has been lost? I've talked to artists who I know were making about a quarter of a cent from some of this streaming, and I've talked to them about the amount of income that has been lost.

Mr. Andrew Cash: Well, it's been widely covered that the streaming services are paying very little for the content they use. Part of the reason for that is that the market has been deflated, because we have one massive giant that doesn't need to negotiate with anyone. You're going to license it to YouTube because you want to do something, but that affects Spotify and that affects Apple Music, so there's that.

There's another aspect to this, too. SOCAN has just released some statistics. In the digital world, 90% of the royalties that they collect in Canada go to foreign songwriters and just 10% stay in Canada, as opposed to conventional media. Over 30% of the royalties conventional media collect in Canada stay in Canada. That's another key aspect to what we're dealing with here.

● (1610)

Mr. Tim Louis: Thank you.

The Chair: Thank you, Mr. Cash.

We're off to a third round. Ms. Harder, you have five minutes, please.

Ms. Rachael Harder: My apologies.

Go to my colleague Mr. Shields, please.

Mr. Martin Shields: Thank you. I appreciate that.

I'm going to Mr. Geist. You just heard that Ms. Yale backs all 97 of the recommendations, including one that I find to be divisive: that members of the CRTC would be recommended to live in the national capital region, which I find problematic.

Going beyond that, *The Social Dilemma* is a documentary out there that many have seen, including my granddaughter. She's very sharp—of course, all our grandkids are smart—and we discussed this particular bill. She is very savvy in technology. She understands how algorithms work and how they direct her from her past listening and what she does. What she objects to is the government's involvement in doing this; she very much does. This is a very sharp young person who objects to the government playing this role. She understands the private sector and their algorithms and how it affects her.

Mr. Geist, you talked about the dollars. We've had members saying that this is an emergency. You've described how we can get dollars, too. I think that's the house-burning idea. How do we get dollars out?

With regard to the dollar item and what other people have said about the Australian model, would you like to respond to that? How do we get there? How is Australia doing it?

Dr. Michael Geist: Certainly I highlight some of that on the newspaper issues that Australia has moved forward on, but to focus specifically on the issue you raised about the algorithms, which I think is important, I will say that there's no question that there are concerns. Anyone who's seen some of the movies around social media comes away, I think, rightly concerned about some of these algorithms.

However, this bill is not a bill that addresses that issue. In fact, it substitutes, in some ways, the government's choices for the companies' choices. What we need instead is more algorithmic transparency on that issue.

This notion that somehow one of the problems we have to solve is discoverability.... You know, we've heard it several times. I must say two things.

First, Ms. Yale talked, as we heard, cross-country with a lot of people. They weren't able to come up with any evidence—zero—that there is a discoverability issue with user-generated content. There were no studies that cited that this is a problem. I'm sometimes left in this discussion wondering if people actually use these services. If you want to find Canadian content on Netflix, type in “Canada” or “Canadian”. If you don't think that there are Canadian playlists on Spotify, then perhaps you haven't used Spotify, with all due respect. There are numerous choices for precisely this kind of content.

That's not to suggest that we can't do better. However, to somehow think that what we need to do is take all the user-generated content, find some mechanism to categorize it as Canadian, and then have the government make choices about what gets prioritized or not is foolhardy. That's precisely the reason there is no one else on the planet who does it.

Mr. Martin Shields: You say “no one else on the planet”, and you've repeated that a number of times, and we've heard it before. Do you hear anybody else even talking about or reacting to the idea of what Canada is attempting to do?

Dr. Michael Geist: I think there are significant risks with what we're proceeding towards. What this bill will do, when you get foreign services looking at Canada.... Obviously some of the big players already here aren't going to go anywhere, but some of the other services that are outside of the jurisdiction may look at some of these regulations and at the costs and say that we are going to block Canadian users from the marketplace.

Think of a service such as Molotov, a French-language service that is serving a whole series of French-language African countries. It's not available in Canada right now. Are they going to come into Canada if they face these kinds of regulations? There are India-based services that are the same, Korea-based services that are the same. This is going to hit our multicultural communities particularly hard, as services that might otherwise make themselves available within Canada will look at the costs, look at what we've already heard are clear obligations that they will face under these rules, and say that they're simply not going to operate in the Canadian market.

Mr. Martin Shields: You refer to a simple tax to support our cultural industries, and you would like to see it done. As a mechanism, could we do it quickly?

Dr. Michael Geist: The government has already announced it. It has said that it's going to implement a digital services tax starting next year. There are some concerns about moving forward in that regard without an international consensus, but the government has made it clear that it wants to move forward with it.

They've talked about the revenue it's going to generate. It seems to me there is nothing to stop the government from saying that it is going to take a portion of those proceeds and put them into the very funds we're talking about right now to support the creators and ensure that there is money right now, as distinct from the Bill C-10 approach, which is going to take, as I say, years to sort out through the courts and the CRTC.

● (1615)

Mr. Martin Shields: Thank you, Mr. Chair.

The Chair: Thank you, folks.

Mr. Housefather, take five minutes, please.

Mr. Anthony Housefather (Mount Royal, Lib.): Thank you, Mr. Chair. It's been a pleasure to listen to the witnesses today and to the vibrant debate.

I also want to say that some people have been heralded as champions of freedom of expression. I believe each and every one of the witnesses is a champion of freedom of expression, as are Canadian artists and as are all of the members of the committee. We are all devoted to and care about freedom of expression.

I would point out that at the meeting we had with Department of Justice officials and Minister Guilbeault last week, I was the only member who asked about whether or not there was interplay with section 1 and section 2(b) of the charter when it came to discoverability, which is one of the issues that was raised today by Dr. Geist.

I want to walk through with Maître Yale—as I'm going to call her because I'm from Quebec—a couple of the issues that I have, as questions.

We're going to start from the premise that I think we all agree that users are not governed by proposed new section 2.1. The users themselves are not governed. If a user's content is governed, it's solely governed through the online undertaking, which would be governed to a lesser extent in very specific ways, provided that Ms. Dabrusin's amendment is adopted by the committee.

Those specific ways would be, number one, that they would have to disclose their revenues in Canada. I can't imagine that this would be a freedom of expression issue. Number two, they would be required to contribute to Canadian culture. I can't imagine that this would be a freedom of expression issue. The only freedom of expression issue, in my view, could lie with a third factor, which is discoverability, which is the only other thing that could be regulated if Ms. Dabrusin's amendment is adopted.

Maître Yale, would it be true, in your perspective right now, that online undertakings such as social media platforms—and I will use Facebook as an example—can actually censor the content of user posts based on their own documented rules and regulations?

Ms. Janet Yale: I think we have to be careful about what we mean when we think of social media platforms and the ability of these large tech platforms to intervene in content. If there is content that they consider illegal, they do today monitor content. I think it's a bit of a fiction to suggest that there is no regulation of content online. These undertakings self-regulate, because there are no rules of the game. They are thus quite vigilant—

Mr. Anthony Housefather: I wasn't arguing that; I was actually arguing the contrary. I was saying that beyond illegal content, social media providers will frequently say that certain things cannot be posted that are racist but that are not illegal and not hate speech. Their actual rules go beyond just legality. Isn't that correct?

Ms. Janet Yale: Absolutely. It's really a subject for another day as to whether they self-regulate what I call the lawful but awful content today. Each platform has its own rules and regulations. Some take it down for different reasons and don't make it available. That is going on already, for sure.

That was one of the reasons that I made the point that the notion that these algorithms are innocuous is not true. Each platform has its own rules and its own accountability as to what it monitors, what it takes down, what it promotes and what it pushes out at you. I don't buy the argument that somehow freedom of choice on the part of consumers reigns. It's the platforms' commercial interest that dictates to a large extent what you get to see, so I totally agree with you. I think it's better that we make sure some of those choices are Canadian ones.

Mr. Anthony Housefather: I understand. Just to go beyond, I agree with you, but getting to the algorithms, we have platforms that are publicly stating that their algorithms will serve their own private interests. They will push people towards different types of content. People will not go only to content that is their preference. In fact, Facebook itself has heralded the fact that if you are searching for Holocaust denial, Facebook will use its algorithms now to redirect you to the Yad Vashem website. It's making the decision that you should now see the truth about the Holocaust, as opposed to the types of lies that you may be stumbling onto on their platform.

Their algorithms are not subject to the charter, because they're not a government. Is that correct, Ms. Yale? Can their algorithms be whatever the heck they want them to be?

● (1620)

Ms. Janet Yale: Right now, on a global basis, they are whatever they want them to be.

Mr. Anthony Housefather: In the event that the CRTC were to have the limited ability to direct the platforms to favour Canadian discoverability of Canadian creators, it wouldn't have the ability to take Canadian creators off the platform based on this amendment. It wouldn't have the ability to tell Canadian creators what to create. It may have to find a way to allow people to search for Canadian artists. That would be.... In the event the CRTC adopted such guidelines, they would have to be in conformity with the charter. Is that correct, Ms. Yale?

Ms. Janet Yale: Yes.

Mr. Anthony Housefather: So in fact—

The Chair: Okay, I'm sorry, Mr. Housefather. I have to stop it right there.

Ms. Janet Yale: We'll leave it at yes. I agree with you.

The Chair: Okay.

Mr. Champoux, you have two minutes and 30 seconds please.

[*Translation*]

Mr. Martin Champoux: Thank you.

Mr. Geist, I fully understand that you do not want us to regulate the platforms by imposing requirements on the content they have to provide for us. I feel that your vision overlooks our reality in Quebec. We need to protect francophone culture. This is not only Quebec culture, it is also the culture of francophones outside Quebec. Could you quickly talk about that?

Do you think that we can succeed in protecting Quebec and francophone culture at the same time as we protect Canadian content, which deserves to be valued and to be easily discoverable on the platforms?

Earlier, you said that it's easy to find Canadian content. Yes, it may be easy to find some Canadian content, but it is not necessarily valued. That is what we are seeking to do, in the same way that Canadian broadcasting enterprises have to do.

Are you completely opposed to our imposing those requirements on online platforms?

[*English*]

Dr. Michael Geist: Sure, I can say a couple of things.

First off, when it comes to some.... We need to distinguish between the streaming services, again, and user-generated content.

When we're talking about user-generated content, I think the answer, quite frankly, is no. I don't think that we should be requiring, in a user-generated-content world, the CRTC to get involved in making some of those choices through discoverability. In a bit of a response to Mr. Housefather's comments, if you are prioritizing some speech, you are deprioritizing other speech. There was a reason, in his Facebook example, that other content wouldn't be seen. That would be true as well with the CRTC choices for content that is, again, deprioritized.

On other kinds of services, on the streaming services, it's a different argument. That's not really what we're talking about here. I do think that there is some of that content available. Netflix, for example, has the film *Jusqu'au déclin*, which it funded, and it doesn't even count as Canadian content. That's part of the problem with the system itself.

I think there are things that can be done, but when we are focused—as we have been—on issues like net neutrality and freedom of expression, what happens is that this bill has slid away from the goals that you've just articulated into, now, the regulation of individual speech. You can say that it's being done through a platform and you can say that it's indirect, but it ultimately is the case.

To be clear, from the start of the premise of your question, I repeat I am not against regulating the tech platforms. The issues, especially in the discussions we've been having around algorithms, point to the need for greater transparency so that we know how these choices are made specifically around regulating these platforms. We need better protections around the data they collect. That too is regulating the platforms. We need the Competition Bureau to be more effective in terms of anti-competitive effects. That too is regulation.

It is a myth to suggest that this is about whether or not we regulate the tech platforms. This bill, at the end of the day, with these changes, is about whether or not we regulate individuals' speech.

[*Translation*]

Mr. Martin Champoux: If we solve that issue—

[*English*]

The Chair: Thank you, Dr. Geist. My apologies.

Folks, we're going to run over time just a little. We have time to finish this off. I have Ms. McPherson, and then Mr. Waugh and Ms. Dabrusin, after which we'll have to call it quits, because that would officially be the end of a third round.

Go ahead, Ms. McPherson.

Ms. Heather McPherson: Thank you, Mr. Chair.

This has been such a fascinating conversation, and I thank all the experts for bringing their perspectives. I know you don't agree on things, but as I said earlier, our goal here is to get good legislation for Canadians.

I just have to follow up on something that Mr. Champoux asked.

Mr. Geist, do you agree with the principle of supporting CanCon? Do you believe in CanCon?

● (1625)

Dr. Michael Geist: Yes, I absolutely believe in CanCon. I actually think part of the problem that we have faced is that our rules as currently structured do a really inadequate job of ensuring that they reflect Canadian stories. There is a problem when you get, let's say, a production based on a Margaret Atwood book or a Yann Martel book and the fact that they wrote that book doesn't count for the purposes of Canadian content. There's a problem with film co-productions when films that have virtually no connection to Canada at all are treated as Canadian content. I wish that the government would take a closer look at what it means to tell Canadian stories and support genuine Canadian content.

Ms. Heather McPherson: Then it's the definition, but you're supportive of the idea of making Canadian content, making it more available, promoting it, ensuring that our stories are being told or whatnot.

When these web giants do not pay their fiscal fair share, I feel like it is a gift from the government to these web giants at the expense of our cultural sector, at the expense of our cultural enterprises and our cultural sovereignty.

How would we fix this so that we're not giving the web giants the gift and instead are giving our cultural sectors these gifts?

Dr. Michael Geist: It's tax. The obvious way that we ensure that these companies contribute into the Canadian economy if they are as successful as we've been seeing is by ensuring that we tax them appropriately and have the revenues coming out of that taxation to use as we see fit. That's obvious.

The reality is that some of these companies are major investors in the country. Former heritage minister Mélanie Joly went out and got a $500-million commitment over five years to ensure that there was investment in production in Canada. It's not as if they produce nothing. *Jusqu'au déclin* is a good example, and *Trailer Park Boys* or others for Netflix. We can cite many of these kinds of examples.

I don't think it's correct to say that they don't contribute anything or that they aren't producing in Canada. They quite clearly are, but it is fair to ask whether they're paying their fair share from a tax perspective. There's evidence to suggest that because of the way the system has been structured, they have not been, and we need to fix that. With that tax revenue, we can do all of this without blowing up the Broadcasting Act in this manner and directly implicating the free expression of users.

Ms. Heather McPherson: You would see taxation instead of broadcasting legislation.

Dr. Michael Geist: Absolutely not. I would like us to update our broadcasting law to be a forward-looking law, not one that seeks to have a false equivalency and say that the only way we can do this is to look backwards and treat Internet companies the same as conventional broadcasters, which is what we are seeking to do, and we are increasingly finding a myriad of problems when that's the regulatory approach you take.

Let's get the Broadcasting Act right, for now and for the future, and let's at the same time ensure that there are revenues there through taxation.

The Chair: Thank you, Dr. Geist.

Mr. Waugh, we'll go to you for five minutes, please.

Mr. Kevin Waugh: Okay. I'll share my time with Mr. Aitchison.

To me, the elephant in the room is the CRTC and the lack of confidence that Canadians have in the CRTC. Many of us right now Zooming in here are former broadcasters, but there is little or no confidence in the CRTC. When we see a former chair and vice-chair and others speaking out to this bill, that in itself is the white flag that I think we are all concerned about and must address as we go forward in this bill.

Mr. Geist, I'll give this question to you, because I'm a former broadcaster and we had very little confidence in the CRTC at all.

Dr. Michael Geist: Well, I think there has been ongoing frustration for many years with the CRTC. I must admit I find it almost astonishing now that people say we can just leave almost all these issues to the CRTC and they can figure it out.

As I think, frankly, that many of the members from all parties will recognize that this bill is woefully lacking in detail. It was supposed to be in a policy directive. That policy directive didn't contain much information either. On issue after issue, it left it to the CRTC solve it.

You've had the CRTC chair acknowledge that there isn't great expertise necessarily now on these issues either, and anyone who has ever followed the CRTC process will think of some of the telecom issues that have been going on for years. We are talking about very lengthy processes.

When I hear Mr. Cash, for example, talk about the urgency of getting some of these issues right, that urgency strikes me as wholly incompatible with this legislative strategy. It is going to take years to ensure that there is actual money on the ground. We are handing these issues over to a commission that groups from across the spectrum have really struggled with, feeling sometimes either that they have been excluded or that the decisions haven't been correct and that the decisions have taken a long period of time. There's a reason that there's that lack of confidence.

● (1630)

Mr. Kevin Waugh: Mr. Aitchison, take my time.

Mr. Scott Aitchison: Thank you very much.

My question might actually be for Ms. Yale or Mr. Trudel.

It feels in some ways as though we're trying to reinvent the wheel. I'm wondering if we haven't looked to other jurisdictions. I'm thinking specifically about Australia, where they have come up with a threshold for revenue and the number of subscribers before they get regulated. I'm wondering what your thoughts are on that. Why wouldn't we follow the same kind of model that Australia has used, as opposed to what feels like, as I think Dr. Geist just said, punting authority to the CRTC to come up with specific regulations and just casting a very wide net? This strikes me as sloppy and maybe even a bit dangerous. Why wouldn't we follow Australia's lead, specifically?

Ms. Janet Yale: Let me start.

First of all, this is looking-forward regulation, not looking-back regulation. If you look at the way in which streaming services and sharing platforms would be brought into the act, you see that it's not a licensing model but a registration model, which already is substantially less onerous. It doesn't involve interfering with business models or the kind of content you produce or how you offer it. It is really a very simple mechanism.

I would say this is—

Mr. Scott Aitchison: Sorry, it is my time, and it feels like you're answering something that Dr. Geist was talking about. I'm specifically asking about.... Sorry, I didn't mean to—

Ms. Janet Yale: Right.

What I was going to say is that the fundamental issue that the regulator always grapples with is whether or not the service in question is going to make a material contribution to the objectives of the Canadian broadcasting policy. In our report, and as practised by the CRTC, they do create exemption thresholds.

Whether or not you put those in legislation or in regulation, at the end of the day, you're absolutely correct that there will be thresholds below which these rules wouldn't apply—revenue thresholds, subscriber thresholds. That is the job of the CRTC, in my view, and we certainly talked about that in our report, because of course, over time, what those thresholds should be would change.

I don't think it's a problem to leave that to the regulator and to focus on the big players. To come up with a reasonable threshold, as you've suggested, has been done in other jurisdictions, below which there would be no regulation.

Mr. Scott Aitchison: Sorry, instead of going to Mr. Trudel—

The Chair: Thank you. Sorry, Mr. Aitchison—

Mr. Scott Aitchison: Am I out of time?

The Chair: I'm afraid you are, just barely.

Ms. Dabrusin, you get the final question.

Ms. Julie Dabrusin: Thank you, Mr. Chair.

My first question goes to Ms. Yale.

I was happy because we talked a little bit about not just proposed subsection 2.1 and then the removal of proposed section 4.1 but also the amendment I put forward, G-11.1, which really restricts what the CRTC powers would be as far as obligations go for social media companies to report revenue made in Canada and contribute a portion of that revenue to the Canadian cultural investment fund. The other part is that the discoverability requirement would be different from that which applies to radio and television. It is actually only for the discoverability of Canadian creators of programs and doesn't have the system we think of when we think about traditional broadcasters.

Taking into account that very restricted scope that's being proposed for the application to the social media platforms and the full exclusion of the application to people who are posting their content, do you think this bill should move ahead?

Ms. Janet Yale: Absolutely. I think there's a real sense of urgency. As a number of committee members have pointed out, these streaming and sharing platforms are extracting huge value from Canada through delighting audiences and reaping advertising and subscription revenues. On a simplified basis, as you've described, they would be required to make a contribution and to ensure that Canadian choices are made visible for people to choose from. I think that's a great thing and a really important step in the right direction.

● (1635)

[*Translation*]

Ms. Julie Dabrusin: Mr. Trudel, I would like to ask you the same question.

With clause 2.1 and with my amendment G-11.1, do you think that we should continue studying the bill?

Mr. Pierre Trudel: Yes.

In my opinion, the bill as amended provides additional guarantees and shuts the doors very well. In other words, it reduces to zero the probability that, at any given time, the CRTC will be making decisions or could, in any way at all, affect the freedom of Internet users.

Ms. Julie Dabrusin: Thank you.

[*English*]

I have only two minutes left, but I want to go back to you, Ms. Yale. You were at the start of this process, with your report and all of the consultations that you did. Did you have a closing comment for us as we end this discussion today?

Ms. Janet Yale: I would say that what really struck us was the sense of urgency on the part of the Canadian creative community.

It is true that some of these platforms and streaming services spend money in Canada on service productions, but the real test from a cultural policy perspective is whether or not there are investments in production in which the key creative positions are held by Canadians. That's what going to ensure that there is a vibrant cultural sector in Canada, and from a cultural policy perspective we strongly believe this. What we heard from coast to coast to coast was that we needed to bring these online services into the legislation and ensure that they make an appropriate contribution to Canadian cultural policy. We heard that loud and clear wherever we went.

Ms. Julie Dabrusin: Perfect.

Thank you, Mr. Chair. Those are my questions.

The Chair: Thank you, colleagues. That brings us to an end.

I have an important question at the end, but before I do that I just want to say a huge thank you to our guests today. We put together this panel, and I agree with all my colleagues who said quite clearly that this has been a great discussion.

That said, I want to say thank Mr. Cash, Ms. Yale, Professor Trudel and Dr. Geist for joining us. Thank you very much to the four of you.

It was a fantastic job today. It was really impressive.

We have now, folks, unless I'm getting this wrong, satisfied the motion as to what we wanted. We do have a submission by the justice department regarding their update on the charter statement.

We have heard from Mr. Guilbeault, and we're going to hear from him again tomorrow. We're also going to hear from Minister Lametti tomorrow. They are going to be here for an hour, so what I'm suggesting is one of two things. We can start clause-by-clause consideration following the one hour from the ministers or we can continue with it on Wednesday at the same time, because we do have tomorrow and we do have Wednesday as well. We will start clause-by-clause study with G-11.1, the amendment that Ms. Dabrusin just mentioned a short time ago.

Let me go to the list.

[*Translation*]

Mr. Rayes, the floor is yours.

Mr. Alain Rayes: Thank you, Mr. Chair.

With the committee's agreement, I would like to make a proposal.

As you mentioned, we are going to meet with the Minister of Justice tomorrow. If I am not mistaken, last weekend, he tweeted that he would be appearing.

Here is my proposal. After the minister appears for one hour, we should adjourn the committee and decide on some technical items among ourselves. We would resume our study on Wednesday.

That would allow everyone to go back to see their parties and analyze everything that was said by the witnesses at the meetings last Friday and today. There is a lot of content. As you said, all the experts who testified today gave us a lot of information. Although some would have us believe that there is only one vision in this matter, there are a number of them and they have been very well represented. I must say that I feel that everyone has done good work today.

My proposal is that, after the minister appears tomorrow, we take a break for the rest of the day and resume our study on Wednesday at the same time. That would allow everyone the time to consider all the subjects we have discussed. What the minister tells us tomorrow will have an impact on our view of the amendments.

So I feel that it would be wise to listen to the minister's testimony and then work individually for the rest of the day.

● (1640)

[*English*]

The Chair: Okay.

Seeing no further discussion on that, if nobody else wants to have an opinion, I'm going to exercise my own bit of discretion here and say that I would agree. How about if we hear from both ministers tomorrow? It may run a little bit over an hour—who knows?—but we'll do it. At that point we can adjourn, and the following day we can pick up clause-by-clause, on Wednesday, with amendment G-11.1.

That said, do I see thumbs up?

Oh, sorry; go ahead, Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: Mr. Chair, could you consider what I am about to say? Since we will not be using the second hour of the meeting to continue our work, may I ask you to think about the pattern of speaking time, so as not to limit ourselves one hour?

If you tell us that we will have time for two or three rounds, there would not have to be any real constraints on the time. We could then stray into the second hour, which is already on our schedule.

That is the suggestion I wanted to make.

[*English*]

The Chair: Yes, and that's valid, Mr. Champoux.

I'll tell you what. Usually what I try to do is get the first round done with six minutes each and then go on to the second round. I try to complete four questions in the first round and four questions in the second round as well. All right? Let's just say that I try to get that done.

I'm assuming that the minister will stick around at that point. If we go over our time, it's only by five or 10 minutes, but I will endeavour to have two rounds of questioning, with four in each round, representing each of the four recognized parties.

Is there any discussion on that?

Since our guests are still here, I just want to say thank you again for that fantastic discussion. That was very well done.

Okay, folks, that's it. Thank you. We will see you again tomorrow at 2:30 Eastern Time.

The meeting is adjourned.