



**HOUSE OF COMMONS  
CANADA**

# **EMERGING AND DIGITAL MEDIA: OPPORTUNITIES AND CHALLENGES**

## **Report of the Standing Committee on Canadian Heritage**

**The Honourable Michael Chong, M.P.  
Chair**

**FEBRUARY 2011**

**40th PARLIAMENT, 3rd SESSION**

---

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

#### **SPEAKER'S PERMISSION**

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

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

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

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

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

**EMERGING AND DIGITAL MEDIA:  
OPPORTUNITIES AND CHALLENGES**

**Report of the Standing Committee on  
Canadian Heritage**

**The Honourable Michael Chong, M.P.  
Chair**

**FEBRUARY 2011**

**40th PARLIAMENT, 3rd SESSION**



# **STANDING COMMITTEE ON CANADIAN HERITAGE**

**October 2009 to June 2010**

## **CHAIR**

Gary Schellenberger, M.P.

## **VICE-CHAIRS**

Carole Lavallée, M.P.

Pablo Rodriguez, M.P.

## **MEMBERS**

Charlie Angus, M.P.

Dean Del Mastro, M.P.

Royal Galipeau, M.P.

Roger Pomerleau, M.P.

Tim Uppal, M.P.

Rod Bruinooge, M.P.

Ruby Dhalla, M.P.

Nina Grewal, M.P.

Scott Simms, M.P.

## **CLERK OF THE COMMITTEE**

Richard Dupuis

## **LIBRARY OF PARLIAMENT**

### **Parliamentary Information and Research Service**

Marion Ménard

Michael Dewing



# **STANDING COMMITTEE ON CANADIAN HERITAGE**

**September 2010 to February 2011**

## **CHAIR**

Hon. Michael Chong, M.P.

## **VICE-CHAIRS**

Carole Lavallée, M.P.

Pablo Rodriguez, M.P.

## **MEMBERS**

Charlie Angus, M.P.

Patrick Brown, M.P.

Dean Del Mastro, M.P.

Roger Pomerleau, M.P.

Scott Simms, M.P.

Scott Armstrong, M.P.

Bonnie Crombie, M.P.

Royal Galipeau, M.P.

Blake Richards, M.P.

## **CLERK OF THE COMMITTEE**

Richard Dupuis

Graeme Truelove

## **LIBRARY OF PARLIAMENT**

**Parliamentary Information and Research Service**

Marion Ménard

Michael Dewing





# **THE STANDING COMMITTEE ON CANADIAN HERITAGE**

has the honour to present its

## **SEVENTH REPORT**

Pursuant to its mandate under Standing Order 108(2), and the motions adopted on Tuesday, March 16, 2010 and Tuesday, October 5, 2010 the Committee has studied *Emerging and Digital Media: Opportunities and Challenges* and agreed to report the following:



# TABLE OF CONTENTS

---

EMERGING AND DIGITAL MEDIA: OPPORTUNITIES AND CHALLENGES .....	1
CHAPTER 1: INTRODUCTION.....	1
1.1 Context .....	1
1.2 Pre-study .....	1
CHAPTER 2: EMERGING AND DIGITAL MEDIA: OPPORTUNITIES.....	5
2.1 Impact on cultural industries .....	5
2.2 Success stories.....	8
CHAPTER 3: EMERGING AND DIGITAL MEDIA: CHALLENGES.....	13
3.1 Introduction .....	13
3.2 Digital heritage.....	13
3.3 Broadband Internet Access.....	14
3.4 Training.....	15
3.5 Copyright .....	16
3.5.1 Introduction .....	16
3.5.2 Protection for creative works.....	16
3.5.3 Fair dealing .....	18
3.5.4 Copying levies.....	19
3.5.5 Internet Service Provider Liability.....	20
3.6 Compensation for creators.....	22
3.7 Business models.....	23
3.8 Canadian content.....	26
3.9 Open Internet.....	27
CHAPTER 4: EMERGING AND DIGITAL MEDIA: THE ROLE OF THE FEDERAL GOVERNMENT .....	29
4.1 Introduction .....	29
4.2 The digitization of government data and documentary heritage .....	29
4.3 The National Digital Strategy .....	30
4.4 Statutes and regulations .....	32
4.5 The Canada Media Fund .....	34
4.6 International treaties .....	35

4.7 Foreign ownership .....	36
4.8 Canadian content.....	38
4.9 Access and training.....	39
CHAPTER 5: RECOMMENDATIONS .....	41
APPENDIX A: LIST OF WITNESSES .....	45
APPENDIX B: LIST OF BRIEFS .....	51
REQUEST FOR GOVERNMENT REPOSE .....	53

# EMERGING AND DIGITAL MEDIA: OPPORTUNITIES AND CHALLENGES

## CHAPTER 1: INTRODUCTION

---

### 1.1 Context

In two of its recent reports, the Standing Committee on Canadian Heritage (hereinafter the Committee) noted the impact of emerging and digital media<sup>1</sup> on Canadian public broadcasting (*CBC/Radio-Canada: Defining Distinctiveness in the Changing Media Landscape*)<sup>2</sup> and television broadcasting (*Issues and Challenges Related to Local Television*).<sup>3</sup> Developments in emerging and digital media are also changing the environment for other cultural industries, such as radio broadcasting, book publishing, magazine publishing, music publishing, and film distribution.

Given the rapidly changing media environment and the profound impact emerging and digital media are having on all aspects of culture, the Committee decided that it should study the overall impact of emerging and digital media. First, however, it felt that it should conduct a pre-study to identify the kinds of questions it should examine. Consequently, on March 2, 2009 the Committee agreed:

That the Committee hold three meetings on the subject of the New Media and then decide if further meetings will be necessary.<sup>4</sup>

### 1.2 Pre-study

In its pre-study, the Committee held meetings with Chad Gaffield, President of the Social Sciences and Humanities Research Council of Canada (SSHRC); Michael Geist, law professor at the University of Ottawa and Canada Research Chair in Internet and E-commerce Law; and Jacob Glick, Canada Policy Counsel for Google Inc.

These three witnesses gave the Committee overviews of the impact of digital media, Canada's situation regarding the adoption of digital media, some of the challenges that need to be addressed, and the role the federal government could play. They talked

---

1 The term "emerging and digital media" is used instead of the terms "new media" or "digital media" to refer to all kinds of digital services delivered over the Internet or wireless networks or other platforms such as video game consoles.

2 Committee, *CBC/Radio-Canada: Defining Distinctiveness in the Changing Media Landscape*, February 2008, <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=3297009&Language=E&Mode=1&Parl=39&Ses=2>, (accessed June 8, 2010).

3 Committee, *Issues and Challenges Related to Local Television*, <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=4005108&Language=E&Mode=1&Parl=40&Ses=2> (accessed June 8, 2010).

4 *Minutes of Proceedings*, Committee, Meeting No. 6, 40<sup>th</sup> parliament, 2<sup>nd</sup> Session, March 2, 2009.

about how digital media are creating a world of abundance and complexity, about the need for Canada to play a leadership role in harnessing digital media, and about the steps that might be taken to play that role.

Subsequent to these hearings, the Committee decided to conduct an in-depth study entitled *Emerging and Digital Media: Opportunities and Challenges*, and on April 1, 2010 it adopted the following terms of reference:

In this study, the Committee on Canadian Heritage will explore developments in emerging and digital media, how they are affecting Canadian cultural industries, and what federal institutions could do to assist Canadians and Canadian cultural industries benefit from these developments.

As part of its study, the Committee will examine the following questions:

1. How are developments in emerging and digital media affecting Canadian cultural industries?
  - How will future developments affect them?
  - Are there examples of Canadian success stories?
2. What can Canadian cultural industries do to benefit from developments in emerging and digital media and to prepare for future developments?
3. Is there a way of ensuring that creators of artistic and cultural content are compensated for their work?
4. What could be done to ensure that Canadians, including those working in the cultural industries, have the right skills to benefit from emerging and digital media?
5. What could be done to ensure that all Canadians, no matter where they live or what their socio-economic status is, have access to emerging and digital media?
6. What policies could the federal government adopt to help Canadians and Canadian cultural industries benefit from developments in emerging and digital media?
7. What would be the impact of changes in foreign ownership rules, including legislative and regulatory changes, on Canadian content and culture?

The Committee held meetings on the study until May 25, 2010. Including the pre-study phase, it held a total of 13 meetings, during which it heard from 43 groups and individuals. On June 17, the Committee presented to the House of Commons an interim report summarizing the evidence it had heard. In October and November, the Committee held four more meetings on the study, during which it heard from 13 groups and individuals.

This final report builds on the interim report by incorporating the testimony heard during the four additional meetings. It also includes 26 recommendations.





## CHAPTER 2: EMERGING AND DIGITAL MEDIA: OPPORTUNITIES

---

### 2.1 Impact on cultural industries

In response to the Committee's questions in the terms of reference on how developments in emerging and digital media are affecting Canadian cultural industries, a number of witnesses discussed the characteristics of emerging and digital media and the impact these characteristics are having.

Several witnesses presented theoretical analyses of the impact of emerging and digital media. Mr. Gaffield of the SSHRC, for example, identified three major changes taking place: "first, a new recognition of complexity; second, a new embracing of diversity; and third, a new emphasis on creativity" and said emerging and digital media "are enabling, accelerating, and redefining the significance of these three key changes."<sup>5</sup>

The speed with which change is taking place was remarked upon by several witnesses, and Tom Perlmutter, Government Film Commissioner and Chair, National Film Board (NFB), expressed concern about the rate of change:

We are working on an assumption of incremental, manageable change, and yet something very different may be happening. Instead of incremental change, we may be pushing to a tipping point when—bang—everything becomes undone with enormous rapidity.<sup>6</sup>

Mr. Geist from the University of Ottawa emphasized the move from "a world of scarcity, with limited bandwidth and difficulties in accessing culture, to one of abundance, where there is nearly unlimited access to culture."<sup>7</sup> He described one of the implications of this:

The world of scarcity was one in which you could keep certain kinds of content out; you could keep it scarce and thus make it more regulable. Today we live in a world of abundance where keeping content out simply isn't possible, and it creates real challenges for those who want to have regulations premised on that scarcity.<sup>8</sup>

Mr. Glick of Google Inc. raised the same question,<sup>9</sup> while Daniel J. Caron, Librarian and Archivist, Library and Archives Canada, noted that the "problem of abundance directly affects the capacity of societies to identify, preserve and ensure access to their

---

5 *Evidence*, Committee, Meeting No. 32, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, October 27, 2009, 1115.

6 *Evidence*, Committee, Meeting No. 11, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 29, 2010, 1130.

7 *Evidence*, Committee, Meeting No. 3, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, March 25, 2010, 1110.

8 *Ibid.*, 1155.

9 *Evidence*, Committee, Meeting No. 4, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, March 30, 2010, 1115.

documentary heritage.”<sup>10</sup> As a case in point, Tom Jenkins, Executive Chairman and Chief Strategy Officer, Open Text Corporation, remarked that “digital content is doubling every 30 days—that’s digital content in the entire world. So everything since the beginning of civilization to today will be doubled again by this summer.”<sup>11</sup>

Another issue identified by several witnesses was convergence. Mr. Glick made the following two points: “one, everything is converging onto the public Internet; and two, a corollary of that is that this convergence is good for innovation, consumer choice, and competition.”<sup>12</sup> He elaborated by saying that TV, cell phone, regular telephone, and cable, with many different kinds of content, are all converging on the Internet.<sup>13</sup>

For John Bonnett, Canada Research Chair in Digital Humanities and Assistant Professor, Department of History, Brock University, convergence means that various software tools can be brought together and used in new ways. He gave the example of, “the geographic information system, the Canadian invention that merges maps with database technology and which is now used to support applications ranging from cartography to urban planning and emergency management.”<sup>14</sup>

One of the consequences of this technological convergence is corporate convergence, and this has implications for creators. Claire Samson, President and Chief Executive Officer, Association des producteurs de films et de télévision du Québec, pointed out :

Digitization and convergence accentuate the trend toward the concentration of media ownership rights. There are increasing interrelations and complementarity between the telecommunications, publication, broadcasting and Internet sectors, where a small number of economic players own vast families of businesses.<sup>15</sup>

Michael Hennessy of Telus Communications concurred, saying “...the biggest threat to access, diversity, and choice arises from the unprecedented vertical integration we see in the broadcasting industry....”<sup>16</sup>

At the same time, there has been a blurring of the roles of players in the system, as explained by Aline Côté, President of the Copyright Committee and Editor, Association nationale des éditeurs de livres:

It has allowed new corporations collecting billions of dollars from cultural content, good-faith users, pirates and even libraries to assume some of the roles previously reserved to

---

10 *Evidence*, Committee, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1115.

11 *Evidence*, Committee, Meeting No. 15, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 13, 2010, 1135.

12 *Evidence*, Committee, Meeting No. 4, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, March 30, 2010, 1110.

13 *Ibid.*

14 *Evidence*, Committee, Meeting No. 10, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 27, 2010, 1235.

15 *Evidence*, Committee, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1215.

16 *Evidence*, Committee, Meeting No. 25, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, October 26, 1530.

publishers, that is to say the creation of formats, the granting of rights to third parties and even the usurpation of some of the functions traditionally reserved to bookstores and libraries.<sup>17</sup>

Convergence has other impacts, as noted by Pierre Proulx, Chief Executive officer, Alliance numérique—Réseau de l'industrie numérique du Québec: “[I]n the world of digital convergence, borders no longer exist; the market is highly competitive and very global.”<sup>18</sup> For Gary Maavara, Vice-President and General Counsel, Corus Entertainment Inc., this globalization represents an opportunity, and he said that his company’s “productions are available in more than 160 countries worldwide in more than 40 different languages.”<sup>19</sup>

Regarding the interaction between creators and consumers, Maureen Parker, Executive Director, Writers Guild of Canada, said that digital media allow creators to reach audiences directly and have lower costs of production, meaning that creators such as screenwriters can become digital content producers.<sup>20</sup> For John Levy, Chairman and Chief Executive Officer, Score Media Inc., the most fundamental shift is that individuals are able to connect and share content instantaneously,<sup>21</sup> and for Alain Pineau, National Director, Canadian Conference of the Arts (CCA), this shift “has changed the way in which artists produce and the relationship that institutions have with their public. Interactivity is overturning business models and changing the ways in which cultural products are consumed.”<sup>22</sup>

The Committee also heard that another impact of emerging and digital media on cultural industries is that industries involved in digital media tend to concentrate in creative clusters. David Wolfe, Professor of Political Science, Co-Director of the Program on Globalization and Regional Innovation Systems, University of Toronto, said that where there are these concentrations, “it is usually where there is a preceding base of firms concentrated in related industries. These are the creative industries, such as film, television, and broadcasting.”<sup>23</sup> Jason Kee, Director of Policy and Legal Affairs, Entertainment Software Association of Canada, said these concentrations of creative industries are important for the gaming industry because they “are not only where artists tend to congregate but where digital technology is more readily available. ...Many of the [educational] institutions tend to be centred around there. We’ve been producing a lot of fantastic graduates.”<sup>24</sup>

---

17 *Evidence*, Committee, Meeting No. 7, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 15, 2010, 1110.

18 *Evidence*, Committee, Meeting No. 14, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 11, 2010, 1210.

19 *Evidence*, Committee, Meeting No. 16, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 25, 2010, 1215.

20 *Evidence*, Committee, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1110.

21 *Evidence*, Committee, Meeting No. 15, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 13, 2010, 1115.

22 *Ibid.*, 1205.

23 *Evidence*, Committee, Meeting No. 10, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 27, 2010, 1140.

24 *Evidence*, Committee, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1250.

Although the Committee heard that emerging and digital media are changing the media environment in fundamental ways, it also heard that traditional media have not disappeared and that there is a certain amount of overlap between them. Mr. Kee pointed out that “The only difference between a traditional artist and a game maker...is that they work with digital media as opposed to more conventional media.”<sup>25</sup> Regarding the book publishing industry, Glenn Rollans, Partner, Lone Pine Publishing, said he sees “a fairly long transition, wherein the balance between digital and paper is shifting but both remain in use, and probably paper will remain in use over the long haul.”<sup>26</sup> He went on to say that in the book trade, “digital transactions are such a small part of the marketplace at this point—1% to 5%.”<sup>27</sup>

Mark Jamison, Chief Executive Officer, Magazines Canada, made a similar point when he said, “A common theme and discussion is that young people are abandoning the print medium, but nothing could be further from the truth. The largest segment of print magazine readers are in fact people between the ages of 18 and 24.”<sup>28</sup> Nevertheless, he said, the magazine industry is responding to consumer demands for new ways to access Canadian content by creating enhanced content on websites.<sup>29</sup>

Fred Mattocks of CBC/Radio-Canada made a similar point when he talked about responding to the demands of new and emerging technologies:

The imperative here is where Canadians are going: the devices they're using, the technologies they're using to connect with life in this country, to connect with stories, to connect with characters. Young people in particular have been leaders in digital space, for sure. We find ways of dealing with these, and we find ways of dealing with them successfully.<sup>30</sup>

## 2.2 Success stories

In addition to hearing about how emerging and digital media are changing the environment for cultural industries, the Committee heard about a number of Canadian success stories.

Several witnesses talked about the NFB's success in digitizing its films and making them available on the Internet. During his testimony, NFB Chair Mr. Perlmutter elaborated on the NFB's efforts:

Since the launch of NFB's national screening room at the beginning of last year, we've had over five million views of NFB films. In October we launched our iPhone application, which quickly became both a critical and popular success. iTunes called it one of the ten

---

25 Ibid.

26 *Evidence*, Committee, Meeting No. 8, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 20, 2010, 1240.

27 Ibid.

28 *Evidence*, Committee, Meeting No. 16, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 25, 2010, 1130.

29 Ibid.

30 *Evidence*, Committee, Meeting No. 27, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, November 2, 2010, 1625.

best applications of the year. In less than half a year, we've had 700,000 views of films on the iPhone. We are ready to launch on the iPad when it comes to Canada. ONF.ca was the first platform in North America for viewing works in French by francophone creators.<sup>31</sup>

Carolle Brabant, Executive Director, Telefilm Canada, said she was encouraged by initiatives such as Quebecor's *Éléphant: mémoire du cinéma québécois* and Radio-Canada's TOU.TV. She said, "These initiatives make a treasure-trove of Canadian programs and films accessible to Canadians."<sup>32</sup>

Steve Anderson, founder and national coordinator, OpenMedia.ca, also mentioned a number of success stories, including CBC Radio 3; the CBC's video experiments; *The Tyee*, an online independent news website; and Rabble.ca, a national independent multimedia news organization.<sup>33</sup>

Ms. Parker of the Writers Guild of Canada, noted the success of an original web series called *My Pal Satan*.<sup>34</sup> John Barrack, Chief Operating Officer and Chief Legal Officer, Canadian Film and Television Production Association, mentioned a number of multi-platform programs, including regenesistv.com from Xenophile Media and Shaftesbury Films; *Degrassi: The Next Generation* from Epitome Pictures; and marbledmedia's thisisdanielcook.com. Michael O'Hearn of the Association of Canadian Publishers said that publishers were having success converting content for e-readers and noted that Harlequin Romance (Harlequin Enterprises Limited) was the most advanced Canadian publisher firm in the field of e-books.<sup>35</sup>

When Mark Bishop, partner/producer, marbledmedia Inc. appeared before the Committee, he described his company's growth over nine years from two people to 30 full-time employees. Saying the company generates \$15 million to \$20 million in production revenues every year, he explained the reasons for its success:

Our focus from day one for the company has been on content, on telling stories that engage audiences on multiple platforms. We've pushed the envelope of experimenting with new platforms from the beginning of our company. High definition, web TV, mobile, convergent, transmedia—you name it, we've done it.<sup>36</sup>

Another example of a company that has adapted to the changing environment was Score Media Inc. Mr. Levy, the Chairman and Chief Executive Officer, told the Committee of his company's efforts to reach its key audience on new platforms. Score Media operates the Score Television Network, a national sports, news, and information specialty service,

---

31 *Evidence*, Committee, Meeting No. 11, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 29, 2010, 1135.

32 *Evidence*, Committee, Meeting No. 13, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 6, 2010, 1225.

33 *Evidence*, Committee, Meeting No. 10, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 27, 2010, 1255.

34 *Evidence*, Committee, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1120.

35 *Evidence*, Committee, Meeting No. 28, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, November 4, 2010, 1550.

36 *Evidence*, Committee, Meeting No. 14, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 11, 2010, 1110.

as well as Hardcore Sports Radio, a sports talk satellite radio channel. In June 2009, it launched ScoreMobile, a mobile application, and it had become the number one free sports application on BlackBerry anywhere in the world. This, along with its iPhone application, had more than 1.3 million monthly unique visitors and over 50 million monthly page views.<sup>37</sup>

The Committee also heard from Mr. Maavara of Corus Entertainment Inc., who described how Nelvana, a Corus-owned producer of children’s animation programming, provides Canadian content to multi-platform channels such as KidsCo in Europe, Asia, and Africa, and qubo.com in the United States. It also has a direct-to-consumer digital download strategy.<sup>38</sup> He said that when it comes to making such programs, Canadians “are really, really, really very good at this. We are among the best storytellers in the world. The only constraint we have in Canada is the size of our domestic market.”<sup>39</sup>

With regard to the video-games industry, Mr. Kee of the Entertainment Software Association of Canada said his industry “is estimated to generate \$3.5 billion in revenue annually and indirectly employs over 14,000 people in highly skilled, high-paying jobs.”<sup>40</sup> Mr. Proulx of the Alliance numérique—Réseau de l’industrie numérique du Québec pointed out that Montreal is a centre for video games and accounts for half of these jobs.

The Committee also heard from university professors who use digital media in their academic research. Mr. Bonnett from Brock University described a project that creates three-dimensional models of heritage buildings and showed the Committee a computer representation of Sparks Street in Ottawa as it looked in 1878.<sup>41</sup> Steven High, Canada Research Chair in Public History, Department of History, Concordia University, described how digital technology is changing the field of oral history through the use of software that makes it possible to access and organize interviews.<sup>42</sup>

Kelly Moore from the Canadian Library Association gave another example of successes in emerging and digital media. She said that librarians had developed the metadata—data that defines and describes other data<sup>43</sup>—that allows digital images to be retrieved. This helps researchers “access the digital files of items held in various different collections through a single search.”<sup>44</sup> Duncan McKie of the Canadian Independent Music Association talked about Canadian producers’ success in digitizing musical works, which

---

37 *Evidence*, Committee, Meeting No. 15, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 13, 2010, 1115.

38 *Evidence*, Committee, Meeting No. 16, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 25, 2010, 1215.

39 *Ibid.*, 1230.

40 *Evidence*, Committee, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1230.

41 *Evidence*, Committee, Meeting No. 10, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 27, 2010, 1230.

42 *Evidence*, Committee, Meeting No. 14, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 11, 2010, 1200.

43 Treasury Board of Canada Secretariat, Chief Information Officer Branch, “Metadata,” <http://www.tbs-sct.gc.ca/im-gi/imrc-crgi/metadata-metadonnees-eng.asp>, (accessed November 29, 2010).

44 *Evidence*, Committee, Meeting No. 25, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, October 26, 2010, 1550.

allows them to “distribute their works throughout the world in digital form with the correct formats and metadata to allow the tracking of sales and distribution.”<sup>45</sup>

The Committee heard that in some cases, success can have un-intended consequences. Mr. Geist from the University of Ottawa talked about successful websites that begin in Canada, but which were bought by American companies. Among the websites he mentioned were Club Penguin, a website for children that was bought by Disney, and Flickr, an online photography site that was bought by Yahoo.<sup>46</sup>

More generally, some witnesses talked about Canada having the right conditions for the development of emerging and digital media. Kenneth Coates, Dean of Arts at the University of Waterloo, said that cultural production is a major Canadian competitive advantage. He identified other opportunities in Canada’s high-quality education, its adherence to the rule of law and good governance, and its bilingualism and multiculturalism.<sup>47</sup>

Gavin McGarry of Jumpwire Media echoed these remarks and noted that Canadians are enthusiastic users of digital media. For him, Canadian success “comes down to the question of how do we leverage one of the most culturally diverse and digital-savvy countries in the world?”<sup>48</sup> For Jeannette Kopak of Great Northern Way Campus, one way to do this would be to develop long-distance collaboration.<sup>49</sup>

Jean-Pierre Blais, Assistant Deputy Minister of Cultural Affairs at the Department of Canadian Heritage, said that many other countries consider Canada to be a leader in emerging and digital media. He noted that Montreal and Vancouver are the third biggest video game producers in the world and that Canada is the second largest exporter of musical talent in the world.<sup>50</sup>

---

45 *Evidence*, Committee, Meeting No. 26, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, October 28, 2010, 1530.

46 *Evidence*, Committee, Meeting No. 3, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, March 25, 2010, 1135.

47 *Evidence*, Committee, Meeting No. 25, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, October 26, 2010, 1535.

48 *Evidence*, Committee, Meeting No. 26, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, October 28, 2010, 1640.

49 *Evidence*, Committee, Meeting No. 28, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, November 4, 2010, 1605.

50 *Ibid.*, 1650.





# CHAPTER 3: EMERGING AND DIGITAL MEDIA: CHALLENGES

---

## 3.1 Introduction

As discussed above, the Committee heard about ways in which emerging and digital media are changing the media environment and about ways in which Canadians are finding success in this new environment. The Committee also heard about a number of areas in which emerging and digital media pose challenges for Canadian cultural industries and institutions.

## 3.2 Digital heritage

Several witnesses talked about the challenges associated with digitizing and preserving Canada's documentary heritage. In the Committee's first pre-study hearing on the subject of emerging and digital media, Mr. Gaffield of the SSHRC stressed how important Canadian digital content is to the success of Canada's digital future. In order for people to develop as citizens and leaders, Mr. Gaffield argued, they need "ready access to Canadian content—historical, contemporary, economic, social, and cultural." Consequently, "Canadian content must be digitally collected, preserved, and made accessible to business, education, government, and society at large."<sup>51</sup> However, Ian Wilson, strategic advisor to the University of Waterloo, estimated that "less than 4% of what Canada has published is currently available online."<sup>52</sup>

Mr. Perlmutter of the NFB expressed concerns about Canadian digital content being acquired by other countries, and gave the example of Flickr being acquired by Yahoo and its content being migrated from Canadian servers to U.S. ones. In response, he said: "We need to look at how to ensure that the great wealth of existing content generated by the public and private sectors, often with public subsidies, can be digitized and made available to Canadians."<sup>53</sup> However, Mr. Perlmutter also pointed out that for the NFB, "with the resources presently available to us, with our operational funds, this is going to take 20 years if no technological changes are made."<sup>54</sup>

John Bonnett, the professor from Brock University who demonstrated three-dimensional visualization software to the Committee, said that such developments,

... will demand an overhaul of the institutions we use to store and archive knowledge. The library at the start of the 22<sup>nd</sup> century will likely be a very different place from the one we

---

51 *Evidence*, Committee, Meeting No. 32, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, October 27, 2009, 1130.

52 *Evidence*, Committee, Meeting No. 25, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, October 26, 2010, 1545.

53 *Evidence*, Committee, Meeting No. 11, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 29, 2010, 1135.

54 *Ibid.*, 1155.

now know and will be filled with four-dimensional virtual objects and books that communicate with each other.<sup>55</sup>

When Mr. Caron of Library and Archives Canada appeared before the Committee, he explained: “Documentary heritage is at the core of literacy in Canada, and even at the core of our democracy. By ensuring that the most relevant and significant material is acquired and preserved, we ensure that this material is there to be searched and accessed by Canadians over time.”<sup>56</sup> He also pointed out that digital content can lead to the development of a wide variety of uses and applications, some of which are not yet known.<sup>57</sup> At the same time, he said:

Fulfilling our mandate in the new digital environment presents unique challenges and opportunities. As you know, the new information and communication technologies are continually evolving. They have fundamentally changed the way Canadians create information, safeguard it, and retrieve it. In the new digital environment, Canadians expect to find information everywhere and anytime.<sup>58</sup>

As examples of the kinds of challenges faced by libraries and archives, Mr. Caron went on to say:

To deliver on the promise of the new digital media environment, we will have to address the issue of identifying and preserving the content created in the new social media networks like Facebook and MySpace. We must open up and link our digital and digitized documentary heritage to Canadian cultural industries, genealogists, historians, lawyers and Canadians in general. In this way, we will enable direct cross-country access to a largely untapped public resource.<sup>59</sup>

Digitizing archives is not without its challenges, however. As Mr. Mattocks of CBC/Radio-Canada pointed out: “The reality is that we do have huge archives, but access to those archives is restricted by two factors. One is the rights aspect...and the other is simply the cost of digitizing that content and then mounting it on some kind of digital platform.” He said that CBC/Radio-Canada digitizes archival content when there is a need to do so, but does not have a comprehensive goal to digitize all of the content.<sup>60</sup>

### **3.3 Broadband Internet Access**

The Committee heard from a number of witnesses that access to broadband Internet by all Canadians is essential to the development of digital industries. Witnesses also said that this access is central to the ability of Canadians to participate in the digital economy.

---

55 *Evidence*, Committee, Meeting No. 10, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 27, 2010, 1230.

56 *Evidence*, Committee, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1110.

57 *Ibid.*, 1115.

58 *Ibid.*, 1110.

59 *Ibid.*, 1115.

60 *Evidence*, Committee, Meeting No. 27, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, November 2, 2010, 1635.

For Mr. Gaffield of the SSHRC, for example, access to broadband Internet has, “become a key issue of social, economic, and cultural integrity,” because “those with the access and ability to communicate using the new media have a huge advantage.”<sup>61</sup> On this point, Ms. Kelly of the Canadian Library Association pointed out:

Certainly access to broadband Internet in rural areas is a challenge that can affect the ability to take advantage of digital media. It is equally important to recognize that while there is sufficient bandwidth in most Canadian cities, cities are also places where the economically disadvantaged, new Canadians, and people with special needs who require services tend to reside. These Canadians often cannot afford broadband access, even when it is physically available to them.<sup>62</sup>

From an industry perspective, Mr. Kee of the Entertainment Software Association of Canada said,

...ready cost-effective access to a first-class wire-line and wireless broadband infrastructure is crucial to the development of new products, services, and distribution methods in the online environment, which will in turn drive broadband adoption and lead to greater development. Access to advanced broadband infrastructure is indeed essential for online games and the digital delivery of games and is vital to the entertainment software industry's future growth.<sup>63</sup>

According to Mr. McKie of the Canadian Independent Music Association, however, Canada is lagging behind other countries of the Organisation for Economic Co-operation and Development (OECD) in terms of cost per person and bandwidth speeds.<sup>64</sup>

### 3.4 Training

Similarly, training and the development of digital skills were seen by many witnesses as essential to Canada's ability to develop and use emerging and digital media. There are two aspects to the issue of training. Witnesses saw the need for a skilled workforce to develop Canada's digital economy, as well as the need for a digitally literate population that is able to take advantage of emerging and digital media.

With regard to digital literacy, Mr. Jenkins of Open Text Corporation said he had recently attended the Canada 3.0 conference in Stratford, Ontario, and that while the 2,000 participants had debated many issues,

Digital literacy had no debate at all. It was clear: we need a program of digital literacy, very much in the same way that we would have thought of literacy 100 years ago as we moved from the farms to the cities and started to require people to become knowledge workers and to be able to read.<sup>65</sup>

---

61 *Evidence*, Committee, Meeting No. 32, 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session, October 27, 2009, 1215.

62 *Evidence*, Committee, Meeting No. 25, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, October 26, 2010, 1555.

63 *Evidence*, Committee, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1235.

64 *Evidence*, Committee, Meeting No. 26, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, October 28, 2010, 1630.

65 *Evidence*, Committee, Meeting No. 15, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 13, 2010, 1105.

Ms. Kopak of Great Northern Way Campus noted that high school students have “a ton of ideas about where to take us,” but that we need to “enable education systems to let them develop new ideas.”<sup>66</sup>

From an industry point of view, Mr. Proulx of the Alliance numérique—Réseau de l'industrie numérique du Québec said “we must ensure the excellence of our workforce,” and added “institutions of higher learning must clearly be provided with cutting edge infrastructures, again so that people in the industry can be better trained.”<sup>67</sup>

From the perspective of artists, Mr. Pineau of the CCA said:

Artists and art administrators are more obligated to learn a diverse set of skills in order to compete on an open market. Those who have digital marketing skills and social media savvy will be able to promote, present, and professionalize their artistic practice. More attention must therefore be given to training young artists and creators, not only in digital skills but also in the basics of entrepreneurship.

A knowledge economy is a resource that will never run dry. Given the retiring cadre of professionals, we must invest in knowledge transfer programs, mentorships, and apprenticeships in cultural industries and in the arts.<sup>68</sup>

## **3.5 Copyright**

### **3.5.1 Introduction**

Copyright reform was raised by many witnesses as an issue affecting the development of emerging and digital media. It should be noted that most of the Committee's hearings took place during the lead-up to the introduction on June 2, 2010 of a bill to amend the *Copyright Act*.

Witness raised a wide range of concerns related to copyright. Some stressed the need to respond to piracy and to protect the work of creators. Others called for a loosening of the restrictions on the use of copyright material in order to encourage innovation. Several witnesses cited the need for clear rules in developing their business models. The following sections look at some of the main issues regarding copyright.

### **3.5.2 Protection for creative works**

The Committee heard different approaches to protecting creative works. On the one hand, some witnesses felt that people should be able to reuse creative works. This view, which centres on what are often call “user rights,” was expressed by Brett Gaylor, Documentary Filmmaker, EyeSteelFilm Inc., who said:

---

66 *Evidence*, Committee, Meeting No. 28, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, November 4, 2010, 1550.

67 *Evidence*, Committee, Meeting No. 14, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 11, 2010, 1210.

68 *Evidence*, Committee, Meeting No. 15, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 13, 2010, 1210.

[O]ur copyright system is fundamentally broken. It does not make sense for those of us who grew up in the digital age. Not only does our current legal environment make an entire generation feel like criminals for experiencing culture in ways that seem as natural to us as turning on the tap, it criminalizes, and in some cases, when paired with digital rights management technologies, prevents the creative reuse and expression of culture.<sup>69</sup>

On the other hand, Loreena McKennitt, President, Quinlan Road Limited, criticized the “user rights” approach, saying:

It is my view that we should be extremely careful with this kind of language, because it isn't a matter of user rights but rather user permissions. Once we dispel the notion that in this respect there is no such thing as user rights, or that people own the music in a CD or a digital download, we can cease worrying about how to balance these rights. Many things the public wishes to do with what they purchase can all be accomplished within the framework of permissions and personal use.<sup>70</sup>

A number of other witnesses called for clear protection of creative works. For example, Graham Henderson, President, Canadian Recording Industry Association, said:

I believe it starts with a very simple, straightforward baseline. We have to draw a little box around what's legal and what's illegal and send clear messages to the people of Canada about what's right and what's wrong.<sup>71</sup>

Indeed, according to Darlene Gilliland, Director, Digital Business Development, Universal Music Canada, because of piracy, Canada's digital marketplace is operating well below its potential, and this is due, “in large part to the lack of a robust copyright regime and protection for creators' works in our country, especially when we stack Canada up beside other countries. Our peers have had these protections for a long time.”<sup>72</sup> Mr. Rollans of Lone Pine Publishing made a similar point when he said his company had between 300 and 400 books in digital form, but had not released them because of the lack of clear rules. He went on to say:

If Canada is going to be a leader in the digital economy, in my mind we have to be a leader in copyright protection for producers of original resources. That includes writers and visual artists, and publishers, who have a creative role in the creation of resources. Where people hold copyright and are secure about the rules in the marketplace, I think they're going to be very energetic participants.<sup>73</sup>

With regard to the technical means of protecting content, Mr. Kee of the Entertainment Software Association of Canada, explained how the entertainment software industry uses digital rights management measures, also known as technological protection measures (TPMs) or digital locks. He said that in addition to protecting against piracy, they are used to differentiate products. He summed up by saying:

---

69 *Evidence*, Committee, Meeting No. 7, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 15, 2010, 1135.

70 *Evidence*, Committee, Meeting No. 9, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 22, 2010, 1210.

71 *Ibid.*, 1220.

72 *Ibid.*, 1200.

73 *Evidence*, Committee, Meeting No. 8, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 20, 2010, 1130.

The TPMs are one of the cornerstones on which our industry is built. They've significantly contributed to the success of our industry, because they allow us to offer a wide array of differentiated products that benefit consumers. So if you want to get a trial version of a game, if you just want to rent a game for a short period of time, or if you want to buy it, they actually allow for all of these options.<sup>74</sup>

Brigitte Doucet, Deputy General Director, Association des producteurs de films et de télévision du Québec, also addressed the issue of TPMs, as well as that of websites that enable illegal file sharing, saying:

[W]e suggested ensuring that there is a clear statement [in the *Copyright Act*] that these providers of content retrieval tools are acting illegally and that, for those who choose to protect their content, the way of circumventing content should be made illegal.<sup>75</sup>

Other witnesses raised concerns about digital locks. For instance, Ms. Kelly of the Canadian Library Association expressed concerns about providing “copyright holders of material in an electronic format with almost unlimited power to determine the conditions under which people may use the material.”<sup>76</sup>

### 3.5.3 Fair dealing

The issue of fair dealing was raised by a number of witnesses. What is fair dealing? To quote the Government of Canada website on copyright reform:

Fair dealing is a long-standing feature of Canadian copyright law that permits certain uses of copyrighted material in ways that do not unduly threaten the interests of copyright owners, but which could have significant social benefits.

Currently, fair dealing in Canada is limited to five purposes: research, private study, news reporting, criticism and review.<sup>77</sup>

On the one hand, witnesses including Mr. Geist from the University of Ottawa, Mr. Glick of Google Inc., and Mr. Gaylor of EyeSteelFilm Inc. called for expanded fair dealing. Mr. Geist explained his approach as follows:

Today, we all recognize that there is a problem with fair dealing. Everyday activities such as recording television shows or format shifting aren't covered. Artistic endeavours like parody aren't covered. Some teaching activities aren't covered, and innovative businesses can't rely on the provision either. This goes to the heart of new media creation.

---

74 *Evidence*, Committee, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1255.

75 *Evidence*, Committee, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1225.

76 *Evidence*, Committee, Meeting No. 25, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, October 26, 2010, 1555.

77 Government of Canada, “Copyright Modernization: Questions and Answers,” [http://strategis.ic.gc.ca/eic/site/crp-prda.nsf/eng/h\\_rp01153.html](http://strategis.ic.gc.ca/eic/site/crp-prda.nsf/eng/h_rp01153.html), (accessed June 8, 2010).

The solution I'd propose, which I think is a clean, simple one, would be to add two words—"such as"—so that the current list of fair dealing would become illustrative rather than exhaustive, and we would build in flexibility, but—this is crucial—not lose fairness.<sup>78</sup>

However, this suggested approach was opposed by a number of witnesses. For them, creating an illustrative list would create uncertainty and involve creators in endless litigation. The concerns about expanding fair dealing beyond the five purposes listed above were explained by Roanie Levy, General Counsel and Director, Policy and External Affairs, Access Copyright:

Adding the words "such as" to the current fair dealing purposes turns the list from an exhaustive list of five purposes to an illustrative list. This is a significant change to Canada's current fair dealing provisions. It is not simple, nor is it incremental, as some proponents of an open fair dealing provision contend.

Let me explain why. Adding the words "such as" creates a lose-lose situation for everybody, creators and users alike, since everything becomes uncertain and is subject to expensive litigation. That's because an open-ended fair dealing provision ... puts into the hands of the courts what should be determined by Parliament.<sup>79</sup>

Her concerns were echoed by a number of other witnesses, including the Société québécoise de gestion collective des droits de reproduction, the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA), the Société québécoise des auteurs dramatiques, and the Writers Guild of Canada. For example, Marie-Louise Nadeau, Director, Playright, Société québécoise des auteurs dramatiques, said:

We are convinced that expanding fair dealing, in addition to causing confusion among some users already confused about existing exemptions, would be dramatic—pardon the pun—for authors and our small organization dedicated to defending their rights.

We do not have the financial or human resources necessary to prove, on a case-by-case basis, that such and such an organization erred or misinterpreted fair dealing.<sup>80</sup>

On the question of an exemption for educational purposes specifically, Mr. Rollans of Lone Pine Publishing said, "an educational exception would completely undercut the educational publishing world."<sup>81</sup> A similar view was expressed by Ms. Côté, of the Association nationale des éditeurs de livres, who said: "We believe that this would be an undue extension that would allow all possible forms of distribution. ...We are convinced that this would seriously weaken French-Canadian production."<sup>82</sup>

---

78 *Evidence*, Committee, Meeting No. 3, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, March 25, 2010, 1115.

79 *Evidence*, Committee, Meeting No. 8, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 20, 2010, 1115.

80 *Ibid.*, 1140.

81 *Ibid.*, 1135.

82 *Evidence*, Committee, Meeting No. 7, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 15, 2010, 1145.

### 3.5.4 Copying levies

Several witnesses addressed the issue of extending the private copying levy, which currently applies to blank audio cassette tapes and blank recordable CDs, to MP3 players. The idea of extending the levy was supported by the Writers Guild of Canada, the Canadian Independent Music Association, and ACTRA, who saw it as a way of compensating creators. Stephen Waddell, National Executive Director, ACTRA, said: "To be clear, this isn't a new levy. It's merely updating something that already exists. If the government does not extend the private copying levy, then the government is taking money out of artists' pockets."<sup>83</sup> In response to questions, Mr. Waddell elaborated on the idea of a levy, saying:

It's economical. It distributes moneys to makers and to creators. It's very efficient. And it gives access to consumers to use content on multiple platforms and allows format shifting. It has everything that one wants in a system in the new digital environment.<sup>84</sup>

On the other hand, Graham Henderson, President, Canadian Recording Industry Association opposed the idea of a levy because he said, "our goal is to establish...a thriving, legitimate digital music market in Canada in which everybody can be fairly compensated. We believe no levy can ever replace such a market."<sup>85</sup> In response to questions, he went on to say, "we do not support levies that have the effect of laundering illegally acquired music into legal copies which would have the effect of destroying our marketplace."<sup>86</sup>

This view was supported Charlie Millar, Director, Digital Business Development, Warner Music Canada, who said levies do not address the industry's goal of discouraging the behaviour of those who pirate music: "When you are able, at your fingertips, to go anywhere at any time and download whatever you want, a tax that addresses storage is a way to get some pennies...but from the pirate's perspective, this does not address the underlying behavioural issue...."<sup>87</sup>

Another point of view was expressed by Mr. Geist from the University of Ottawa, who said "... my view is that someone who has gone out and purchased that CD ought to have the right to transfer that song onto his or her iPod without compensation."<sup>88</sup>

### 3.5.5 Internet Service Provider Liability

Another copyright issue raised by witnesses involved the liability of Internet Service Providers (ISPs) when there is copyright infringement. Mr. Geist explained the current

---

83 *Evidence*, Committee, Meeting No. 10, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 27, 2010, 1150.

84 *Ibid.*, 1215.

85 *Evidence*, Committee, Meeting No. 9, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 22, 2010, 1230.

86 *Ibid.*, 1235.

87 *Ibid.*, 1240.

88 *Evidence*, Committee, Meeting No. 3, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, March 25, 2010, 1155.



“notice and notice” approach, which is used when someone infringes copyright. “This involves a copyright holder sending a notification to an ISP, which is then obligated to send on that notification to a subscriber. These notifications work.”<sup>89</sup> He went on to comment on other approaches to dealing with copyright infringement:

If think the “notice and takedown” approaches that we've seen in some other countries have proven highly problematic. And, even worse, the approaches that a couple of countries have begun to experiment with, where they would literally kick people off the Internet, the three strikes approach, I find to be completely disproportionate.<sup>90</sup>

Kenneth Engelhart, Senior Vice-President, Regulatory, Rogers Communications Inc., also agreed with the “notice and notice” approach, saying that when his company sends out a notice,

That does stop a lot of people from infringing. They've been told. Maybe the teenage son was doing it, and mom and dad got the message and told him to cut it out.

So those types of things we think are very useful. We're doing it today at considerable cost. It's not perfect, obviously not, but we think some of those types of mechanisms should be exhausted before any kind of more draconian measures are imposed.<sup>91</sup>

Mr. Engelhart also commented on the Anti-Counterfeiting Trade Agreement (ACTA), which the Government of Canada was in the process of negotiating with international partners, including Australia, members of the European Union, Japan, New Zealand, and the United States. According to the Government of Canada, ACTA “would be to put in place international standards for enforcing intellectual property rights in order to fight more efficiently the growing problems of counterfeiting and piracy.”<sup>92</sup> In response to questions, Mr. Engelhart said,

We are concerned, as many ISPs are, about the ACTA negotiations. It's supposed to be about counterfeiting, but it seems to have gone way past counterfeiting to being about ISPs and the downloading activities of our customers.

We don't think ISPs should be put in the position of being traffic cops that decide what is legal and what is not. We really hate any idea that we would have to terminate a customer's service based on a three-strikes policy. We do not want to do that at all. I have a great deal of sympathy for the copyright holders who feel that their content is being stolen. It's a big problem. But I don't want to see this done by putting ISPs in the position of having to disconnect their customers or aiding in the conviction of their customers.<sup>93</sup>

---

89 Ibid., 1115.

90 Ibid., 1130.

91 *Evidence*, Committee, Meeting No. 14, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 11, 2010, 1140.

92 Department of Foreign Affairs and International Trade, “Anti-Counterfeiting Trade Agreement,” [http://www.international.gc.ca/trade-agreements-accords-commerciaux/fo/intellect\\_property.aspx](http://www.international.gc.ca/trade-agreements-accords-commerciaux/fo/intellect_property.aspx), (accessed June 8, 2010).

93 *Evidence*, Committee, Meeting No. 14, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 11, 2010, 1135.

On the other hand, Mr. Henderson of the Canadian Recording Industry Association said he would prefer using a the “three strikes” approach—which he called a pejorative term for “graduated response”<sup>94</sup>—and expressed doubts about the effectiveness of the “notice and notice” approach.

Notice and notice is where it's determined that somebody has downloaded something that they shouldn't have. ...We send a notice to the ISP, the ISP sends a notice to the consumer, and that's the end of it. There are no consequences.

There are countries, such as France, that are examining whether or not consequences should be attached to a failure to accept or to modify one's behaviour based on the notice.

Do I like notice and notice regimes? I think they could be a fantastic educational tool. Are they the solution? Do they work? Practice has shown that they simply don't work.<sup>95</sup>

ISP liability is one of the matters addressed in two treaties that were concluded in 1996 at the World Intellectual Property Organization (WIPO)—also known as “the WIPO Treaties”—which Canada had yet to ratify. A number of witnesses said that Canada should implement these treaties. These witnesses included Mr. Geist of the University of Ottawa, Google Inc., the Writers Guild of Canada, the Entertainment Software Association of Canada, and Rogers Communications Inc.

### **3.6 Compensation for creators**

As can be seen from the testimony on copyright, the compensation of creators was a significant issue for many witnesses. Much of the concern stemmed from the unauthorized copying and distribution of copyright material, otherwise known as piracy.

Mr. Geist argued that creators can be compensated within the market, sometimes being paid in the conventional ways, while at other times giving away intellectual property and being paid in different ways. He also said that where there is market failure, collective licensing can come in.<sup>96</sup>

Mr. McGarry of Jumpwire Media argued that one way musicians can be paid for their online content is through their data. He said that the data associated with online content—such as the geographic location of those downloading the content—can be monetized. Indeed, he said many artists are already doing so: “I meet all these bands who create their own content. They place it on YouTube. They monetize it themselves. They don't need record labels. They don't need the government. They don't need anybody.”<sup>97</sup>

---

94 *Evidence*, Committee, Meeting No. 9, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 22, 2010, 1250.

95 *Ibid.*, 1230.

96 *Evidence*, Committee, Meeting No. 3, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, March 25, 2010, 1140.

97 *Evidence*, Committee, Meeting No. 26, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, October 28, 2010, 1645-1650.

For Mr. Rollans of Lone Pine Publishing, however, publishers will be more inclined to participate in emerging and digital media if their intellectual property is protected and they can expect some compensation. He said:

[M]y sense is that publishers are going to participate more confidently in digital business if they're adequately protected. That means having some expectation of reasonable compensation and also some expectation that, when they let the cow out of the barn in digital form, it is going to both improve access and improve, in a sense, their business possibilities. The business that a publisher does flows through to its writers, designers, editors, salespeople, and retailers. It has huge spinoffs and it's important to protect those, in my mind.<sup>98</sup>

Several witnesses raised the issue of terms of trade—the agreements between independent producers and broadcasters. Ms. Parker of the Writers Guild of Canada said that a national digital strategy must “support terms of trade to ensure that fair revenue streams flow back to content creators.”<sup>99</sup> She went on to explain:

Broadcasters are demanding more rights from producers for the same licence fee. For example, if a broadcaster exploits a TV show through iTunes downloads, in most cases the broadcaster keeps that revenue, and it is not shared with the production community. We support a terms of trade agreement between the broadcasters and the producers, because without it no one but the broadcaster earns revenue from these new uses. We will be working with independent producers to ensure that compensation flows equitably to the creative community.<sup>100</sup>

This issue was also raised by Mr. Bishop of marbledmedia Inc.<sup>101</sup> and Mr. Barrack of the Canadian Film and Television Production Association, who said:

I think it's important for companies and broadcasters to be able to acquire rights because I think it's important to work with those broadcasters in partnership to best exploit that Canadian content across a multiplicity of platforms. That's what we want. We want to do those deals, but they have to be balanced and fair, and they must lead to the maintenance of what is a truly independent production sector.<sup>102</sup>

A related issue concerned unused rights—rights that are acquired by a broadcaster, who does not make use of them. In such situations, according to Trevor Doerksen, Chief Executive Officer, MoboVivo Inc.,

The rights to content are not being exploited fully to monetize them fully. This of course affects our company. It affects Canadian consumers, but what it really does is it drives illegal consumption. If you can't get it from a legal source and you want to consume it on

---

98 *Evidence*, Committee, Meeting No. 8, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 20, 2010, 1130.

99 *Evidence*, Committee, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1120.

100 *Ibid.*, 1125.

101 *Evidence*, Committee, Meeting No. 14, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 11, 2010, 1115.

102 *Evidence*, Committee, Meeting No. 13, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 6, 2010, 1200.

your phone or your computer, there's a ready-made illegal source of that content, and it's pretty easy to use and it leaves money on the table.<sup>103</sup>

### 3.7 Business models

The challenge of developing successful business models for emerging and digital media was raised by a number of witnesses. Mr. Pineau of the CCA expressed the views of many witnesses when he said: "The advent of digital technologies has changed the way in which artists produce and the relationship that institutions have with their public. Interactivity is overturning business models and changing the ways in which cultural products are consumed."<sup>104</sup>

Mr. Jenkins of Open Text Corporation also commented on the changes affecting business models:

[T]here are new and old business models that are completely in conflict with each other, the so-called long tail of how to recoup any kind of endeavour, whether it's cultural or any other. These business models are different and there is a transition, and it's a pretty brutal transition.<sup>105</sup>

Sylvie Courtemanche, Vice-President, Government Relations, Corus Entertainment Inc., recognized the difficulty in developing a new business model when she said: "As things stand, we have no idea of what our business model will be; no one does, but we do know that we have to take risks and give it our best shot."<sup>106</sup> Her colleague, Mr. Maavara, elaborated by saying: "We need to be able to experiment, to innovate, and to react quickly to new opportunities. That is the only way we will find out what works and what doesn't work with consumers."<sup>107</sup> They also said that Corus Entertainment has to compete globally and that foreign markets are crucial.<sup>108</sup> To increase the probability of success in these markets, however, Ms. Courtemanche said the government should encourage "the creation of larger and stronger enterprises."<sup>109</sup>

The Committee also heard that emerging and digital media make it possible for small companies to succeed globally. Mr. Levy of Score Media Inc., pointed out: "In the new media world, the organic and explosive growth of the Internet has created an environment where small companies like Score Media can, with a little creativity, create a global business."<sup>110</sup>

---

103 *Evidence*, Committee, Meeting No. 11, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 29, 2010, 1220.

104 *Evidence*, Committee, Meeting No. 15, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 13, 2010, 1202.

105 *Ibid.*, 1105.

106 *Evidence*, Committee, Meeting No. 16, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 25, 2010, 1240.

107 *Ibid.*, 1225.

108 *Ibid.*, 1215.

109 *Ibid.*, 1220.

110 *Evidence*, Committee, Meeting No. 15, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 13, 2010, 1125.

In his appearance before the Committee, Jeff Anders, Chief Executive Officer and Co-Founder, The Mark News, explained how he is experimenting with new business models in order to create an innovative kind of news service. He described some of the difficulties he had faced:

Speaking as one member of a vibrant community of start-up companies across the country, the message from the ground is that it's tough out there. Funding for early-stage companies, especially for media and information companies, is scarce. Venture capital investment is at its lowest point in Canada in more than a decade.

Government funding, while abundant, seems frustratingly out of reach. The Mark, for example, has reviewed at least 70 different grant programs and qualifies for surprisingly few.<sup>111</sup>

Mr. Anders went on to say that companies such as his need support while they figure out their business models:

We need operating support, funds to keep us going while we experiment and fail on the way to finding sustainable models. We need support making digital work, not encouragement to look backwards toward paper. We need a shift from protection to encouragement, to propulsion.<sup>112</sup>

Mr. O'Hearn of the Association of Canadian Publishers also stressed the need to be able to experiment.<sup>113</sup>

The challenge of obtain financing was raised by a number of witnesses, including the Entertainment Software Association of Canada<sup>114</sup> and the Alliance numérique—Réseau de l'industrie numérique du Québec.<sup>115</sup>

In addition, concerns were expressed about the speed with which funding is approved. To quote Mr. Coates of the University of Waterloo:

...at all levels of governments—municipal, federal, and provincial—our granting system does not move at the speed of the Internet. If you compare what we do in Canada to what they do in Singapore or Taiwan, where a handful of people can make decisions in a couple of days, our processes take as much as two years. Two years is a lifetime in the digital media space.<sup>116</sup>

As noted earlier, many witnesses said that part of the challenge in creating successful business models is ensuring that creators are compensated for their work. Some witnesses held out hope in this regard. Mr. Doerksen of MoboVivo Inc. said:

---

111 *Evidence*, Committee, Meeting No. 7, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 15, 2010, 1130.

112 *Ibid.*

113 *Evidence*, Committee, Meeting No. 28, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, November 4, 2010, 1530.

114 *Evidence*, Committee, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1235.

115 *Evidence*, Committee, Meeting No. 14, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 11, 2010, 1210.

116 *Evidence*, Committee, Meeting No. 25, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, October 26, 2010, 1540.

“Consumers are changing, they're showing a willingness to pay for content.”<sup>117</sup> Mr. Engelhart of Rogers Communication Inc. concurred, saying, “We believe that even though a lot of the viewing is going on demand and on the Internet, the business model will still be the monthly subscription model. That's the model that makes sense.”<sup>118</sup>

Other witness described the steps they are taking to develop new business models. For example, Ms. Gilliland of Universal Music Canada talked about her company's licensing deals, its use of social media as part its marketing and promotion efforts, and its diversification in the areas of artists' websites and fan clubs, value-added music products, and concert tickets.<sup>119</sup> Mr. McKie of the Canadian Independent Music Association referred to this approach as the 360 business model or the holistic model. In addition to generating revenue from the sale of recordings, it includes revenue from publishing rights, TV and film licensing, live performances, and merchandise sales. However, he said, “at best, this is a promising transitional strategy, one that puts recorded music at risk and puts an enormous burden on the artist to tour.”<sup>120</sup>

An example of the kind of quick response that is sometimes needed in developing a new business model was given by Ms. Côté of the Association nationale des éditeurs de livres. Faced with the development of electronic book readers by foreign companies and the low prices being charged by some of them, French-language publishers developed their own system:

Let me tell you about one of the major successes we have had in French-speaking Canada. Three years ago, the publishers reacted to this situation by developing very quickly their own digital platform. We agreed on the principle of a common platform and tried very quickly to set up a French-language digital collection for all of Canada through an aggregator. We decided that this aggregator would be based in Quebec, would come under Canadian law and would have a business model. Everyone talks about new business models and that is exactly what we established. It is an agency system that allows publishers to keep control of the quality of their works and to ensure that the contracts they have signed with their authors are respected and that selling prices are related to the value of the works.<sup>121</sup>

Mr. O'Hearn of the Association of Canadian Publishers said its aims are to maximize revenue from e-books, to use technology to raise awareness of Canadian books in all formats, to develop new business models, and to increase the presence of Canadian books in Canadian schools.<sup>122</sup>

---

117 *Evidence*, Committee, Meeting No. 11, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 29, 2010, 1220.

118 *Evidence*, Committee, Meeting No. 14, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 11, 2010, 1125.

119 *Evidence*, Committee, Meeting No. 9, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 22, 2010, 1155.

120 *Evidence*, Committee, Meeting No. 26, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, October 28, 2010, 1530.

121 *Evidence*, Committee, Meeting No. 7, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 15, 2010, 1125.

122 *Evidence*, Committee, Meeting No. 28, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, November 4, 2010, 1530.

### 3.8 Canadian content

Given the lack of regulation regarding broadcasting in emerging and digital media, some witnesses wondered about the future of Canadian content. As we have seen, a number of witness, including those from the NFB, Corus Entertainment Inc., and Score Media Inc., described their successes in making Canadian content accessible to the world. To quote Mr. Geist of the University of Ottawa: “In terms of promoting Canadian content, let's recognize the fact that there is an unprecedented amount of Canadian content online.”<sup>123</sup> Mr. Glick of Google Inc. also talked about the large amount of Canadian content on sites such as the video-sharing site YouTube.<sup>124</sup>

However, Kelly Lynne Ashton, Director, Industrial and Policy Research, Writers Guild of Canada, took issue with Google’s interpretation of Canadian content:

YouTube can be an inexpensive way to distribute content directly to consumers without the broadcaster as a gatekeeper, and our members are increasingly interested in this opportunity. But amateur content is not a substitute for professionally produced Canadian content. Canadians deserve better. Without government support, Canadians will have no choice but to enjoy the vast amount of U.S. professionally produced content that is online.<sup>125</sup>

To respond to this flood of online content from around the world, some witnesses called on the Canadian government to ensure that there is sufficient shelf space for Canadian content online. They included Tyrone Benskin, National Vice-President, ACTRA<sup>126</sup> and Richard Paradis, President, Groupe CIC (Communication, Information, Culture).<sup>127</sup> In addition, Marc Séguin, Senior Vice-President, Policy, Canadian Film and Television Production Association, said that a national digital media strategy should ensure, “that professional content created by Canadians has priority on our broadband networks.”<sup>128</sup>

Several witnesses expressed concern about Canadian content being digitized by non-Canadian companies. A case in point was Google Inc.’s initiative to digitize books. As Mr. Geist of the University of Ottawa pointed out: “The Google initiative is a great initiative, but if we live in a world where the only major digitizer is Google, that's a problem.”<sup>129</sup> Ernie Ingles, President, Canadian Association of Research Libraries, said that when it comes to the digitization of Canadiana, “[w]e don't want a Google, particularly, where we

---

123 *Evidence*, Committee, Meeting No. 3, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, March 25, 2010, 1215.

124 *Evidence*, Committee, Meeting No. 4, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, March 30, 2010, 1115.

125 *Evidence*, Committee, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1130.

126 *Evidence*, Committee, Meeting No. 10, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 27, 2010, 1145.

127 *Evidence*, Committee, Meeting No. 11, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 29, 2010, 1225.

128 *Evidence*, Committee, Meeting No. 13, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 6, 2010, 1115.

129 *Evidence*, Committee, Meeting No. 3, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, March 25, 2010, 1210.

have to digitize our heritage and then buy it back. That's something we are trying to avoid if we can do so."<sup>130</sup>

### 3.9 Open Internet

The Committee heard from a number of witnesses that an open Internet in which all content is treated equally—so-called net neutrality—is essential to the development of emerging and digital media.

These included Mr. Geist of the University of Ottawa,<sup>131</sup> Google Inc.,<sup>132</sup> OpenMedia.ca,<sup>133</sup> and Mr. Levy of Score Media Inc. To quote the latter:

We are very concerned about the ability of Internet and wireless service providers to act as gatekeepers, either because they are vertically integrated and have an incentive to prioritize their own content, or because they are partnering with major media players and providing preferred access. If we seek diversity of Canadian voices in new media, the Internet cannot become a pay-to-play zone.<sup>134</sup>

---

130 *Evidence*, Committee, Meeting No. 16, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 25, 2010, 1120.

131 *Evidence*, Committee, Meeting No. 3, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, March 25, 2010, 1110.

132 *Evidence*, Committee, Meeting No. 4, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, March 30, 2010, 1150.

133 *Evidence*, Committee, Meeting No. 10, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 27, 2010, 1250.

134 *Evidence*, Committee, Meeting No. 15, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 13, 2010, 1125.



# CHAPTER 4: EMERGING AND DIGITAL MEDIA: THE ROLE OF THE FEDERAL GOVERNMENT

---

## 4.1 Introduction

The expansion of digital media has transformed various sectors of Canadian society. A number of federal institutions in charge of broadcasting Canadian content and preserving Canadian memory must change the way they work. Many witnesses called for a national digital strategy to coordinate activities in this area. Other witnesses called for a review of the existing legislative framework, which no longer reflects today's technological world.

## 4.2 The digitization of government data and documentary heritage

The activities of federal departments and agencies have been transformed by the expansion of information and communication technologies (ICT). ICT has revolutionized the way the federal government communicates with Canadians.

Mr. Geist of the University of Ottawa pointed out that countries such as the United States and Great Britain have embraced initiatives to increase access to government content through new media. He asserts that opening federal government data will have a domino effect “by inviting Canadian businesses to add value to public data.”<sup>135</sup> With a view to increased transparency, he also recommended the removal of Crown copyright and more open licences for government data, including government video.<sup>136</sup>

Mr. Wilson from the University of Waterloo was another witness who called for the removal of Crown copyright and he said that everything that governments have published should be put online.<sup>137</sup> He also called for the establishment of a preservation policy.<sup>138</sup> Regarding the latter point, Ms. Moore of the Canadian Library Association said that “without strong digital and information policies, we risk losing material simply because we can no longer access it in the format in which it was produced.”<sup>139</sup>

As stated in section 2.2, the NFB has broken new ground in opening content. In January 2009, the NFB launched an online screening room, giving Canadians direct access to over 1,000 titles in its audiovisual collection.

---

135 *Evidence*, Committee, Meeting No. 3, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, March 25, 2010, 1110.

136 *Ibid.*

137 *Evidence*, Committee, Meeting No. 25, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, October 26, 2010, 1635.

138 *Ibid.*, 1545

139 *Ibid.* 1550.

Mr. Caron of Library and Archives Canada pointed out that there is an overabundance of information to be safeguarded. The traditional archival materials that once came to them in a box filled with books, pictures and papers, now come to them on a memory stick.<sup>140</sup> In other respects, it is also an opportunity to better connect Canadians across the country with their documentary heritage. To meet these challenges, Mr. Caron recommends developing a pan-Canadian network of trusted digital repositories—electronic vaults where digital content can be hosted and distributed in both the short and medium term.<sup>141</sup>

The Canadian Association of Research Libraries (CARL) made essentially the same argument as Library and Archives Canada. The digitization of Canada's documentary heritage is a strong interest for CARL, as it will give Canadians greater access to their heritage. However, CARL stressed that the government needs to take a leadership role and invest in the digitization of our documentary heritage.<sup>142</sup>

### 4.3 The National Digital Strategy

The Committee noted that the vast majority of witnesses agreed that Canada needs a national digital strategy.

The Chair of the NFB, Mr. Perlmutter, has promoted this idea for over a year. He raised this idea last year when he appeared before the Committee for its study on the future of local television in Canada. He again made it the focal point of his presentation to the Committee on April 29, 2010.<sup>143</sup> He pointed out that Britain, France and Australia had already devised such strategies.

Mr. Geist of the University of Ottawa also asserted that Canada lags behind other countries in this area. Such a strategy hinges on skills development and digital copyright issues. Mr. Geist recommends financing this strategy through revenue from the auction of broadcasting spectrum opened up by the transition to digitization.<sup>144</sup>

Nordicity Group has expressed a keen interest in the content of a national digital strategy. In September 2009 it released a discussion paper entitled *Towards a National Digital Strategy* in a bid to stimulate debate on the issue. Peter Lyman, a partner with Nordicity Group, said that such a strategy had to be relevant to Canada, and must address three categories of concern: information and communication technologies, the cultural domain, and human resources and training.

ACTRA believes that this strategy must contain the following elements:

---

140 *Evidence*, Committee, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1110.

141 *Ibid.*, 1120.

142 *Evidence*, Committee, Meeting No. 16, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 25, 2010, 1120.

143 *Evidence*, Committee, Meeting No. 11, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 29, 2010, 1135.

144 *Evidence*, Committee, Meeting No. 3, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, March 25, 2010, 1115.

- limits on foreign ownership;
- increased investment in content creation;
- a modern regulatory framework that ensures there is shelf space for Canadian content; and
- new copyright laws that give audiences access to the content while ensuring creators are justly compensated.<sup>145</sup>

The Canadian Film and Television Production Association<sup>146</sup> and the Writers Guild of Canada support a national digital strategy on behalf of Canadian screenwriters. Incentives to support the creation of digital works and an updated *Copyright Act* would be chief elements of such a strategy:

A national digital strategy must first ensure that there is sufficient funding to create professionally produced digital entertainment; second, it must ensure that Canadian-owned and Canadian-controlled enterprises exist to support Canadian content, and that they have appropriate incentives or requirements to do so; and third, it must amend the *Copyright Act* and support terms of trade to ensure that fair revenue streams flow back to content creators.<sup>147</sup>

The Canadian Conference of the Arts states that the development of a Canadian digital strategy must be based on a new *Copyright Act*.<sup>148</sup> Expanding digital literacy must also be part of this strategy.

Mr. Paradis of Groupe CIC and Mr. Anderson of OpenMedia.ca stress that high-speed Internet must be a key component of such a strategy.<sup>149</sup>

Mr. Bishop of marblemedia Inc. said that the strategy must support access to digital professional Canadian content distributed by “Canadian-owned services.”<sup>150</sup>

For Mr. Coates of the University of Waterloo, digital content needs to be integrated into a national innovation strategy. In addition, he said Canada needs to issue a loyalty challenge to ask skilled Canadians to stay here or to come back home. Finally, he said Canada needs a digital brand to establish itself as a major digital nation.<sup>151</sup> His colleague Mr. Wilson recommended “a major study of Canada's cultural policy, including information,

---

145 *Evidence*, Committee, Meeting No. 10, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 27, 2010, 1145.

146 *Evidence*, Committee, Meeting No. 13, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 6, 2010, 1115.

147 *Evidence*, Committee, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1120.

148 *Evidence*, Committee, Meeting No. 15, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 13, 2010, 1120.

149 *Evidence*, Committee, Meeting No. 11, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 29, 2010, 1230.

150 *Evidence*, Committee, Meeting No. 14, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 11, 2010, 1115.

151 *Evidence*, Committee, Meeting No. 25, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, October 26, 2010, 1540.

humanities, social science, and knowledge policies, to inspire and guide Canada's governments and institutions in the 21st century."<sup>152</sup>

Only Mr. Glick of Google Inc. expressed some scepticism about a national digital strategy. He strongly believes that a digital strategy needs to be nimble enough to adapt to the rapidly changing digital sector.<sup>153</sup>

#### 4.4 Statutes and regulations

Witnesses proposed legislative changes to some statutes and regulations relating to broadcasting and the production of cultural content.

Some witnesses felt that the temptation to regulate the Internet should be avoided. Instead, incentives should be created to encourage the production of original content on the web, including Canadian content. This position was vigorously defended by Mr. Glick of Google Inc.<sup>154</sup>

The argument most often advanced is that the broadcasting and telecommunications sectors are increasingly linked and that it is increasingly difficult to separate the two. Mr. Geist of the University of Ottawa recommends overhauling the *Broadcasting Act* and the *Telecommunications Act* to make a single, broader communications act.<sup>155</sup> It is also clear to the Canadian Interactive Alliance,<sup>156</sup> the Groupe CIC<sup>157</sup> and the Association des producteurs de films et de télévision du Québec<sup>158</sup> that the current legislative framework does not reflect the convergence in the broadcasting and telecommunications sectors. However, some reservations were expressed. Mr. Lyman of Nordicity Group doubts that a timely legislative amendment is possible, stating:

When people talk about a fusing of telecommunications and broadcasting, what they really mean is ripping out the broadcasting provisions so that we don't have to mess around when we're getting into these difficult areas of what constitutes broadcasting and what does not constitute broadcasting. That's a very messy area. An easy way to do it is to fuse the two—just have a telecommunications act and dispense with the *Broadcasting Act*—but I don't think this country is going in that direction.<sup>159</sup>

---

152 Ibid., 1545.

153 *Evidence*, Committee, Meeting No. 4, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, March 30, 2010, 1135.

154 *Evidence*, Committee, Meeting No. 4, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, March 30, 2010, 1115.

155 *Evidence*, Committee, Meeting No. 3, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, March 25, 2010, 1110.

156 *Evidence*, Committee, Meeting No. 11, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 29, 2010, 1150.

157 *Evidence*, Committee, Meeting No. 11, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 29, 2010, 1230.

158 *Evidence*, Committee, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1215.

159 *Evidence*, Committee, Meeting No. 13, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 6, 2010, 1145.

Companies working in the publishing and visual arts sectors want better copyright protection for their authors, publishers and photography industry workers. Publishers such as Lone Pine Publishing expect reasonable compensation for their work.<sup>160</sup>

Don Quarles of the Songwriters Association of Canada said that one way this could be done is by the licensing of file sharing. Under this proposal: “The end user would be licensed; revenues would be pooled; and pro rata distribution, based on non-intrusive data collection, would be made to songwriters, performers, labels, and publishers.”<sup>161</sup> He said that a \$3 a month per household licensing fee would generate some \$360 million annually.<sup>162</sup> However, Mr. McKie of the Canadian Independent Music Association said that this would not be enough to compensate for the \$600 million loss in sales since 2000. He also pointed out that half the population never buys music and that if there were an opt-out provision for the licensing fee, this would mean that revenue from the fee would be cut in half.<sup>163</sup>

As mentioned in section 3.9, the issue of net neutrality was raised. Mr. Geist<sup>164</sup> and Mr. Levy of Score Media Inc.<sup>165</sup> argued that rules must be created so that all Internet content is afforded an equal opportunity and does not fall victim to limited access based on the kind of content or the program used to distribute it. The Coordinator of OpenMedia.ca, Mr. Anderson, reproached the Canadian Radio-television and Telecommunications Commission (CRTC) for not adequately monitoring Internet service providers that “manage” traffic. He called for a net neutrality law.<sup>166</sup>

In his testimony, Namir Anani, Executive Director of the Policy Development and Research Sector at the CRTC discussed the CRTC’s actions in the area of net neutrality:

We now require ISPs to inform their customers in advance if they intend to use an Internet traffic management practice. Customers must be told how the practice will affect their service, including the specific impact on speeds.

We developed a framework to review Internet traffic management practices that raise concerns or generate complaints. The framework spells out how we will judge complaints. The Commission has received only a small number of complaints over the course of implementing the framework this past year. They have been resolved with minimal regulatory intervention.<sup>167</sup>

---

160 *Evidence*, Committee, Meeting No. 8, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 20, 2010, 1130.

161 *Evidence*, Committee, Meeting No. 26, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, October 28, 2010, 1540.

162 *Ibid.* 1545.

163 *Ibid.* 1620.

164 *Evidence*, Committee, Meeting No. 3, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, March 25, 2010, 1120.

165 *Evidence*, Committee, Meeting No. 15, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 13, 2010, 1120.

166 *Evidence*, Committee, Meeting No. 10, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 27, 2010, 1250.

167 *Evidence*, Committee, Meeting No. 27, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, November 2, 2010, 1535.

Mr. Anani added that the CRTC would like the ability to impose administrative monetary penalties, which he said would allow it to adopt a less restrictive approach to regulation.<sup>168</sup>

Companies such as Universal Music and Warner Music Canada expect the federal government to put mechanisms in place to “foster innovation, encourage investment and protect creators.”<sup>169</sup>

As to human resources, the Entertainment Software Association of Canada argues that barriers be removed to bring in foreign workers with the right skills and experience in the digital sectors. Existing work permit and visa processes are overly cumbersome.<sup>170</sup>

In a similar vein, Mr. Coates of the University of Waterloo said that regulatory procedures are too slow. He elaborated by saying: “Fast enough is a very good idea coming from a corporation getting funded within a month. Not fast enough is that same idea taking 18 months to go through regulatory procedures....”<sup>171</sup>

Rogers Communications believes that the existing regulations have served Canadian cultural industries well. However, it raised concerns about the CRTC’s decision of March 23, 2010, regarding compensation for the value of local conventional television signals. The company also made the following recommendation:

There are also policies the federal government could adopt. For example, pursuant to section 19 of the *Income Tax Act*, Canadian firms cannot claim advertising expenses as an income tax deduction when they advertise in U.S. magazines or border TV stations.

The same rule should apply to U.S. websites. This will make it more expensive to place ads, for example, on Hulu, if it comes to Canada. The aim should be to make sure that Canadian advertisers prefer Canadian-owned and -operated services.<sup>172</sup>

We wish to cap this section with a recommendation made by Astral Media: an independent expert panel should be mandated with reviewing broadcasting policies in order to propose a “new national policy that is adapted to the reality of our global and multi-platform environment.”<sup>173</sup>

#### **4.5 The Canada Media Fund**

The Canada Media Fund (CMF) was launched in March 2010 to support the production of Canadian programming in English, French and Aboriginal languages on multiple platforms. It supports the work of Canadian creative talent, including writers,

---

168 Ibid., 1540.

169 *Evidence*, Committee, Meeting No. 9, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 22, 2010, 1200.

170 *Evidence*, Committee, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1230.

171 *Evidence*, Committee, Meeting No. 25, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, October 26, 2010, 1630.

172 *Evidence*, Committee, Meeting No. 14, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 11, 2010, 1105.

173 *Evidence*, Committee, Meeting No. 16, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 25, 2010, 1215.

directors and performers. Telefilm Canada administers the CMF. In 2010-2011, the contribution to the Canada Media Fund will total more than \$360 million, according to a news release from the Department of Canadian Heritage.<sup>174</sup>

Most witnesses supported the new CMF. The NFB,<sup>175</sup> the Canadian Interactive Alliance,<sup>176</sup> The Mark News,<sup>177</sup> marbledmedia,<sup>178</sup> and Jumpwire<sup>179</sup> all applauded this government initiative.

Mr. Gaylor, a documentary filmmaker with EyeSteelfilm and Mr. Anderson of OpenMedia.ca<sup>180</sup> also felt it is a step in the right direction, even though they said the CMF gives greater support to traditional broadcasters. The Entertainment Software Association of Canada made similar comments, recommending that additional funds should be allocated for the experimental stream of the CMF.<sup>181</sup>

ACTRA<sup>182</sup> and the Writers Guild of Canada would like to see the creation of a specific fund for Canadian online content, financed through contributions from Internet service providers.

#### 4.6 International treaties

The federal government's role in negotiating treaties came up in testimony. As noted in section 3.5.5, a number of witnesses suggested that Canada should implement the WIPO treaties regarding ISP liability.

In addition, a couple of witnesses raised the issue of co-production treaties. Mr. Bishop of marbledmedia said:

On the topic of foreign investment, we see the co-production treaties only reflect film and television. They're dated and they need to be revised. Our co-production treaties need to embrace interactive content and interactive platforms. As Canadian licence fees

---

174 The Honourable James Moore, News Release, "Government of Canada Celebrates the Launch of the Canada Media Fund," March 26, 2010, <http://www.pch.gc.ca/pc-ch/minstr/moore/cdm-mc/cd-ns-fra.cfm?action=doc&DocIDCd=CJM093013>, (accessed June 10, 2010).

175 *Evidence*, Committee, Meeting No. 11, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 29, 2010, 1135.

176 *Evidence*, Committee, Meeting No. 11, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 29, 2010, 1140.

177 *Evidence*, Committee, Meeting No. 7, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 15, 2010, 1130.

178 *Evidence*, Committee, Meeting No. 14, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 11, 2010, 1110.

179 *Evidence*, Committee, Meeting No. 26, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, October 28, 2010, 1635.

180 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 10, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 27, 2010, 1255.

181 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1230.

182 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 10, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 27, 2010, 1145.

decrease from the broadcasters—and we see that more and more—we need partnerships and foreign investment into our content.<sup>183</sup>

On the same topic, Mr. Barrack of the Canadian Film and Television Production Association noted:

[F]oreign financing to Canadian-certified productions has significantly decreased, dropping from \$407 million to \$196 million between 2001 and 2008. Our co-production activity has also experienced incredible declines, dropping by more than half to about \$390 million through the same period.

In our view, these downward trends can be reversed by updating our international policies and programs. Canada's official co-production treaties and new export promotion programs could be invaluable tools in these areas.<sup>184</sup>

In addition to these treaties, a few witnesses raised concerns about negotiations toward the ACTA (see section 3.5.5) and about foreign trade agreements. With regard to the latter, Mr. Pineau of the CCA said:

Foreign trade agreements may contribute to restricting Canada's capacity to adopt cultural policies. NAFTA's [North American Free Trade Agreement] chapter 11 provides foreign investors with a right to sue the Canadian government and to seek compensation for foreign actions, including those of regulatory agencies like the CRTC, if they believe the decisions violate their rights under NAFTA. The CCA is very concerned with the fact that the Canadian government has tabled such a dispute resolution mechanism in the current comprehensive negotiations with the European Union.<sup>185</sup>

#### **4.7 Foreign ownership**

On the issue of foreign ownership, a number of witnesses were opposed to relaxing the restrictions on foreign ownership. To quote Mr. Pineau of the CCA:

There is debate about the wisdom of opening up foreign investment and having eventual foreign control in telecommunications. The justification is that by bringing in more competition, we will achieve lower prices for consumers. It's difficult to be against this objective, but there are serious reasons to fear the consequences of the current backdoor approach to changing long-standing cultural policies.<sup>186</sup>

Mr. Pineau went on to spell out one of these reasons:

...if foreign companies are permitted entry, or force entry, into Canada's broadcasting system, existing rules and regulations relating to the production and distribution of Canadian content productions may be sustainable, since the foreign company will be entering a market where those rules exist. However, if the CRTC or the government were

---

183 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 14, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 11, 2010, 1115.

184 *Evidence*, Standing Committee on Canadian Heritage, Meeting No. 13, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 6, 2010, 1120.

185 *Evidence*, Committee, Meeting No. 15, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 13, 2010, 1215.

186 *Ibid.*, 1210.



to try to update the rules to reflect a new environment, the foreign company might have a cause for action under chapter 11 [of NAFTA].<sup>187</sup>

Support for maintaining current restrictions was also expressed by ACTRA,<sup>188</sup> the Writers Guild of Canada,<sup>189</sup> the Association des producteurs de films et de télévision du Québec,<sup>190</sup> the Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ),<sup>191</sup> and the Canadian Film and Television Production Association.<sup>192</sup>

On the other hand, several witnesses saw potential benefits from increased foreign ownership. Mr. Engelhart of Rogers Communications said:

We do not believe changes to foreign ownership rules will have an impact on Canadian culture and content. Canada's foreign ownership rules can be changed for telecommunications carriers and cable companies. These businesses are primarily pipes that carry content. The foreign ownership rules can be preserved for the content providers. Radio and TV stations and specialty channels can remain in Canadian hands. This would provide the capital-intensive distributors with lower-cost access to foreign capital while ensuring that the vital content producers are Canadian.<sup>193</sup>

Likewise, with respect to foreign ownership in the gaming industry, Ian Kelso, President and Chief Executive Officer, Canadian Interactive Alliance, said that it can have positive benefits:

Our biggest successes are usually right now acquired by foreign companies that have the capital to invest in stealing the product or the service. But those foreign acquisitions are not always necessarily bad things, because the increased capital does give us a lot more footprint in terms of jobs. We tend to retain the jobs here, and we tend to retain the creative talent in this country.<sup>194</sup>

Mr. Hennessy of Telus Communications testified that broadcasting objectives can be achieved irrespective of the ownership of the distribution networks, but that the activities of broadcasters are of cultural significance and should be remain protected.<sup>195</sup>

---

187 Ibid., 1215.

188 *Evidence*, Committee, Meeting No. 10, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 27, 2010, 1145.

189 *Evidence*, Committee, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1120.

190 Ibid., 1220.

191 Association québécoise de l'industrie du disque, du spectacle et de la vidéo, "Résumé—Mémoire de l'Association québécoise de l'industrie du disque, du spectacle et de la vidéo, présenté dans le cadre de la consultation nationale du Gouvernement du Canada pour établir une stratégie sur l'économie numérique, le 9 juillet 2010," submission to the Committee, [http://www.adisq.com/pdf/politique/20100713\\_VF\\_Resume\\_ADISQ.pdf](http://www.adisq.com/pdf/politique/20100713_VF_Resume_ADISQ.pdf), (accessed November 29, 2010).

192 *Evidence*, Committee, Meeting No. 13, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 6, 2010, 1115.

193 *Evidence*, Committee, Meeting No. 14, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 11, 2010, 1105.

194 *Evidence*, Committee, Meeting No. 11, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 29, 1145.

195 *Evidence*, Committee, Meeting No. 25, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, October 26, 1530.

## 4.8 Canadian content

In section 3.8, we looked at some of the issues witnesses raised about Canadian content. In this section, we look at suggestions for federal government action. Mr. Glick of Google Inc. drew a distinction between the regulation of Canadian content on the supply side and on the demand side:

On the supply side, we've had a system of government subsidies, tax incentives, and all that stuff for the creation of Canadian content. I'm not saying that any of it needs to fall by the wayside; there's still a case for the subsidization of Canadian content or the continuation of tax incentives for the creation of professional content. I don't see any problem with that. In fact, the more content the better, from the perspective of intermediaries. On the demand side, when we're regulating the demand part—that is, with quotas—I think quotas are going to be increasingly unsustainable, frankly.<sup>196</sup>

Mr. Benskin of ACTRA listed a number of ideas for federal government support of Canadian content:

We also need to support Canadians who are creating Canadian content. Government must embrace policies that promote the production of content that reflects Canada to Canadians and the world, regardless of the types of screens we're watching them on.

The Canada Media Fund is a positive step in this direction; however, it isn't new money. For Canada's digital media industry to thrive, it needs enhanced, long-term government investment. CBC, Telefilm, and the NFB also need clear mandates and stable public funding to ensure that they are again leaders in telling Canadian stories in this new digital world.

A federal tax credit for original digital media production, similar to the Canadian film or video production tax credit, would encourage private investment, further developing and, as importantly, retaining Canada's highly skilled digital media workers.

The federal government could also offer incentives to encourage Canadian advertisers to support websites featuring Canadian content. You can expand section 19.1 of the *Income Tax Act* to give Canadian advertisers tax deductions for advertising on Canadian-owned websites that give prominence to Canadian digital media content.<sup>197</sup>

His colleague, Mr. Waddell, added that ACTRA would like to see Internet and wireless service providers contribute to a digital Media Fund.<sup>198</sup> The idea of a fund to support Canadian content was also supported by the Writers Guild of Canada,<sup>199</sup> the Association des producteurs de films et de télévision du Québec,<sup>200</sup> and CBC/Radio-Canada.<sup>201</sup>

---

196 *Evidence*, Committee, Meeting No. 4, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, March 30, 2010, 1150.

197 *Evidence*, Committee, Meeting No. 10, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, April 27, 2010, 1150.

198 *Ibid.*

199 *Evidence*, Committee, Meeting No. 12, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 4, 2010, 1120.

200 *Ibid.*, 1225.

201 *Evidence*, Committee, Meeting No. 27, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, November 2, 1635.

Mr. Hennessy of Telus Communications said that money should be invested in the creation of content and its interactive packaging. He suggested that some of the money the federal government gets from the next spectrum auction could be used for content creation.<sup>202</sup>

#### **4.9 Access and training**

The importance that many witness attach to broadband Internet access has been noted in sections 3.3 and 4.3. Another aspect of access to emerging and digital media was raised by Mrs. Catherine Edwards of the Canadian Association of Community Television Users and Stations (CACTUS). She called for the establishment of community-operated multimedia training centres, which would provide access to all media technologies. These centres would be funded from the existing community television policy.<sup>203</sup> This idea was supported by the CCA.<sup>204</sup>

With regard to training, Mr. Proulx of the Alliance numérique - Réseau de l'industrie numérique du Québec said that Canada's digital policy should, "support provincial authorities and invest in programs that are already in place. We must above all make sure that training programs match industry needs."<sup>205</sup>

Alain Beaudoin, Director General of the information and Communications Technologies Branch at the Department of Industry, noted that the Government of Canada supports digital skills through programs such as the Canada Research Chairs, the Canada Graduate Scholarships, the Vanier Scholarships and the Canada Excellence Research Chairs.<sup>206</sup>

---

202 *Evidence*, Committee, Meeting No. 25, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, October 26, 1645.

203 *Evidence*, Committee, Meeting No. 15, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 13, 1225.

204 *Ibid.*, 1220.

205 *Evidence*, Committee, Meeting No. 14, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, May 11, 2010, 1210.

206 *Evidence*, Committee, Meeting No. 28, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, November 4, 1640.



## **CHAPTER 5: RECOMMENDATIONS**

---

The Committee was grateful for the informed testimony it heard and would like to thank the witnesses for all their hard work.

On February 9, 2011, the Committee adopted the following recommendations:

### **Recommendation 1**

**The Committee recommends that the Government of Canada support efforts by federal institutions to digitize Canada's documentary heritage and make it available to Canadians.**

### **Recommendation 2**

**The Committee recommends that the Government of Canada develop a government-wide digital preservation policy.**

### **Recommendation 3**

**The Committee recommends that the Government of Canada assist in developing a Canadian network of trusted digital repositories.**

### **Recommendation 4**

**The Committee recommends that the Government of Canada examine ways of supporting libraries in their efforts to digitize everything that is free of copyright.**

### **Recommendation 5**

**The Committee recommends that the Government of Canada continue to make efforts to ensure that all Canadians have access to high-speed broadband internet.**

### **Recommendation 6**

**The Committee recommends that the Government of Canada extend the Broadband Canada: Connecting Rural Canadians program of Industry Canada.**

#### **Recommendation 7**

**The Committee recommends that the Government of Canada work with provincial authorities to support programs that encourage the development of a digitally literate population.**

#### **Recommendation 8**

**The Committee recommends that the Government of Canada examine the proposal of the Canadian Association of Community Television Users and Stations (CACTUS) for the establishment of community-operated multimedia centres and access to its material online as a way of encouraging people to develop digital skills.**

#### **Recommendation 9**

**The Committee recommends that the Department of Human Resources and Skills Development review its policies and programs in order to ensure that priority is given to training in digital skills.**

#### **Recommendation 10**

**The Committee recommends that the Government of Canada take measures to protect creative works from copyright piracy.**

#### **Recommendation 11**

**The Committee recommends that the Government of Canada ratify the World Intellectual Property Organization (WIPO) Copyright Treaty and Performances and Phonograms Treaty.**

#### **Recommendation 12**

**The Committee recommends that the Government of Canada examine ways of supporting new digital enterprises (start-ups) as they develop their business models.**

#### **Recommendation 13**

**The Committee recommends that the Government of Canada review the system of grants and contributions for digital media companies in order to identify ways in which the processes could be speeded up.**

#### **Recommendation 14**

**The Committee recommends that the Government of Canada review the system of grants and contributions in order to encourage innovation in the digital media sector.**

#### **Recommendation 15**

**The Committee recommends that the Government of Canada strengthen the digital media components of its programs for arts and culture.**

#### **Recommendation 16**

**The Committee recommends that the Government of Canada create a tax credit for digital media production.**

#### **Recommendation 17**

**The Committee recommends that the Government of Canada reinvest some of the money it receives from the next spectrum auction in a digital strategy.**

#### **Recommendation 18**

**The Committee recommends that the Canadian Radio-television and Telecommunications Commission ensure that net neutrality be respected.**

#### **Recommendation 19**

**The Committee encourages the Government of Canada to proceed as quickly as possible with the development of a national digital economy strategy.**

#### **Recommendation 20**

**The Committee recommends that the national digital economy strategy be reviewed every five years.**

#### **Recommendation 21**

**The Committee recommends that the Government of Canada examine ways to remove barriers, such as those relating to permits and visa processes, to bringing in foreign workers in digital media sectors.**

#### **Recommendation 22**

**The Committee recommends that the Government of Canada increase funding to the Canada Media Fund.**

#### **Recommendation 23**

**The Committee recommends that the Canada Media Fund consider approaches to allow producers to access funding without having a pre-sale from a Canadian broadcaster.**

#### **Recommendation 24**

**The Committee encourages Telefilm Canada to revise its co-production treaties to include interactive content and interactive platforms.**

#### **Recommendation 25**

**The Committee recommends that the Government of Canada ensure that trade agreements do not include the right to sue regulatory agencies.**

#### **Recommendation 26**

**The Committee recommends that the Government of Canada continue to ensure that the Canadian broadcasting sector remains under Canadian ownership.**



## APPENDIX A LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<b>Social Sciences and Humanities Research Council of Canada</b> Chad Gaffield, President Murielle Gagnon, Director, Strategic Programs and Joint Initiatives, Partnerships Directorate Gisèle Yasmeen, Vice-President, Partnerships Directorate	2009/10/27	32
<b>University of Ottawa</b> Michael Geist, Chair, Research in Internet and E-Commerce Law	2010/03/25	3
<b>Google Inc.</b> Jacob Glick, Canada Policy Counsel	2010/03/30	4
<b>Association nationale des éditeurs de livres</b> Aline Côté, President of Copyright and Editor	2010/04/15	7
<b>EyeSteelFilm Inc.</b> Brett Gaylor, Documentary Filmmaker		
<b>The Mark News</b> Jeff Anders, Chief Executive Officer and Co-Founder		
<b>Access Copyright</b> Roanie Levy, General Counsel and Director, Policy and External Affairs	2010/04/20	8
<b>Canadian Photographers Coalition</b> André Cornellier, Co-Chair, Chief Executive Officer of La Maison de l'image et de la photographie		
<b>Lone Pine Publishing</b> Glenn Rollans, Partner		
<b>Société québécoise de gestion collective des droits de reproduction</b> Danièle Simpson, President, Vice-President, Union des écrivaines et écrivains Québécois		
<b>Société québécoise des auteurs dramatiques</b> Marie-Louise Nadeau, Director, Playright		
<b>Canadian Recording Industry Association</b> Graham Henderson, President	2010/04/22	9
<b>Quinlan Road Limited</b> Loreena McKennitt, President		

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<p><b>Universal Music Canada</b> Darlene Gilliland, Director, Digital Business Development and Business Affairs</p>	2010/04/22	9
<p><b>Warner Music Canada</b> Charlie Millar, Director, Digital Business Development</p>		
<p><b>As individuals</b> John Bonnett, Canada Research Chair in Digital Humanities and Assistant Professor, Department of History, Brock University David Wolfe, Professor of Political Science, Co-Director of the Program on Globalization and Regional Innovation Systems, University of Toronto</p>	2010/04/27	10
<p><b>Alliance of Canadian Cinema, Television and Radio Artists</b> Tyrone Benskin, National Vice-President Stephen Waddell, National Executive Director</p>		
<p><b>OpenMedia.ca</b> Steve Anderson, Founder and National Coordinator</p>		
<p><b>Canadian Interactive Alliance</b> Ian Kelso, President and Chief Executive Officer, Interactive Ontario</p>	2010/04/29	11
<p><b>Groupe CIC (Communication, Information, Culture)</b> Richard Paradis, President</p>		
<p><b>MoboVivo Inc.</b> Trevor Doerksen, Chief Executive Officer</p>		
<p><b>National Film Board</b> Deborah Drisdell, General Director, Accessibility and Digital Enterprises Claude Joli-Coeur, Assistant Commissioner Tom Perlmutter, Government Film Commissioner and Chair</p>		
<p><b>Association des producteurs de films et de télévision du Québec</b> Brigitte Doucet, Deputy General Director Claire Samson, President and Chief Executive Officer</p>	2010/05/04	12
<p><b>Entertainment Software Association of Canada</b> Jason Kee, Director of Policy and Legal Affairs</p>		
<p><b>Library and Archives Canada</b> Daniel J. Caron, Librarian and Archivist Jean-Stéphane Piché, Acting Assistant Deputy Minister, Resource discovery sector</p>		

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>Writers Guild of Canada</b> Kelly Lynne Ashton, Director, Industrial and Policy Research  Maureen Parker, Executive Director	2010/05/04	12
<b>Canadian Film and Television Production Association</b> John Barrack, Chief Operating Officer and Chief Legal Officer Marc Séguin, Senior Vice-President, Policy	2010/05/06	13
<b>National Campus and Community Radio Association</b> Shelley Robinson, Executive Director		
<b>Nordicity Group Ltd.</b> Peter Lyman, Senior Partner		
<b>Telefilm Canada</b> Carolle Brabant, Executive Director Dave Forget, Director, Contracts and Certification		
<b>As an individual</b> Steven High, Canada Research Chair in Public History, Department of History, Concordia University	2010/05/11	14
<b>Alliance numérique - Réseau de l'industrie numérique du Québec</b> Pierre Proulx, Chief Executive officer		
<b>marblemedia Inc.</b> Mark Bishop, Partner/Producer		
<b>Rogers Communications Inc.</b> Jeremy Butteriss, Director, Broadband Entertainment, Rogers Cable  Kenneth Engelhart, Senior Vice-President, Regulatory		
<b>Canadian Association of Community Television Users and Stations (CACTUS)</b> Catherine Edwards, Spokesperson	2010/05/13	15
<b>Canadian Conference of the Arts</b> Alain Pineau, National Director		
<b>Open Text Corporation</b> Tom Jenkins, Executive Chairman and Chief Strategy Officer		
<b>Score Media Inc.</b> John Levy, Chairman and Chief Executive Officer		

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<p><b>Astral Media Inc.</b>            André Bureau, Chairman of the Board            Sophie Émond, Vice-President, Regulatory and Government Affairs</p>	2010/05/25	16
<p><b>Canadian Association of Research Libraries</b>            Ernie Ingles, President,            Vice-Provost and Chief Librarian, University of Alberta</p>		
<p><b>Corus Entertainment Inc.</b>            Sylvie Courtemanche, Vice-President,            Gouvernement Relations            Gary Maavara, Vice-President and General Counsel</p>		
<p><b>Magazines Canada</b>            Jim Everson, Executive Director,            Public Affairs            Mark Jamison, Chief Executive Officer</p>		
<p><b>TELUS Communications</b>            Michael Hennessy, Senior Vice-President, Regulatory and            Government Affairs</p>	2010/10/26	25
<p><b>University of Waterloo</b>            Kenneth Coates, Professor of History and Dean of Arts            Ian Wilson, Strategic Advisor</p>		
<p><b>Canadian Library Association</b>            Kelly Moore, Executive Director</p>		
<p><b>Canadian Independent Music Association</b>            Duncan McKie, President and Chief Executive Officer</p>	2010/10/28	26
<p><b>Songwriters Association of Canada</b>            Don Quarles, Executive Director</p>		
<p><b>Jumpwire Media LLC</b>            Gavin McGarry, President</p>		
<p><b>CBC/Radio-Canada</b>            Fred Mattocks, General Manager,            Media Operations and Technology            Genevieve Rossier, Executive Director,            Internet and Digital Services</p>	2010/11/02	27
<p><b>Canadian Radio-Television and Telecommunications Commission</b>            Namir Anani, Executive Director, Policy Development and            Research Sector ns            John Traversy, Executive Director, Telecommunicatio</p>		

Organizations and Individuals	Date	Meeting
<p><b>Association of Canadian Publishers</b>  Michael O’Hearn, Director,  University of Ottawa Press</p> <p>Rebecca Ross, Coordinator,  Digital Initiatives</p>	2010/11/4	28
<p><b>Department of Canadian Heritage</b>  Jean-Pierre Blais, Assistant Deputy Minister,  Cultural Affairs</p> <p>Helen Kennedy, Deputy Director General,  Broadcasting and Digital Communications Branch</p>		
<p><b>Department of Industry</b>  Alain Beaudoin, Director General,  Information and Communications Technologies Branch</p> <p>Pamela Miller, Director general,  Telecommunications Policy Branch</p>		
<p><b>Great Northern Way Campus</b>  Jeannette Kopak, Director,  Business Development and Operations</p>		
<p><b>Department of Industry</b>  Colette Downie, Director General,  Marketplace Framework Policy Branch</p> <p>Pamela Miller, Director General  Telecommunications Policy Branch</p>	2011/02/02	38
<p><b>Department of Human Resources and Skills  Development</b>  Louis Beauséjour, Associate Assistant Deputy Minister  Human Resources and Skills Development Branch</p>		
<p><b>Department of Canadian Heritage</b>  Amanda Cliff, Director general  Broadcasting and Digital Communications Branch</p> <p>Barbara Motzney, Director general  Copyright Policy Branch</p>		



## **APPENDIX B LIST OF BRIEFS**

---

### **Organizations and individuals**

---

Alliance numérique - Réseau de l'industrie numérique du Québec

Alliance of Canadian Cinema, Television and Radio Artists

Association québécoise de l'industrie du disque, du spectacle et de la vidéo

Astral Media Inc.

Bonnett, John

Canadian Interactive Alliance

Entertainment Software Association of Canada

Independent Media Arts Alliance

Library and Archives Canada

Quinlan Road Limited

Social Sciences and Humanities Research Council of Canada

Tomasson-Goodwim, Jill

Wolfe, David





## REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings of the 40<sup>th</sup> Parliament, 2<sup>nd</sup> Session ([Meeting No. 32](#)) is tabled.

A copy of the relevant Minutes of Proceedings of the 40<sup>th</sup> Parliament 3<sup>rd</sup> Session ([Meeting Nos. 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 21, 25, 26, 27, 28, 36, 38 and 40](#)) is tabled.

Respectfully submitted,

Honourable Michael Chong, MP

Chair

