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Chair

Mr. Gordon Brown

Standing Committee on Canadian Heritage

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• (1100)

[English]

The Chair (Mr. Gordon Brown (Leeds—Grenville, CPC)): Good morning, everyone. I will call to order meeting number 15 of the Standing Committee on Canadian Heritage.

Today's business is the Canadian music industry study, which we have been undertaking for a number of meetings now.

For the first hour today we have a number of witnesses with us. We have Elisabeth Bihl and Jodie Ferneyhough from the Canadian Music Publishers Association. We have Gilles Daigle from the Society of Composers, Authors and Music Publishers of Canada.

By telephone from Magog, Quebec, we have Mr. David Murphy from the Professional Music Publishers' Association.

Could you just say hello?

[Translation]

Mr. David Murphy (President, Professional Music Publishers' Association): Good morning. I am David Murphy, from Magog.

[English]

The Chair: Yes, he's here. I don't know if you heard him.

Mr. David Murphy: Yes, I'm here.

The Chair: Great. Thank you very much.

Each group of witnesses will have eight minutes.

We're going to start at the top of the list with the Canadian Music Publishers Association, Elisabeth Bihl and Jodie Ferneyhough.

Between you, you have eight minutes.

Ms. Elisabeth Bihl (Executive Director, Canadian Music Publishers Association): Thank you very much.

Good morning, everybody.

On behalf of my colleague and president of the Canadian Music Publishers Association, Jodie Ferneyhough, thank you for the invitation to appear before the committee. My name is Elisabeth Bihl, and I am the executive director of the CMPA, the oldest music industry association in Canada, which was founded in 1949.

The CMPA represents 75 music publishing companies across Canada. Our members work on behalf of hundreds of Canadian and international songwriters, including high-profile established artists and the up and coming stars of tomorrow.

Music publishers help songwriters make a living. Songs generate income through a variety of sources from everywhere in the world, radio airplay, placement in films, TV shows or commercials, licensing for a toy, game, or video game, recordings and releases on discs, iTunes, or streaming services. Publishers administer and collect the income through various channels on behalf of the songwriter.

A publisher is often the first to invest in a songwriter's career and also supports him or her with advances against royalties. Music publishers are key to the development of the music industry, because there would be no industry without the songs.

CMPA has been advocating to members of Parliament of all political stripes over the past few years for a study into funding programs for the Canadian music industry. By recommending such a study, this committee's report could be a catalyst for growing the economic and cultural impacts of music. In 2011 alone, the music industry made expenditures and investments in the country that exceeded \$800 million, sustaining over 4,100 jobs.

Government investment has allowed the music industry to punch well above its weight. While Canada is the 35th most populous country, we boast the seventh largest music market.

Music publishers have a good news story when it comes to a funding program being run very effectively and exceeding expectations. Over the past five years the annual \$500,000 spent by the Music publishers program under the Music entrepreneur component accomplished the following: the number of Canadian musical works published has increased by 25%; the number of foreign works published increased by 36%; the number of Canadian songwriters under contract has more than doubled; and the number of foreign songwriters has increased by almost 300%; and the number of people employed by these participating publishing companies increased from 4% to 6%.

The Department of Canadian Heritage has validated this success and has increased the annual funding envelope by 25% to \$625,000 for 2014.

Of course, there are always things that could be done more efficiently. The president of CMPA, Jodie Ferneyhough, will talk about this next.

• (1105)

Mr. Jodie Ferneyhough (President, Canadian Music Publishers Association): Thanks, Elizabeth.

The CMPA believes that program funding should at the very least stay at the current level of \$25 million. We also believe that the amount of money to support music publishing should be increased, as current funding programs focus almost exclusively on supporting the record labels, not the publishers who represent the creators.

For example, the music entrepreneur component mentioned earlier stands at \$8.8 million, but only a tiny portion, \$625,000, or 7.1%, is allocated to the publishing community. Regarding other granting programs, such as FACTOR and Starmaker, publishers are virtually shut out.

Until relatively recently, the nature of the business was such that record companies developed, marketed, manufactured, and distributed records. Their core income relied on how many records they sold. The publishers, on the other hand, collected royalties from radio and live performances and from licensing songs to a record. The industry and the world are very different today with technology irrevocably changing the way labels and publishers do business.

Artists demand that publishers function more like a label. Many publishers are now recording and pressing masters, spending thousands of dollars to send writers around the world to write, buying gear and upgrading equipment. They are often giving advances as large or sometimes larger than labels, yet they're only collecting pennies or micro pennies from users. Publishers of all sizes must have a royalty department, an A and R and scouting department, a song pitcher, and a film and TV person, not to mention a support crew.

Music publishers over the coming years must continue to invest in songwriters as well as their own infrastructure. The current funding model stops well short of providing what is needed for publishers to develop and grow. A new publishing company with little or no backing and a limited catalogue may not survive or could take years to become financially stable.

The growth of publishing companies is based mainly on attracting writers, composers, and catalogues. We need a funding program that recognizes this. Similar to the Starmaker program, there should be a program for music publishers whereby successful writers would have money to travel in order to attract writers from other parts of the world. The FACTOR support programs in particular are heavily weighted on the side of labels. There are no opportunities for songwriters or publishers to get significant grant support.

Other publishing programs should help developing artists record demos and masters, allowing publishers to build interest in the writer by releasing to market and using those songs to pitch for film or TV. Funding should also be made available for recruiting and developing publishers' staff and to offset the cost of showcasing or conferences.

Although piracy and illegal downloading affect the business, the music industry still flourishes, collecting income from sources it ignored in the past. It can be strongly argued that the decline in record sales was not fully due to piracy, but had to do with the fact that if you wanted to purchase one song, you had to buy the entire album. Now you can purchase a song for 99¢. The industry's business model has changed significantly; so too should the way funding is distributed.

A record company invests a great deal of money in new and established artists. Once the cycle of a band's career is finished, the label moves on. For every 100 or even more artists they invest in, only one may become an evergreen. On the other hand, the publisher's job is to work not only for the song when it's current, but also for the artist's future. The challenge is to find a new home for the song, to rebuild an artist's career from that of a performer to a songwriter, to find new outlets for songs, or to find new ways to make an old song speak to a new audience.

The business structures of music publishing companies in Canada are diverse, with the publisher taking on the role of artist manager as well as the catalogue development of national and international artists. There is also a change in the business model. More companies have merged to become 360 business models; hence, the funding support structure should adapt to this new reality.

In line with the changed business models, government funding programs need to ensure fair and equitable access to both publishers and labels. Considering the huge changes the music industry has undergone, a new partnership with the industry needs to develop.

We appreciate the opportunity to address the committee. Thank you.

• (1110)

The Chair: Thank you very much.

We'll now move to the Society of Composers, Authors and Music Publishers of Canada, with Gilles Daigle, for eight minutes.

Mr. Gilles Daigle (General Counsel and Head of Legal Services, Society of Composers, Authors and Music Publishers of Canada): Thank you very much, Mr. Chairman.

[*Translation*]

Good morning, everyone.

[*English*]

I'm going to delve right into the matter insofar as the points I'd like to leave you with today go. They are in connection with one of the major questions you're asking, which is about the impact of new technologies on the music industry.

I'm SOCAN's general counsel. You won't be surprised to hear that I have some comments relating to legal matters. If I can summarize in one word the impact of new technologies on SOCAN, it has been litigation. We have been in the courts since 1997 on issues relating to the use of music on the Internet. These matters are extremely complex. They're new, and they're new for everyone worldwide.

We are fortunate in Canada to have a federal tribunal, the Copyright Board, the task of which is to tackle these complex issues. Whether you like their decisions or don't like their decisions, I'd like to suggest they play a very important and fundamental role in sorting these things out, and that will continue. The issues are getting more complex by the day.

I was there back in the days when the Copyright Board was essentially all about setting royalties for television and radio stations primarily. Then we saw the advent of the Internet, and that has created an extremely heavy burden on this agency, which is not a CRTC. It has 15 employees in total. It has four or five professionals who are there to assist the board members in their task. They have a large task at that.

On that front, I am here to encourage Parliament to continue to support the Copyright Board and encourage Parliament to see that the board has the resources that are necessary to conduct its mandate, to do its work. At the end of the day, you get what you pay for.

The second point I want to touch on, and I know it's not always popular, is that when we talk about the impact of new technologies, the term "Canadian content" comes up. I'm going to suggest to you that it would be

[*Translation*]

simplistic and defeatist to just say that Internet services cannot be controlled and that nothing can be done because the servers are located outside Canada.

I must respectfully point out that this is not the case. Do you really want to take it for granted that a sophisticated service, a renowned commercial service like Netflix, would not respect our laws on Canadian content, for instance?

Among SOCAN's licence holders are dozens of online music services with no presence in Canada. They pay royalties to us on a voluntary basis. Of course, I agree that there are many more who do not pay royalties. However, maintaining regulations on Canadian content should not be seen as an exercise in futility because some music services are not physically located in Canada.

I hope you will consider these issues in light of a reality whereby major services will comply with our regulations. They must do so, if only to attract investments.

I would like to use the short time I have left to discuss another issue. As I am a copyright lawyer, I have to talk about the Copyright Act. I know this is an often controversial topic that is not easy to talk about. Nevertheless, I would like to remind you that Canada probably has the most exceptions in copyright compliance. A number of debates should be held on the topic. Some have been held in the past, and more will probably be held in the future, but the fact remains that these exceptions represent a loss of basic rights, and that cannot be taken lightly.

Going forward, we must find a way to limit the scope of those exceptions—for instance, by applying the three-step test, which is being used in many countries around the world. That would be the first step in the right direction.

These were the three points I wanted to comment on.

● (1115)

Thank you.

[*English*]

The Chair: *Merci, Monsieur Daigle.*

We are now going to hear from Mr. David Murphy, from Magog.

[*Translation*]

Mr. David Murphy: Good morning, everyone.

I am the President of the Professional Music Publishers' Association, the PMPA. The professionals we bring together—music publishers—work on the development of songwriters' careers, the exploitation of their musical works and the management of the revenue earned through that exploitation. In this digital era where the number of sources for exploiting musical works has increased, publishers' commercial role has grown. Their economic importance has never been as high.

It is a fact that digital content has increased the modes of music consumption. In our industry, music could once be consumed only through a limited number of media—disc, radio, television—but the modes of music consumption have experienced a real explosion. As a result, we are seeing an increase in the number and types of stakeholders involved in music broadcasting. Music consumption has never been so high.

This diversification of music broadcasting and consumption modes led us to believe, in the early 2000s, that the public would have better access to a larger variety of cultural products. We thought the Internet would help dilute the effect of the superstar economy. We were even talking about the democratization of music.

However, what actually happened was the exact opposite. According to the website Musically, the Internet has not killed the hit parade; it has rather fuelled the economy of superstar artists. Musically refers to a recent study by a Midia Consulting analyst. According to that study, 1% of the most popular artists on the market collected almost 77% of all the revenue generated by recorded music. These telling figures show a profound lack of cultural diversity in the digital environment. In that context, the dominant culture inevitably supplants the other cultures.

That brings me to the first challenge our industry is facing that could be addressed by our government. I am talking about the lack of regulations on the Internet.

In the broadcasting system—radio and television—the CRTC imposes different quotas on music aired in order to support cultural diversity. Quotas for francophone music, local music and emerging music need to be met. We know that, when a greater variety of works is broadcast, the generated revenue is shared more equitably among all creators. This implies maintaining a diversified culture instead of polarizing earnings and restricting the creation of musical works to a limited number of creators.

However, there are currently no such quotas for content on the Internet. The broadcasting, accessibility and positioning of music are in no way regulated on the Internet. Since consumers are no longer exposed to Canadian content in the same way, their consumption habits are being directly affected. The application of Canadian and/or francophone broadcast quotas in traditional media such as radio and television has significantly supported the broadcasting and consumption of Canadian products. However, since people are increasingly consuming content through non-regulated platforms, Canadian content is reduced across the board and is being played and consumed less. Ultimately, our culture is being eroded, both nationally and internationally.

Until the new modes of music consumption appeared, the delicate balance between Canada's musical and even audiovisual products, on the one hand, and foreign products, on the other hand, was maintained through regulations the CRTC imposed on traditional media. We think that the diluted consumption of Canadian, and especially francophone, cultural products is directly related to the lack of regulations that would guarantee a minimum of Canadian content in new media. This is a major paradox. On the one hand, culture is receiving significant and necessary financial support, but on the other hand, the new modes of consumption are not being regulated. In other words, we are investing, but we are not doing what needs to be done to recoup our investment and foster the development of our culture in the digital environment.

The second challenge our industry is facing is the fact that our copyright legislation is inadequate. The premise of copyright is that content creators have the right to control their work and be compensated for its use, regardless of how that work is accessed. We maintain that the Copyright Act must support music rights holders' entitlement to compensation on the Internet. That should mainly be done by improving the accountability of Internet service providers—which have so far mostly benefited from content provided by creators without ensuring compensation—and, of course, by expanding the private copying regime to include all existing and future digital audio platforms.

• (1120)

It is easy to see that household spending on culture and entertainment has shifted, over the last 10 years, from cultural products to ways to access those products—in other words, from content to media. The portion of cultural spending in general household consumption is still relatively stable, but the portion of cultural products in household spending is in constant decline. However, the portion of spending on Internet services, cellular telephone services and video equipment, among others, is skyrocketing.

So the money that was once used to buy music albums and went to music creators' and publishers' pockets is now being used to purchase equipment for music consumption such as Internet connections with large bandwidth, smart phones and digital audio players. So music consumption revenue is no longer going to the pockets of music rights holders, but mainly to the pockets of Internet service providers, and smart phone and digital audio player makers. We think it is imperative for those two groups—which have been playing a key role in the music industry since the rise of digital content and are undoubtedly benefiting from it—to contribute to the industry. We also think the legislation should take that into account.

There is also a third challenge. Sufficient support should be given to professional associations. Music publishers need help from an association that would defend their rights and interests, identify their needs and meet them using the appropriate services, especially in this time of major challenges, which I have discussed.

The PMPA has been doing this work for 12 years. The Government of Canada's recent abolition of the Creators' Assistance component of the Canada Music Fund has led to the loss of a significant portion of the PMPA's operating budget. It has become difficult for us to sustain our activities and to keep our budget in line. We are doing the impossible, but this situation is not sustainable over the medium term.

Through various components, the Canada Music Fund is supporting record labels and publishers, as Jodie Fernyhough mentioned. Associations that represent record labels receive support through the component Aid to Canadian Music Industry National Service Organizations. However, publishers' associations are not supported through that component. Why not? The two publishing associations meet all the criteria, except when it comes to an association's minimum operating budget. A simple technical amendment would help remedy the dire situation stemming from the abolition of the Creators' Assistance component.

I would be happy to answer your questions.

Thank you.

The Chair: Thank you, Mr. Murphy.

[English]

We're now going to move to our first round of questions. We're going to start with Mr. Falk. Members, if you want to address questions to Mr. Murphy, you'll have to clearly let him know that because he can only hear us. He can't see us.

Mr. Falk, for seven minutes.

• (1125)

Mr. Ted Falk (Provencher, CPC): Thank you, Mr. Chair.

Before I begin my comments, I just want to recognize two individuals who are with us today. They are two students from Mr. John Weston's riding of West Vancouver who are sitting behind Mr. Weston. They are part of the Forum for Young Canadians and they are attending committee to see how it works. I just want to recognize both Aria and Matthew. Welcome.

To the witnesses, you live and work in an industry that is rapidly changing. There's been an immense amount of change in the last dozen years with the advent of digital technology. Frankly, I don't envy you; I think it's a significant challenge. I'm happy to see that you're engaged and that you take this challenge seriously. I'm sure you have some solutions, which I'll ask for a little later.

Elizabeth and Jodie, I'm going to ask you to respond to my first question because it was part of your presentation. You say that more and more the activities between music publishing and record labels are becoming blurred and there's a crossover. Can you tell me the difference between the two?

Mr. Jodie Ferneyhough: The difference between a publishing company and a record company?

Mr. Ted Falk: And a label, yes.

Mr. Jodie Ferneyhough: The traditional role of a record company is to make the recordings, release the masters, get the finished song, the finished product, to the general public, whether that be on a record, or sending it to radio, or what have you. They do the marketing, the distribution, that sort of idea.

A music publisher, on the other hand, works with the songwriters themselves, so the songs themselves. The whole business is predicated on the song. Without a song, you don't have a record company, you don't have a publisher, you don't have anything. That's what we deal with. We deal with the intellectual property of the song, of the songwriter.

Traditionally the difference was that they marketed, distributed, and manufactured, and we provided the songs to them. Now it has changed. Now we are both doing a little bit of each other's work. The Internet is not the artist's best friend. It actually makes more noise than it doesn't. There's so much out there; it's hard to filter. We have to act more as a filter, just like the labels do now, and we have to market, promote, and get things to film and TV, etc.

Mr. Ted Falk: Not that many years ago, when there was a particular song we liked, we bought the album. Today we buy the song for 99¢. That has significantly changed the revenue in your industry for you, I'm sure, but also for artists.

What role would the publishers have in artist development, maybe even in sourcing and development of artists?

Mr. Jodie Ferneyhough: It's a role we've taken on more over the last 10 years or so. A lot of times we will find the artist early. I can give you an example of an artist named Lights, who you may or may not know. She was developed for over seven years, and finally was able to get to the record buying public through a record label. The publishing company started that. It taught her how to write. It got her together with songwriters. It put out small releases on radio. It paid for her master tape so she could start performing and building an audience. It got her to the point where the record label recognized that this was a talent and picked it up and ran with the ball.

That's one way they are developing the marketing. It's just years at a time, and a lot of money being put into an artist like that.

Mr. Ted Falk: We all work with resources. I would suggest, and I'm sure you're very aware, that the artist is your resource. As a government, we're your supplement that hopefully helps you have the resources to find the resource.

Mr. Daigle, how does the industry today ensure or guarantee that the artist receives their money from their product?

Mr. Gilles Daigle: We fight very hard for our members, in our case authors, composers, and publishers as well, but it's nothing new. When I say we fight hard, in this case it's on complex legal issues.

Back in the 1990s we had to go to the courts to ensure that our members were paid for the use of their music in specialty television programming, such as on TSN. Things we take for granted today, we had to fight for 25 years ago. We're continuing those fights. We appear before the Copyright Board, where the royalties that ultimately are distributed to our members are set. In order for those royalties to be set, they have to be confirmed as a matter of law that we can legitimately collect them.

Our members were extremely disappointed two years ago to find that well over \$20 million that was with SOCAN and awaiting distribution to our members had to be repaid to this little company called Apple iTunes. Ironically, Apple was not among the companies challenging our members' rights to receive royalties for downloads. We're still fighting for our members' rights in that regard as a result of changes to legislation that came through with the adoption of Bill C-11 two years ago.

One way in which we try to ensure that royalties continue to make their way to our members is by representing them in these very significant legal battles that existed 25 years ago and that are simply now been shifted to a new front with the advent of these new technologies. We're going to continue to do that.

• (1130)

Mr. Gilles Daigle: Mr. Falk, if I may, given your preliminary remarks, I might note that in 1980 I was a member of the Forum for Young Canadians as well. I'm glad to hear that the organization and the project have continued these many years later.

Mr. Ted Falk: See, there's hope for you—or not.

Voices: Oh, oh!

Mr. Ted Falk: Good. Thank you.

What are the tools that songwriters and composers need today to break into the industry?

Mr. Gilles Daigle: You need very good publishers.

Mr. Jodie Ferneyhough: It's no different from any other time. They have to have some skill. They have to be born lucky to have the ability to write a song and to craft a great song.

I talk often on music publishing panels across the country. I always say to the people, whether they are in a band or whether they're just a pure songwriter, that they have to build fans and a fan base. Often songwriters don't understand what that means, because they're not performing for people; they're just writing a song.

You have to attract me; I am the fan. The other songwriters are fans. The bands that you want to put your song into are fans. They have to work at their craft. It has never changed. The Internet, as I said, just gives you more noise that you have to cut through. You're no longer competing to be the best artist in Toronto, in Ottawa, in Canada. You're now competing to be the best artist in the world. A guy like Psy can do a crazy song like *Gangnam Style*, which would have never made it before. That's what you're competing against now; you're competing against millions of YouTube hits, so it's a craft.

The Chair: Thank you, Mr. Ferneyhough.

Thank you, Mr. Falk.

We're going to move to *Monsieur Nantel, pour cinq minutes*.

[Translation]

Mr. Pierre Nantel (Longueuil—Pierre-Boucher, NDP): Thank you, Mr. Chair.

I will share my time with my colleagues.

I want to begin by telling you that we are very aware of the huge amount of information we need to understand, at various levels. Distinctions need to be made between such terms as publishing and record company. The issues can be very complex.

We all agree that music makes all the difference. The song *Happy* is currently experiencing tremendous success around the world. We can see how important of an anthem a song can become. This song is generating revenue. However, that is not the case for a young artist like Mr. Faber, who appeared before us two days ago. He has had three or four hit songs in Canada, one of which reached second place on the charts, but despite everything, he says he has to continue working in construction.

My question for you is specifically about the contemporary marketing of music. Clearly, its production and its critical mass of specialists or creators have been successful, and you are here to tell us about that.

Earlier, Mr. Daigle said that the Internet had a mitigating effect. I have two questions about that.

Mr. Murphy, you mentioned earlier the loss of the Creators' Assistance component. Mr. Daigle and Mr. Murphy, I would really like to hear your thoughts on that, as I would like to understand what kind of a relationship will be established between SOCAN and publishers in light of that funding cut.

The CMPA representatives may also have an opinion about tariffs on streaming. The song *Happy* is heard everywhere billions of times a day. Even though the singer receives only very small amounts of money every time his song is played, that still translates to millions of dollars. However, for a Canadian artist like Mr. Faber, that translates to a \$17 cheque at the end of the year.

Perhaps we should give the floor to Mr. Murphy, since this is a more complex question. Mr. Murphy, I would like you to be fairly brief, so that we can still hear from the other witnesses. Since you are far away, you may go ahead.

• (1135)

Mr. David Murphy: Regarding the abolition of Creators' Assistance, that component should be distinguished from the Aid to Publishers component, which is working very well. We are satisfied with it. However, one of the objectives of the Creators' Assistance component was to support the operations of associations.

The PMPA is a small association with about 50 members who are mainly located in Quebec. We have few employees, only one of whom is insured. With two employees, we would be able to conduct research and provide more comprehensive statistics. However, since the Creators' Assistance component was abolished, the PMPA has had fewer means to provide better services to its publishers and to help them.

I have been the president of the PMPA for four years. Previously, as president, I would dedicate between 5% and 10% of my time to the association. Today, that figure is between 20% and 25%, on a volunteer basis. The association cannot continue on the same path. This is not sustainable over the medium term.

As for tariffs on streaming, I would say that publishers and record labels are worried about streaming because providing that service also cuts into their sales.

As one of your witnesses showed, the tariffs paid are very low. For 10,000 streams on Spotify, the revenue is \$72. For the time being, this is not our salvation and will not save our industry.

Mr. Pierre Nantel: Ms. Bihl or Mr. Daigle, did you want to add anything on this issue?

Mr. Gilles Daigle: It goes without saying that the available funds—and we hope they will continue to be available—are important for songwriters, composers and publishers. I am echoing Mr. Ferneyhough's comments. He said earlier that, unfortunately, a major portion of that funding was actually dedicated to the production of physical media, in the sound recording sector.

That said, our members primarily want to be compensated for the use of their works. We are asking for an equitable share, but of what? Let's start with the rates and tariffs that apply to the revenue of those online music services, including streaming services.

The Copyright Board held hearings in November on those issues, including streaming services. Even if we managed to obtain equitable rates—good rates of 10%, 12% or 15% for revenues generated through free online music services—if those rates applied to almost nothing, the amount we would receive would also be almost nothing.

Of course, some complex issues are behind all this. However, at the end of the day, we want our members to be paid for the use of any of their property. Although funding is important, we primarily want our members to be compensated for the creation and work that goes into their music.

Mr. Pierre Nantel: I understand.

Mr. Daigle, I would like to use my remaining 30 seconds to say that, even though everyone is happy to see that some amounts have been secured, it's important for the work we do here to be used by the House. The report on digitalization and digital issues in Canada that was tabled in 2011 has been shelved. It's sad that we have lost three years, even though the issues are as urgent as they are.

• (1140)

The Chair: Thank you, Mr. Nantel.

Mr. Dion, you have seven minutes.

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

Thank you all.

[*English*]

Thank you so much for being here.

You have touched on two topics. The first one is the current structure of the Canada Music Fund, and I would say that all of you have suggested a new structure.

In the perspective of the report of this committee, we'd like you to be as specific as possible on what you are suggesting for a new structure of the Canada Music Fund. Are you asking to come back to the creator's assistance program, or do you have other views about that?

[*Translation*]

My second question is about something you have all discussed—regulations.

Some things are still a bit unclear for us. Can you help us understand what the three-step test is? If other countries are adopting better regulations than us, what are those regulations? Try to be as specific as possible, keeping in mind that we will submit a report to the government.

[*English*]

There are two things to speak about: the structure of the Canada Music Fund and the kind of regulations you would like to see.

Maybe since he is far away from us, Mr. Murphy—

[*Translation*]

Mr. David Murphy: May I take the floor?

Hon. Stéphane Dion: Yes, you may start.

Mr. David Murphy: For now, I am not suggesting that the funding structure be changed. I am rather suggesting a simple change to the eligibility criteria for the Support to Sector Associations Program. Currently, this program requires a minimum operating budget of \$300,000. If that minimum was reduced to \$100,000, associations such as the PMPA or the CMPA could receive support through the program. Funding is provided to publishers and record labels, but only record label associations are provided with assistance. All the PMPA is asking for is this change.

Hon. Stéphane Dion: Okay. Thank you.

[*English*]

Ms. Elisabeth Bihl: On your question on the Canada Music Fund, it has been in place for about the past 20 years, more or less. It has helped and it has been very effective during this time; however, as we've just discussed, everything has changed. There's a new business model and there's a new way of doing business. Therefore the fund that has worked so well in the past needs to be looked at now with new eyes, a new model that attaches to the new business—

Hon. Stéphane Dion: What would be this new model?

Ms. Elisabeth Bihl: At the end of it all, you will have probably a very large panorama of the adjustments required. I will not be able to go into the details, but one has to understand that publishing, recording labels, and the association have different roles to play now. The whole fund has to be looked at from this point of view and redeveloped.

Ideally, it should be more than it is because it's a new world. We probably will need to look at expansion, but in principle, it has to be re-examined with a new model in mind for distribution.

Mr. Jodie Ferneyhough: As the music publishing group, we currently receive \$625,000 that's supposed to be spread over 65 various companies that can apply for funding. There is one record company in Toronto that receives the exact same amount that all of the publishers do. I think it's an unfair balance that we receive 7.1% of the income, and one of the labels receives 7.1%. I'd like to see that balanced a lot better, moved and shifted, not necessarily to a fifty-fifty model, but more to a model that recognizes what you're doing.

If you're making masters, you should be able to get more money. If you're working with songwriters, you get different kinds of money. It shouldn't be based on whether you're a record label or whether you're a publisher. It should be based on the economics of doing business.

• (1145)

[*Translation*]

Hon. Stéphane Dion: Mr. Daigle, do you have anything to say about this?

Mr. Gilles Daigle: Since I was the one who brought up the three-step test, I can perhaps respond to that part of your question.

To provide you with some context, the Berne Convention includes a clause on that three-step test. As far as exceptions go, the test is applied under the Berne Convention in the European countries that signed it. The idea is to try to limit the scope of exceptions to copyright.

So what are the test's components? First, exceptions must be limited to special cases. Their scope should not be general, but rather restricted to limited cases—special cases. Second, the exception must not be in conflict with the normal exploitation of the work in question—for instance, a musical work. Finally, the third part of the test aims to ensure that the exception is not unduly damaging rights holders' legitimate interests.

I have a suggestion with regards to this. Currently, this test is only used under the Berne Convention. In order to finally better protect rights holders' interests, the test should be adapted and included in the Copyright Act. That way, the legislation could bind the courts better when they consider the scope of exceptions. Otherwise, I think it's too easy for the courts to say that the three-step test is part of an international convention we are not bound by, and so that convention has no force of law within our legislation as such.

Hon. Stéphane Dion: Is Canada the least regulated country under the three-step test and therefore the country that has implemented it the least often?

Mr. Gilles Daigle: I said the least regulated, but I should have instead began by saying that we have the most exceptions. Since our legislation as such does not contain that three-step test....

Hon. Stéphane Dion: Which countries have integrated the three-step test into their legislation?

Mr. Gilles Daigle: In Europe, the test and the convention's provisions automatically apply to the legislation of a number of countries. That's not the case in Canada.

Hon. Stéphane Dion: What's the situation in the United States?

Mr. Gilles Daigle: Like us, the U.S. is currently looking to adopt in its legislation....

The Chair: Thank you.

[English]

We will go to Mr. Boughen, for seven minutes.

Mr. Ray Boughen (Palliser, CPC): Mr. Chair, let me add my voice of welcome to our panel for taking time to share their thoughts with us this morning. We certainly appreciate their input.

Coming back to the technology question, and any member of the panel can feel free to answer this, I heard what was said about technology and what is happening. I'm wondering how digital technology affects songwriters and composers.

Can you expand a little on the ways that technology is affecting the music industry?

Mr. Jodie Ferneyhough: It's devastating. The way the songwriter is paid, with SOCAN anyway, is from the performance, and so at radio you get x number of dollars or cents from each play. It can be substantial if you get to a certain number of plays and rotation and what have you. You used to be able to maybe make a living. Now with streaming, even on a paid subscription service, each play is worth micro pennies, 0.005¢. It's hard to make a living on micro pennies.

• (1150)

Mr. Ray Boughen: Even in the top 10?

Mr. Jodie Ferneyhough: Yes, even when you're in the top 10 it's virtually impossible.

There are a couple of great articles written by artists who explain that as big artists they would make a decent living; maybe collectively for the whole band they would bring in \$250,000 for the year to be split among four or five people. Now for that same record, which consistently made that much money, it is maybe a couple of hundred dollars.

The impact is substantial. When these services come in and we lose the income, it hurts all of us. It hurts the songwriter and goes all the way up.

Mr. Gilles Daigle: If I could add to that, compounding the difficulty is that we have the advent of these new services, which are a new source of music for consumers. One can see some positives in that. On the other hand, what is also happening—and in the case of SOCAN, this is quite noticeable—is that what have traditionally been advertising base platforms, such as commercial radio stations and television, now see themselves in this new world in which there is a new platform. As you would expect, it is affecting their ability to generate as much in advertising revenues as they used to. There's a shift going on.

When you have a tariff such as the SOCAN tariff for commercial radio stations based on a percentage of revenue, if the revenue pie on the traditional side starts decreasing or flattening out, that change obviously has a negative impact on the revenues that are generated for SOCAN members.

The challenge, and this is what we're working hard at, is to be sure that as the new digital platforms continue to grow and develop we get a fair share of that new market. That is proving to be very difficult, given the particular business models currently being developed on the digital front.

We're working hard to get good rates, reasonable rates, as established by the Copyright Board in our case, but it's very difficult to do so in this new environment, in which in some cases these services are still in their very initial stages and many are not yet available in Canada, in fact.

Mr. Ray Boughen: Elisabeth, do you have anything to add to that?

Ms. Elisabeth Bihl: No, I'm good.

Mr. Ray Boughen: I guess you've answered this one: how can the adoption of digital technology be an asset to the development of the music industry? It almost seems like a detriment rather than a development.

May we have your thoughts on that?

Mr. Gilles Daigle: It's very much a two-edged sword for some of the reasons I've just explained. In the short term, the greatest concern is whether, if you don't start getting from the outset, in the SOCAN case, reasonable tariffs and manage to negotiate reasonable rates, you ever get to catch up and how long it will take to ever catch up. If at the same time you're losing revenues from traditional streams, then at the end of the day it may be a two-edged sword, but you're left more with the negative side than the positive side of it, certainly in the short term.

Mr. Jodie Ferneyhough: I agree. As the dollars decrease, we need to be doing these deals faster. There is a lot of negotiation, but much of this happens through the Copyright Board.

It's important that the Copyright Board move a little faster. We have a thing called the private copying levy, which was introduced in 1996 and wasn't put into effect until 2004. We can no longer afford to wait 10 years for a tariff to be put in place. That tariff was enacted for cassette tapes and by the time it was actually put in place, we were into digital downloading. We have to have faster movement.

Mr. Ray Boughen: I'm thinking kind of far out and funky.

[Translation]

Mr. David Murphy: Mr. Boughen, may I comment on this?

[English]

Mr. Ray Boughen: Sure.

[Translation]

Mr. David Murphy: I have a comment on how quickly the Copyright Board of Canada responds.

The promptness of response remains critical for rights holders and for users because, clearly, it creates uncertainty. For right holders, this leads to delays in royalty collection. That can jeopardize our companies.

The market has changed quickly. Our business models used to be simple, but they have since proliferated. I feel that the Copyright Board of Canada is not being provided with the resources it needs to adapt, as the situation has changed very quickly. The board is not provided with sufficient resources.

So rights holders and users are suffering the consequences because this situation creates uncertainty for them.

• (1155)

[English]

The Chair: That's going to have to be the last word.

Thank you very much.

Mr. Ray Boughen: Is that it, Mr. Chair?

The Chair: That is it.

Witnesses, I would like to thank you for your contributions to our study.

We will briefly suspend while we bring in the new panel.

• (1155)

_____ (Pause) _____

• (1200)

The Chair: We'll call the meeting back to order.

Members may recall that a few meetings ago we had some votes that kept our witnesses from being able to appear. They are here now.

From Library and Archives of Canada, we have Hervé Déry, acting Librarian and Archivist of Canada, and Cecilia Muir as well from the Library and Archives Canada. In addition, we have Scott Hutton and Annie Laflamme from the CRTC.

Both groups have eight minutes each for their presentations.

We'll start with Library and Archives Canada for eight minutes, and hopefully we won't have any bells.

[Translation]

Mr. Hervé Déry (Acting Librarian and Archivist of Canada, Office of the Librarian and Archivist of Canada, Library and Archives of Canada): Thank you.

Good afternoon, everyone.

[English]

Thank you for the opportunity to address the committee today.

My name is Hervé Déry, and since May of last year, I am the acting Librarian and Archivist of Canada. With me today is Cecilia Muir, our chief operating officer.

Library and Archives Canada has the unique mandate to acquire, preserve, and make available the documented heritage of Canada, including records of historical value of the Government of Canada. This documented heritage is rich and vast, and Canada's musical heritage is an important part of our unique collection.

As you know, LAC is not an organization that has a role in funding our national musical industry, nor does LAC play a direct role in terms of composition, performance, and production of Canadian musical culture. However, Library and Archives Canada does occupy an important position in the context of Canada's music industry because of our mandate as a memory institution. It is through LAC that the federal government actively supports acquisitions, preservation, and ongoing access to Canadian musical documentary heritage and achievements. The legal deposit ensures that we have a comprehensive collection of the Canadian music production.

We all know that most musical trends come and go from one generation to the next, popular performers rise and fall, and the technical changes domestically affect how music is recorded, delivered, performed, and consumed from year to year. As we did with cultural changes, one constant is the LAC mandate to collect and provide access to our heritage now and in the future.

[Translation]

The works produced and recorded nowadays will represent the musical heritage of future generations. So it is LAC's duty to acquire and preserve them. Library and Archives Canada is a trusted source for musicians, researchers and members of the public who are looking for information on Canada's musical heritage.

I would like to give you an overview of our long-term stewardship for Canada's music industry.

The LAC collections document all aspects of the industry. We have some 200,000 music recordings in all conceivable media—discs, punched tapes, reels, eight-track tapes, digital recordings, and so on.

We have some personal documents that belonged to famous artists such as Glenn Gould and Oscar Peterson, as well as documents produced by orchestras, record labels—like Compo, Canada's first independent record company—and many other people and groups from Canada. We also have published documents, such as books, music reviews, newsletters and magazines, from the 19th century to today.

[English]

LAC has acquired sheet music dating back to the 18th century, a collection amounting to over 20,000 songs, piano pieces, religious music, and parlour songs, including music by Canadians about Canada published around the world. This collection has been digitized and is accessible free on our website.

We also have an important collection of aboriginal music and song recordings. Many of these recordings are also available on LAC's website, including recordings from first nations, Inuit and Métis artists, and from the recording label that produced their work from the 1970s to the present. LAC also provides access to a Canadian music periodical index database, which contains almost 40,000 entries on articles dating from the late 19th century to the present day, from over 600 Canadian music journals, newsletters, and magazines.

Among the most important of these music journals was *RPM Weekly*, which began publication in February 1964. The goal of this magazine was to foster and promote a dynamic Canadian music industry. The publication ran for 36 years and helped shaped the face of Canadian music, including the establishment of Canadian content regulations and the creation of the Gold Leaf Awards, later renamed the Junos, and the Canadian Country Music Association Awards. LAC has digitized every shot of the top hits printed by *RPM Weekly*, about 10,000 shots, and this information is free and accessible online.

Another popular resource is LAC's virtual gramophone database, which contains information, images, and recordings from more than 15,000 78 rpm and cylinder recordings released in Canada, as well as foreign recordings featuring Canadian artists and compositions.

• (1205)

[Translation]

In addition to many online resources, our reading room on Wellington Street in Ottawa is equipped with audiovisual stations where researchers can access the musical heritage.

As far as preservation goes, every year, we make audiovisual migration part of our basic activities. We want to ensure that any content recorded in at-risk formats is transferred to stable and accessible media. We have already migrated over 50,000 hours of audio and visual recordings.

Another part of LAC's mandate is to serve as the continuing memory of the federal government. We receive and preserve federal departments' and agencies' documents of historical significance that support artists and entrepreneurs who create and broadcast music in Canada. Those government information sources document the policies and decisions that have helped Canada establish a thriving music culture and a world-renowned music industry. Library and Archives Canada will be pleased to continue acquiring, preserving and making accessible Canada's musical heritage.

Thanks again for the opportunity to speak before the standing committee on this important issue. We will be happy to answer your questions.

[English]

The Chair: Thank you very much.

We'll move to our friends from the CRTC, Mr. Hutton and Ms. Laflamme.

Mr. Scott Hutton (Executive Director, Broadcasting, Canadian Radio-television and Telecommunications Commission): Thank you, Mr. Chair, for inviting us to meet with your committee today. You've introduced Madam Laflamme. She's our director of radio policy and applications.

We welcome this opportunity to explain the many ways the CRTC is helping to foster a diverse radio sector in this country, and how this sector in turn contributes to Canada's music industry.

Today Canadians have access to over 1,150 commercial, public, campus, and community radio stations that offer a variety of formats in English and French as well as in many other languages.

Although the results are only preliminary at this point, it appears the commercial radio industry maintained the course in 2013. These stations have reported total revenues of \$1.62 billion and pre-tax profits of \$331 million. I would caution, however, that these totals may well change once they are finalized.

Competition for new licences is an additional indication of the sector's vitality. In the last two years the CRTC has issued close to 50 new radio licences. These applications are a vote of confidence in radio's future.

Another positive sign is the success of Canadian performers. Many Canadian artists are now household names around the globe. We see them perform on the world's biggest stages and hear their songs in films and TV shows. We feel a sense of pride when they are nominated for Junos or Félix awards, or the Grammys in the U.S., and even *les Victoires* in France. We sometimes forget that most of these artists got their start right here on Canada's airwaves.

Over the years the CRTC's regulatory policies and licensing decisions have supported and helped to promote Canadian music. For example, 35% of the songs played by English-language commercial radio stations must be Canadian.

[Translation]

French-language stations have an additional requirement. They must ensure that 65% of the songs they broadcast are in French.

Back in 2006, the commission adopted a new approach for the commercial radio sector. We decided to put additional emphasis on the creation and promotion of audio content through the development of Canadian musical and spoken-word talent.

The revised policy requires radio stations to support FACTOR and MUSICACTION, which play an important role in the development of Canadian talent, including new and emerging artists. Stations must also continue to make contributions to two funds that have been in existence since 1998—the Radio Starmaker Fund and Fonds RadioStar.

As a result, over the past 10 years, commercial stations have invested more than \$280 million to support, promote and train Canadian musical and spoken-word talent. This approach is helping strengthen Canadian talent and enhance the quality of Canadian content on the market, in both English and French.

To ensure that Canadian music remains vibrant, it is important to feature new and emerging artists. All radio stations in the country are advancing this goal, but campus and community radio stations play an especially important role. To ensure that the latter have access to a predictable source of funding, commercial stations must now make annual contributions to the Community Radio Fund of Canada.

A 2013 report by Nielsen found that 61% of Canadians tune in to radio stations to discover music that is new to them. And nearly half of the new music they encounter is broadcast by a radio station. This is the highest share among all sources, including YouTube, the iTunes store and social media.

• (1210)

[English]

What's especially encouraging is that Canadians are keen to listen to made in Canada music. Polling by Canadian Heritage in 2012 revealed that 92% of Canadians strongly agree or somewhat agree that it's important that Canadians have access to music by Canadian artists.

This high level of interest is also reflected in the television broadcast of music award shows such as the Junos, the East Coast Music Awards, and *le Gala de l'ADISQ*. The CRTC has designated these shows as programs of national interest to help promote and market Canadian music, fuelling demand to hear it on the radio.

Of course, radio isn't the only way people access music today. Thanks to the multitude of online services available, music has become a commodity that can be packaged and delivered in countless ways.

According to the CRTC's 2013 "Communications Monitoring Report", Canadians are listening to audio content on various platforms: 20% stream the signal of an AM or FM station over the Internet; 14% stream audio on a tablet; 13% stream on a personalized Internet music service; and 8% stream audio on a smartphone.

Younger Canadians in particular have been adopting these platforms in growing numbers. Even so, radio is still an attractive medium for many. People tune in to these stations for local news, the latest traffic and weather updates, and of course to listen to music or talk radio personalities.

Radio is no longer just about music. It's increasingly about being close to the audience, helping listeners connect to both content and people that appeal to their individual interests. Connecting with individuals and serving the local community is key to success in today's niche markets.

[Translation]

Canadian artists and the music industry as a whole have also had to evolve to keep pace with these technological trends. They are undeniably affected by these changes, sometimes adversely. But it is also true that technology can provide musicians with new

opportunities to reach more people with great content that happens to be Canadian.

To be successful in today's marketplace, artists can no longer concentrate only on writing, recording and playing their music. They have to learn the business skills to manage their brand, as well as all aspects of their careers—from touring to marketing and promotion to maintaining an active social media presence.

We are sensitive to the issues facing both the radio and music industries in this fast-changing environment. We continue to work in conjunction with the radio sector and government to further strengthen Canada's music industry.

As the commercial radio sector has remained relatively stable in recent years, both financially and in terms of tuning, the commission is of the view that a comprehensive review is not necessary. Nonetheless, we believe the sector would benefit from an update of certain regulatory and policy elements.

So last October, we issued a call for comments on a targeted policy review for the commercial radio sector. The first phase of comments came to an end in late January. We are currently in the second phase of this process. It is premature to give you an update, as the record is still open.

That said, we would certainly be happy to discuss any other aspects of this presentation and to answer your questions.

Thank you.

• (1215)

[English]

The Chair: Thank you very much.

We'll now move to questions. Mr. Weston, for seven minutes.

[Translation]

Mr. John Weston (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC): Thank you, Mr. Chair.

I would like to begin by thanking our guests for joining us today. I also want to congratulate Mr. Hutton, who is an executive director at the CRTC, for his proficiency in both official languages. That's wonderful.

I want to focus on the library of Canada.

Last week I visited that institution for the first time to do some research. LAC is an amazing resource that is accessible to all Canadians. I don't think we are using it enough. The collection contains 200,000 items.

How are Canadians being informed of LAC's contents, not only by us, parliamentarians, but by everyone? How could the collection be used more?

Mr. Hervé Déry: I'm glad you enjoyed your visit to the Library and Archives of Canada.

Our collections are increasingly becoming available online. That's now how the vast majority of people are accessing our materials. They go directly to the LAC website and, from there, they can browse our sites. We do not proactively advertise our websites much, but the trend shows that Canadians are using them more and more. So we are becoming increasingly well known. I think the situation is positive when it comes to that.

Mr. John Weston: Do you organize any events or activities to inform Canadians of that valuable resource's existence?

Mr. Hervé Déry: We are increasingly working with other institutions, such as museums, and with people from the much larger industry of memory institutions. That way, we can use their facilities and participate in their collections. In that context, the participation and contribution of Library and Archives Canada is recognized.

Moreover, when we make a major acquisition or we have new programs or developments, we issue press releases to inform Canadians.

Mr. John Weston: This may not necessarily be part of your job, but how do you suggest you could better inform everyone?

Mr. Hervé Déry: I think we can certainly make improvements in terms of external communications.

To attract people's attention, I also think it is more effective to issue releases when we have a specific event to announce. In that context, we can inform people by working more closely with other institutions. We use those opportunities to announce other products available at Library and Archives Canada.

Mr. John Weston: We discussed with other guests the importance of making sure we are complying with the law when we search for Canadian music online in order to protect musicians' interests.

What do you do on that front when you add something to your collection?

• (1220)

Mr. Hervé Déry: We adhere very strictly to copyright law.

Many items in our collections are several years old and are therefore no longer subject to copyright. However, if copyright does apply to the collection, we never make the material available. Our preservation mandate applies in such cases. Once the copyright has expired, we can make the collection available.

When a special request is submitted for items of our collection still subject to copyright, we make sure to follow up with the copyright holders to obtain their permission before we make the material available.

We are very strict in that regard. We always ensure to respect copyright.

[*English*]

Mr. John Weston: Monsieur Déry and Mr. Hutton, you've both talked about the increasing universality of our Canadian artists and how they're being respected around the world. It's something which I think makes all of us proud. I come from West Vancouver—Sunshine Coast—Sea to Sky, where many internationally renowned musicians reside in our midst.

This is probably an unfair question, but what are you doing, if anything, to cooperate, to leverage your efforts? What do you do to look for other partners to help you achieve your mandates to make our Canadian artists better known? Given that no group in this day and age can operate alone, is there a real emphasis on cooperating, collaborating, and working with other partners?

Mr. Scott Hutton: For many of the things, whether it is with respect to music or television at the CRTC, we have our own specific role and our own area, which is regulation of broadcast services. What we're finding as we're looking at the new environment is that you need to be able to reach out to find new ways to help with the consumption of Canadian product. Quotas or other means still work, and certainly work for the industries that we continue to regulate, but in terms of various things that we're doing with respect to cooperation, we do share a lot of data and information with our friends at Canadian Heritage, who were up here in your first meeting on this particular subject.

For example, we leverage some of our regulatory abilities to ask private broadcasters to contribute towards funds that cooperate with the Canada Music Fund with Canadian Heritage. We work with the broadcasters to leverage some of their funds in Starmaker.

[*Translation*]

The francophone counterpart is Musicaction.

[*English*]

Those are certainly many of our traditional means of collaboration.

We highlighted here that in some of our reviews we found that community radio was a very good place to play or discover new forms of music. Community radio is certainly an area where there is a variety of different music that is not played on commercial radio and where certainly new artists find their spot. That has been an area of additional collaboration, where we've tried to ensure that maybe there is a better source of funding for community radio stations across the nation and have highlighted moneys there.

What are we doing now towards the future? We're certainly looking at reaching out to other regulators around the world to see if there means to collaborate. For example, what are best practices is an easy way to go about it, but also we're working with institutions like the Banff World Media Festival to maybe invite other regulators here.

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

We're going to hear from Ms. Mathysen and Monsieur Nantel for seven minutes.

Ms. Irene Mathysen (London—Fanshawe, NDP): Thank you very much, Mr. Chair. I've been looking forward very much to having a chance to talk to our witnesses, but before I do, I wanted to advise you that I'm going to be putting forward a notice of motion, and I think it's important, that the Standing committee on Canadian Heritage undertake a study of regional broadcasting under the Canada Media Fund and that the committee report this study to the House. I have my motion in both official languages. I'll just pass it on to the clerk.

Thank you very much.

Witnesses, thank you so much for being here.

I think I'll direct my questions towards Library and Archives Canada, not that I am not very fond of the CRTC.

I've been very cognizant of the absolute imperative nature of the work that LAC does. When we look back at this incredible history, this incredible treasure that you have collected and will collect in future, we cannot overstate how important it is to our history, to our sense of selves as Canadians.

I was concerned about some of the issues around staffing and budgets, because I know that you did experience some cuts. Now you have access to \$360,000 for the music memories segment of the Canada Music Fund.

How do you spend that? How do you determine which musical pieces will be chosen from the program? It would seem to me there is this plethora of incredible possibilities out there. How do you decide?

• (1225)

Mr. Hervé Déry: Thank you, and we really appreciate your support toward our mandate.

There are two parts to your question.

First, on the \$360,000, these moneys are devolved and devoted to support our musical industry. For example, we developed in the last few years the virtual gramophone website. That money was instrumental in that. We also used that money for some very specific acquisitions. For instance, we completed the collection of recordings by La Bolduc.

We also use that money for some specific investments. For example, we use that money to support the installation of shelving designed especially for sound recording. Also, very importantly, we use that money to purchase state-of-the-art audio preservation equipment. The audio preservation equipment is something that's a challenge for us, because we have to make sure we acquire the equipment that can be used to play the music on very old formats. We have to maintain that equipment. We also want to make sure that we have state-of-the-art equipment.

The second part of your question was as to how we decide. First, we have legal deposit. Since 1969 we acquire automatically, working with the industry, all the pieces that have Canadian content. Also, we try actively to acquire pieces that are prior to the legal deposit, so the older things. When there are opportunities on the market, we try to acquire them. Generally speaking, we also try to acquire the works for national figures through specific individual purchases.

That's basically how we do it.

Ms. Irene Mathysen: You've said that you try to acquire pieces, things for the archives. Are you experiencing limitations? Are there some things that are slipping away and that we will regret in future years simply because you don't have the funds? In the case of staffing cuts, it seems to me that you have a very talented group of very specialized people in terms of the library. I know that you lost a significant number of those people in September 2013.

What is lost, in regard to these archivists, these remarkably talented people, and how do you manage?

Mr. Hervé Déry: Yes, indeed, we do have a very, very strong history and strong professionals working at Library and Archives. We don't feel that we're not equipped to manage and to meet our mandate. We prioritize like any other department. I think that so far we have been able to acquire what we need, especially through our legal deposits. A legal deposit is a mechanism by which we automatically receive at least the basics that we need to preserve for the long run.

• (1230)

Ms. Irene Mathysen: I note that you've hired on a temporary basis or rehired some 16 archivists for a short contract. In the process of this shifting in staffing, did you lose to other areas good people who were impossible to replace? Did you lose a talent pool such that you're now feeling the bite from that loss?

Mr. Hervé Déry: Well, like in any other organization, there are people who leave organizations and who are prepared to retire. At the end of the day, we have what I would say are fairly rigorous HR planning processes. We try to make sure when we hire newcomers and new archivists that there is a transition with a communication of information. We feel that so far we've been quite successful in attracting good people to replace those who have to leave.

[*Translation*]

Mr. Pierre Nantel: Thank you for joining us today.

The quotas worked very well. As you said, the quotas on Canadian content really helped build our identity and our heritage. They also helped create many jobs. We are now living in a new world where I would say people can pick and view anywhere, while previously, we would wait to hear something we liked.

What do you think is the next step that will have the same effect the quotas had 30 years ago?

Mr. Scott Hutton: We cannot know whether an initiative will have the same effect. We must be careful not to apply old methods to a new reality. A number of things have been noted. Technology has changed, and people are no longer making purchases in the same way. This is a new environment, and our mandate is to ensure that Canadian content—including audiovisual content—is available on various platforms.

We must remember that Canadian consumers' behaviour is changing, and I think this is what you are referring to.

We are trying to find a solution, but we have not found it yet. We are working on the major project of reviewing regulations and policies that apply to audio and audiovisual content. We also have the initiative Let's Talk TV: A Conversation with Canadians.

[*English*]

The Chair: I'm sorry, but I'm going to have to move to Monsieur Dion.

You'll get a chance to go back to that again.

[*Translation*]

Hon. Stéphane Dion: Mr. Hutton, you can use my time to finish your answer. However, I ask that you be brief because I also have other questions for you.

Mr. Scott Hutton: Canadian consumers are consuming in a different way. A quota can simply be applied on streaming services, but what is a streaming service? Is it similar to broadcasting? Certain streaming services are more popular than others. I remember my last appearance before the committee. Your daughter probably makes her own decisions on what she wants to watch. Personal choices should not be regulated. That is probably not something that should be done. Instead, new ways to discover music should be looked at.

What is currently on the market is not perfect. We made some suggestions in our presentation to the committee. Appearances were made earlier by artists and their representatives, associations, record companies, and so on. Now, a whole set of considerations must be managed. Money is no longer coming from record sales alone.

Hon. Stéphane Dion: Thank you for joining us today and for being so patient.

Your patience was rewarded in that you had the opportunity to hear what a number of witnesses had to say. One of the points they made was that creators and those who support them were earning a lot less than they did before because of all the new technologies for listening to music.

First of all, would you agree with that assessment? And if so, how can we change the regulations so that creators are able to derive the benefits of what they created?

Mr. Scott Hutton: In the audio industry mainly, and to a lesser extent in the television industry, the piece of the pie has shrunk. As we heard, Canada has the seventh largest music market in the world. And as far as our international sales are concerned, we hover between second and third place. The figures in terms of the number of albums or musical selections sold remain steady. The drastic drop in revenues in the market is likely due to technological advancements, but it also has to do with the fact that consumers have changed their behaviour.

On the radio side of things, the regulations appear to be working. That's what we're seeing now. So it isn't the time to change them. The situation is stable. Revenues and profits have neither increased nor decreased. The fact that royalty payments are being generated really does a lot not just for content development but also for discovery and compensation.

What should be done to support the music industry? Money shouldn't be the only focus; it is also important to look at whether production is happening, whether it is possible to communicate and flourish in the field. Naturally, having money is helpful. But that money has to be generated in a new way. Yes, it's important to sell T-shirts and concert tickets. But, in our view, it is increasingly necessary to focus on the brand power of the product and the artist, on the way listeners are first exposed to the artist and on methods to stimulate sales of the artist's various products.

Selling more records means finding new ways of exposing audiences to artists and enabling that discovery. The major streaming systems use all kinds of private algorithms. What components in those algorithms make it possible to find and suggest music to Canadians? That's the kind of question we need to ask ourselves and try to answer.

What are people looking at? They probably keep up with the latest online and through social networks. That means it's necessary to make sure our artists are on those networks and using them actively, not just to communicate with Canadians, but also to generate the types of electronic products that will help put Canadian music front and centre.

• (1235)

Hon. Stéphane Dion: If I have enough time left, I'd like to come back to you.

My next question is for Mr. Déry and Ms. Muir.

In 2012-13, you had a budget of \$119 million. This year, you had \$99 million, and in 2014-15, you'll have \$96 million.

Does that diminish your ability to carry out the work of preserving Canada's musical history and heritage?

Mr. Hervé Déry: No, I don't think so.

In the budget, money was earmarked for special investment projects. The cuts to our operating budget were similar to those imposed on the rest of the departments, about 10%.

While that decrease may seem larger than that imposed across government, it has to do with the fact that money had been allocated to Library and Archives Canada for special investment projects and those projects were completed. We can now benefit from those investments, which were put towards infrastructure that we use. In that context—especially as far as the legal deposit is concerned—we are now in a position to acquire what we need to and protect our acquisitions in the long term.

Hon. Stéphane Dion: Since I have a bit of time left, I'm going to come back to you, Mr. Hutton.

One of our earlier witnesses recommended that we implement the Berne Convention in Canada. He said that we are the country that does the least regulating in this area, that too many exceptions exist and that copyrights are not respected enough. All of that does enter into the CRTC's mandate, to some extent.

Mr. Scott Hutton: Most cases where copyright is concerned involve the Copyright Act, government policies or the way the Copyright Board implements them.

Your question gives me a chance to clarify something about our mandate. Earlier witnesses talked about copyright and the way that artists are paid for the use of their products. The CRTC, however, does not have a hand in that. We ask private broadcasters to make larger financial contributions to content development, meaning at the beginning of the process. We encourage new artists to create new products, but that's where our role ends. As you have heard, the matter of royalties is very serious, but it doesn't come under our mandate.

• (1240)

[English]

The Chair: Great. Thank you.

We're going to move to Mr. Dykstra, for seven minutes.

Mr. Rick Dykstra (St. Catharines, CPC): Mr. Chair, through you, one of the issues that seems to keep rising up is the complexity of the fund, the complexity of the industry in Canada.

From a CRTC perspective, we look at the Canadian content development contributions for Canadian music organized through four organizations: FACTOR, Musicaction, Radio Starmaker Fund, and Fonds RadioStar.

We've heard that the structure is complex. Has the CRTC ever considered moving from a four organization perspective to flowing funds through, let's say, two organizations so it becomes much less complex for those involved in it? Obviously, from your perspective, from a governing perspective, it would allow you more transparency in terms of whom you're dealing with and the fact that the number is lower.

Mr. Scott Hutton: I'll let Madam Laflamme provide you with the details, but we do have the English and French side, and I think you're suggesting two as the English and French; that is what I understand.

Within those two particular organizations, they each have a very different role. If we're talking about FACTOR and Musicaction, certainly the role is to be more on the R and D side, if we can call it that, to develop the new...to help grow people from zero to something, whereas the second organization concentrates on something significantly different. It's more the graduate school. It's once you have achieved a certain amount of success, you've demonstrated certain things, then we would through that fund seek to take you to the world stage.

There are different objectives on that front, but Madam Laflamme can indicate what we've done in the past in that domain.

Ms. Annie Laflamme (Director, Radio Policy and Applications, Canadian Radio-television and Telecommunications Commission): I think you've provided a pretty clear and complete response.

I think the one thing we should mention is that those funds were created originally by the broadcasters. FACTOR and Musicaction were the first ones to be created. It was during the commercial radio review that happened in 1997 and when we issued the new policy in 1998 the CAB, Canadian Association of Broadcasters, proposed to create this new fund, the Starmaker, and Fonds RadioStar, that would bring the established artists to another level and reach the international market, for instance.

We have a few processes going on, so there's not very much more we could say about those things.

I'll just mention that based on our discussions with the music representatives a couple of years ago when we were trying to establish what the issues were that the industry was facing, we asked them the question about the relevance of those funds still, and they said that they each have their role. They play a different role, but they each have their role and they're both relevant. They seem to be wanting to continue with the current structure.

Mr. Rick Dykstra: I listened with interest to your comments, Scott, regarding the review that started in October and is now coming to a conclusion. You don't have any reporting mechanism, at

least at this point, to bring forward. I ask this question both from a creator's perspective and from a carrier's perspective.

One of the complaints I've received from both is that the CRTC's role has changed from the time of its inception to today. The reason for that change is the speed at which the industry is now moving, and it's difficult for the CRTC to respond to that change. When someone comes up with or invents a new method to circumvent the rules we have in place and then we try to see whether they've done something illegal, it's difficult to determine whether or not that grey area matches the concept the person or the company thought up to either take creators' work for nothing or become a carrier without actually going through the approval process.

Maybe my question is one you've heard many times before. How do we assist the CRTC to be able, in this day and age, to respond to the concerns and some of the obvious wrong acts that are taking place within the industry—I don't mean from the industry—generally speaking through the Internet and through technology? How has the CRTC been able to set itself up, or how can the government help it to put itself in a position to respond to those types of concerns in a much quicker way than it's able to now?

•(1245)

Mr. Scott Hutton: Regulation of government policy is always a little bit behind. It's a fact we try to combat every day, but it is a fact of life.

I think there were two parts to your question. One is that the wonderful thing about the industry we regulate is that it is in constant evolution. The key thing with the CRTC is being able to stay close to what is happening and being able to do proper research. The key thing for us, however, is consulting and having the public proceedings, because everyone, like you in this committee, comes and provides us with information on that front. We're doing well on that front.

Do we need to regulate the new thing? Do we need to jump in right away? This is also a question we often ask ourselves. Sometimes people want us to do that, but sometimes we make the purposeful decision not to because it's not the right time. Right now we have a number of those debates in front of us because of the latest technological developments, but that type of idea has been with us for many years.

We had AM, and then the new-found technology was FM. We didn't regulate FM closely when it first started. We let it grow. We let it find itself a role. We let it reach Canadians, and then when it was mature enough, we found that it should itself make a contribution to the system. We have to be careful as to the right time to jump in. It may not always be because we're behind the times. It may be a purposeful decision not to do it.

When we're looking forward, we're looking forward to trying to be more efficient and more effective, and to maybe rely less on licensing and more on other forms of regulation. I think we can work with our current policies, and then we're not looking for anything on that front. There may be some minor adjustments with respect to ability to enforce. We note that recently there have been suggestions and an introduction of new areas for the CRTC to be involved with, whether it's with CASL on the spam side, or the do not call list, for which there are mechanisms related to enforcement. As we go forward, it would be helpful to have those apply to all of our areas of operation, including broadcasting. Then we would rely less on licensing and other forms of regulation.

The Chair: All right. Thank you very much.

We have about three or four minutes left, so we'll go to Mr. Nantel.

[Translation]

Mr. Pierre Nantel: Thank you, Mr. Chair.

I'd like to begin by thanking Ms. Laflamme and Mr. Hutton for meeting with us today. I think your remarks were very informative. It is clear that you are taking a detailed look at all the factors and that you're adopting a cautious approach given that there is no silver bullet. I hope the issue is addressed swiftly.

Ms. Muir and Mr. Déry, I want you to know how pleased we are to have you here.

Mr. Déry, you are the famous acting librarian and archivist. And you are probably one of the people we've talked about the most these past few months. You are no doubt aware that, in this room, our party met with members of the archiving community. They told us what they were concerned about and what they needed. They told us how desperately they hoped for changes in the LAC.

With that in mind, I'd like you to verify a few things, if you would. We heard a lot about the recent changes to the LAC's code of conduct, values and ethics, which applies to employees. The first code of conduct was put in place and then amended at the very end of 2013.

Did the previous code prevent LAC employees and experts from attending conferences in their respective fields? Did you hear about any such stories from your staff?

Mr. Hervé Déry: Good afternoon, Mr. Nantel.

The former code was in effect for a relatively short period of time. The decisions made within the department regarding its implementation were made collectively. I can't recall any specific cases where someone was prevented from—

• (1250)

Mr. Pierre Nantel: Good. We were glad to see it amended.

You manage the much talked-about musical catalogue. I noticed that, in 2012, the International Association of Music Libraries, Archives and Documentation Centres held its annual conference in

Montreal. The association's Canadian branch is located at 395 Wellington Street, in Ottawa.

Do you believe LAC employees are excited about attending upcoming conferences to talk about your initiatives in greater detail, initiatives like the digitization project?

Mr. Hervé Déry: We are encouraging our staff more and more to take part in conferences provided that the subject relates to their work. We approve a conference plan every year. For every conference, we have to be sure to factor in the total costs and fees. We strongly encourage our staff to take part.

I can't say for sure, but I think we have people from Library and Archives Canada who will be attending the specific conference you mentioned.

Ms. Cecilia Muir (Chief Operating Officer, Office of the Chief Operating Officer, Library and Archives of Canada): I would just like to confirm that at least two people from Library and Archives Canada will be attending that conference. I can't remember the exact number off the top of my head, but I know that at least two will be going.

Mr. Pierre Nantel: Thank you.

I have one last question for Mr. Hutton and Ms. Laflamme.

Could you please explain the rationale behind asking the various broadcasters to contribute to the emergence of new talent? Why do you ask them to do that?

Mr. Scott Hutton: The answer to your question takes us back to the 26 or 27 objectives set out in the Broadcasting Act. Simply put, however, we have to make sure Canadians are able to express themselves on the public airwaves and, on the flip side, to hear and see that expression of themselves. What's more, mechanisms are needed to ensure everything comes together.

That is why we regulate broadcasting, which is defined as broadcasting across the country, with those objectives in mind.

Mr. Pierre Nantel: Tell me about funding for cultural products.

Mr. Scott Hutton: Obviously, in order to stimulate creation, it's important to have funding that is used to create that initial period with respect to broadcasting. It has to do with discovering new talent. It's necessary to make sure that we cultivate new sounds, new words, with each generation and that we shine the spotlight on them. That's why we ask for funding to support that initial development phase.

[English]

The Chair: Thank you very much. That's going to have to be the last word.

I want to thank our witnesses for being with us today. Thank you for your contribution to our study.

We will briefly suspend and then go in camera to do some committee business.

[Proceedings continue in camera]

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