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## **Standing Committee on Canadian Heritage**

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**EVIDENCE**

**Thursday, May 8, 2014**

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**Chair**

**Mr. Gordon Brown**



## Standing Committee on Canadian Heritage

Thursday, May 8, 2014

•(1100)

[English]

**The Chair (Mr. Gordon Brown (Leeds—Grenville, CPC)):** Good morning everyone. I call to order the 22nd meeting of the Standing Committee on Canadian Heritage. We are currently conducting a study on the Canadian music industry. Today we have a number of individuals who will be presenting. Jim Vallance is with us, as well as Paul Hoffert.

Because of the voting situation today, I will quickly outline what I'm planning to do—hopefully, everyone will be in agreement. First, we will hear from our two witnesses for eight minutes each.

I'm anticipating that the bells will start some time around 11:20, and that will give us two or three minutes for the first questioner. We should have a vote around 11:50 and, hopefully, it will be over by 12 o'clock. I'd appreciate it if members could hurry back so we that can start again by about 12:10 and finish up whatever few minutes we have left with the government member, and then have the opposition members each have their rounds of questioning, and then move to the second panel.

I'm hoping that everybody will be in agreement with this plan, as long as the timing works. Hopefully, it will.

Mr. Nantel.

**Mr. Pierre Nantel (Longueuil—Pierre-Boucher, NDP):** I think it's the right thing to do under the circumstances.

[Translation]

I would like to move the motion I gave notice of during the last meeting. It reads as follows:

That the committee invite the Honourable Shelly Glover, Minister of Canadian Heritage and Official Languages, and the president and chief executive officer of the Canadian Broadcasting Corporation, Hubert T. Lacroix, for a two (2) hour televised meeting on the Canadian Broadcasting Corporation (CBC) and that this meeting take place no later than Thursday, June 12, 2014.

[English]

**The Chair:** Mr. Clarke.

**Mr. Rob Clarke (Desnethé—Missinippi—Churchill River, CPC):** I move that we move this meeting in camera, please.

**The Chair:** I'm going to ask if we could all work together here because we have very limited time for our witnesses. Could we deal with this a little later in the meeting, because we are going to have bells? I know, Mr. Nantel, that you want to deal with this.

**Mr. Pierre Nantel:** It's an emergency.

**The Chair:** Okay, but if we can deal with it in this meeting, would you be okay with that?

**Mr. Pierre Nantel:** I would like to address it now. If we have to go in camera I would like to have a nominal vote, please.

**The Chair:** Mr. Clarke, you can't move the motion on a point of order.

Mr. Nantel's motion has been moved so we're going to have to start debate on it.

Mr. Nantel.

[Translation]

**Mr. Pierre Nantel:** I would, of course, like to explain my request and demonstrate its validity.

The people who are here to talk about music understand very well what we are talking about when we discuss the CBC. They will understand very well that it is relevant to talk about it. I would like us to be able to discuss it and vote on this motion.

[English]

**The Chair:** Is there any further discussion?

Mr. Dreeshen.

**Mr. Earl Dreeshen (Red Deer, CPC):** Thank you very much.

I suppose one of the things that we have to recognize is that the minister is going to be appearing. It is an opportunity for you to address questions to her, and so on. However, hearing what Pierre has submitted, I think it is an issue that we should be discussing as a point of business in camera.

That's all I wanted to add.

•(1105)

**The Chair:** Mr. Clarke.

**Mr. Rob Clarke:** I move that we go in camera on this, Mr. Chair.

**The Chair:** All right. We have a motion before us to go in camera. Is there any discussion?

Mr. Dion.

**Hon. Stéphane Dion (Saint-Laurent—Cartierville, Lib.):** I don't understand why we need to go in camera and why it shouldn't stay public. I publicly support this motion. I don't see any problem with it, and I don't understand why we need to hide that from Canadians at a time when we need to have a public debate on it.

**The Chair:** Okay.

Mr. Clarke, you're withdrawing your motion to go in camera and you just want to move to a vote?

**Mr. Rob Clarke:** Yes, move to the vote.

(Motion withdrawn)

**The Chair:** All in favour of this motion for—

**Mr. Pierre Nantel:** Can I have a recorded vote, please?

**The Chair:** All right.

We'll proceed with the vote.

**The Clerk of the Committee (Mrs. Emma-Leigh Boucher):** We're just trying to take attendance here.

Mr. Boughen.

**Mr. Ray Boughen (Palliser, CPC):** What are we voting on?

**The Clerk:** To go in camera.

**The Chair:** No, no. We're voting on the motion. The motion to go in camera was withdrawn and we're voting on Mr. Nantel's motion.

A point of order.

**Mrs. Nina Grewal (Fleetwood—Port Kells, CPC):** Mr. Chair, please could you be clear. What are we doing here?

**The Chair:** Okay, I'm sorry. The motion to go in camera was withdrawn by Mr. Clarke. He then moved that we vote on Mr. Nantel's motion, so that's what we're doing now. Also, Mr. Nantel requested that we have a recorded vote.

So, we are now moving to that recorded vote. There was no further discussion.

**The Clerk:** It's a tie.

**The Chair:** If it's a tie, the motion fails

**The Clerk:** It's up to you. It's at your discretion, Chair.

**Mr. Kennedy Stewart (Burnaby—Douglas, NDP):** Excuse me, on a point of order—

**The Chair:** Mr. Stewart.

**Mr. Kennedy Stewart:** I'm just wondering, when it's a tie vote, does chair votes to...?

**A voice:** Yes.

**Mr. Kennedy Stewart:** You voted no to this motion.

**The Chair:** Yes. The motion failed.

**Mr. Kennedy Stewart:** Okay, thank you.

**The Chair:** We will now move to our witnesses. Hopefully we can get you in. We have about 12 minutes, so if both of you could try to get six minutes each. Does that work for our two witnesses? Then you're going to have some questions. I'm sorry about the voting time, but if you'd like to proceed, we'll go from there.

Okay, you have the floor. Thank you.

Mr. Vallance.

**Mr. Jim Vallance (As an Individual):** Thank you very much.

My first paying job as a musician was nearly 50 years ago, in 1965. Since then, I've worked in many sectors of the music industry.

Most of my success has been as a songwriter, but I've also been a studio musician, a band member, a producer, an arranger, an audio engineer, a publisher, and a recording studio owner. For my entire life, 100% of my income has come from music industry sources. I've never had a job other than music.

For 100 years, the music industry remained virtually unchanged. It wasn't a perfect business model, but it worked. There was enough money for everyone—songwriters, recording artists, record companies, publishers, plus those who work in the recording studios, pressing plants, and retail record stores. It was a thriving, multi-billion industry and, don't forget, it also produced significant tax dollars for the government.

You'll remember the testimony of David Faber, who works a construction job while living in his in-laws' basement. If David's career had happened 15 to 20 years ago, he'd likely have sold enough albums to comfortably live on his music industry earnings. So what changed?

In 1999, there was a perfect storm; the confluence of the Internet and MP3 technology allowed for the advent of Napster and similar online services, bypassing the record companies and facilitating the free distribution of music online. Technically, music fans were stealing, but as Pierre-Daniel Rheault told this committee, digital content has an anonymous, non-tangible aspect to it. People think they're just moving content across an invisible line.

The record companies were quick to react but slow to predict the future. They saw the online distribution of music as a threat, rather than an opportunity, so they went after the so-called pirates. They spent a decade doing that and eventually realized they'd lost the battle; but by then, the old business model was dead, and a whole generation of fans had grown up thinking that music is free.

But there's an upside. Never in history has music been more popular or more accessible. Look around you; everyone's plugged in, on the bus and on the street. Everyone's listening to music, all the time.

So far, witness testimony has been surprisingly consistent. I've listened to all of it. The main themes have been education, regulation, and funding. Regarding education, I fully support the funding of music education in schools, by which I mean access to musical instruments and musical instruction. I'm not so sure about using schools to promote respect for copyright, as several witnesses have suggested. It's a noble idea, but in my view it's a non-starter. The genie has been out of the bottle for more than a decade. As I said, most people today see music as free, or nearly free, and I believe it's too late to change that mindset. Perhaps if schools had daily lessons on copyright, and I mean an hour every day, like math or science, then indoctrination might be possible, but let's be honest; that's never going to happen.

Regarding funding, funding is life support. It keeps the patient alive, but it doesn't cure the illness. Gilles Daigle from SOCAN said that funding may be important, but first and foremost, we want to receive remuneration for the creative work done by our members.

Mr. Dykstra asked recording artist Brett Kissel at what point in Brett's career did government assistance begin? My question would be, at what point does government end? Why are established artists like Nickelback, Sarah McLachlan, Rush, Blue Rodeo, Arcade Fire, and the Tragically Hip accessing FACTOR funding? Ideally, FACTOR should be building new careers, not supporting old ones.

As Zachary Leighton told the committee earlier this week, 93% of FACTOR funding goes to signed, established artists. Again, at what point do you cut the umbilical cord, and at what point do you end life support?

As this committee has discovered and will discover, music industry revenues haven't completely disappeared. The record labels, the streaming services, and the ISPs are harvesting whatever revenues are available in a digital age, but those revenues are not being shared with the content creators. As you probably heard, Lady Gaga reportedly received \$167 for a million streams of one of her songs. In other words, a piece of chewing gum is worth 500 to 1,000 times more than a Spotify royalty.

I'm going to skip ahead here.

Mr. Kee from Google said that the royalty rate is not the problem; it's the skill set of the artist that's the problem. I don't agree with that at all. Mr. Erdman from Deezer said that it's the vocal minority, the amateur musicians, who are complaining, and he went on to say that Deezer pays the majority of its revenue to rights holders—which is true—and he said that he finds it difficult to build a business, given that burden.

I say it's difficult for creators to build a business when royalties are .0005¢ per stream.

• (1110)

If the government is looking for a meaningful way to help the music industry, I believe it's through regulation and legislation. We need a modern and transparent business model for the digital age.

I've got some more here, but I think I'll leave it for the questions and give Mr. Hoffert some time.

Thank you.

• (1115)

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

Mr. Hoffert, you have the floor.

**Mr. Paul Hoffert (As an Individual):** Thank you, my name is Paul Hoffert, I perform as a musician with my rock band Lighthouse and as a jazz pianist. In addition, I compose music songs and music scores for television programs and movies. I'm chair of the Screen Composers Guild of Canada, a founder of the Canadian Independent Music Association, chair of the Bell Fund, and a professor in the faculties of music, law, and information science at the University of Toronto. I was awarded the Order of Canada for my contributions to music, media, and society.

The music content business in my view is thriving. Consumers are listening to much more music than ever before, and music consumption is being well-monetized. But, the problem is that the entities that monetize music today are Internet companies and ISPs, as opposed to the old record business: record companies, music

publishers, artists, and composers who formally comprised the music business.

Internet companies that pay music owners, such as Apple, Amazon, Google, Pandora, and Spotify, spend billions of dollars on infrastructure and earn billions of dollars by retailing music to consumers. ISPs also earn billions from distributing music from these licensed Internet companies, but also from unlicensed music on pirate sites and music files shared among their subscribers.

In my view it's very likely that the ISPs will decide to go legit and begin licensing music from owners so that they can get into the legal content business, and dis-intermediate the Internet companies who pose a threat to their dominant relationship with the ISP subscribers. That would make them a big part of the new music business. So, although no one knows how the new music business endgame will play out, or if the old-style music companies will have a place at all in tomorrow's music business, one thing remains clear: there will be no music business at all without artists and composers to create the music.

Consequently, my first point to Canadian Heritage is that you must support music creators if you wish to ensure that Canada has a vibrant music industry. No matter which entity ultimately supplies consumers with music, Canada must have a thriving community of music creators to make music, to earn a living from it, to pay taxes to the government, and to enable the rest of the music business ecosystem to keep Canada as a major centre for content innovation and production.

My second point is that you should try to understand the diversity of music creators and our needs. As a performer and a composer, I support others who are making presentations on behalf of the other creators, but I'm here today to focus on music composers, a particular group that does not have the ability to earn income from touring or other live events. It's critical that songwriters and screen composers be strongly supported by Canadian Heritage. In particular, screen composers should not be omitted from any supports by Canadian Heritage for creators.

Most music today is consumed on screen-based devices, such as mobile phones, e-pads, computer screens, video games, and TVs connected to the Internet. The primary distributor of music throughout the world, and some say more than three quarters of all the music that's consumed, is YouTube. Ironically, it does not accept music files for distribution. The music has to be embedded in videos, and they do this for copyright purposes.

Record retailers no longer allocate the majority of their floor space to CDs but to DVDs, that is, audiovisual content. Consumer electronic stores now only sell audiovisual systems. It's tough, as I've tried to go in and buy a hi-fi system—those around the table, I'm looking at you and I'm guessing that you remember what a hi-fi system was—it no longer exists. You buy something that's a video A/V system. Songwriters and music publishers, in fact, have turned to licensing their songs into television and movie properties as an alternative revenue source to the fading legacy music business. And the video game industry is producing many of the biggest music hits for recording artists.

So everywhere one looks, the music industry is really being transformed into an audiovisual industry, and screen music has been and is becoming a much more significant and growing economic engine for all music composers. The Screen Composers Guild of Canada represents songwriters and composers who create music for movies, television programs, video games, websites, and all sorts of other mobile content. In Quebec—in this case anyway—it's a simpler situation because composers for screen, and composers for songs that are not on the screens are represented by one organization called SPACQ.

• (1120)

In English Canada, the SCGC represents composers and songwriters for commissioned screen music—that means somebody pays you to compose it—while SAC represents songwriters who have music placed in films that is pre-existent. In other words, they just license it in. As the work of SAC, composers, and SCGC composers increasingly overlaps, the two English organizations have been increasingly cooperating with each other, and with SPACQ in Quebec, to upgrade all Canadian composers' skills and their ability to compete in international markets. These three organizations increasingly speak with a common voice, and we are supported by SOCAN and the SOCAN Foundation, which view us as central to a viable Canadian music creation and production industry.

The proposed guidelines for a new Canada Music Fund appear to exclude SCGC and our composer members from receiving support. Unless the Canada Music Fund includes SCGC and its members, it would leave the SCGC members orphaned and homeless because the film, television, video game, and Internet industries in Canada do not include any support for screen composers. Canadian Heritage would then be in the position of supporting screen composers in Quebec, through SPACQ, but not in English Canada. Worse, if the Canada Music Fund were to assist SAC and SPACQ members in marketing to music supervisors in the screen industries, it would be promoting those creators to the detriment of SCGC members, and divert revenue that SCGC members currently get from licensing their songs to the same music supervisors.

SCGC, SAC, and SPACQ have been working in close collaboration with SOCAN and the SOCAN Foundation in recent years, and have made excellent progress in agreeing on uniform objectives and initiatives, working together on common messages, and sharing the costs and implementation of many programs. It would be a blow to that unity, and a devastating hardship for SCGC, if the Canada Music Fund were to begin to preclude screen composers from its support, which it currently includes.

Finally, in support of my contention that the music business is thriving, I submit the following information that comes from SEC filings in the United States by Pandora, an Internet music company, as reported by Morningstar. Here's what Pandora paid some of its people in 2013: the CEO, \$29 million; the CFO, \$8.5 million; Thomas Conrad, the CTO, \$5 million; Tim Westergren, the founder, \$11.5 million.

That same year, Bette Midler, whose name is probably familiar to you, received royalties from Pandora of \$456; David Lowery, of the band Cracker—a very well known and popular band—received \$67; a hit songwriter, Ellen Shipley, received \$158; and to put an

exclamation point on it, Aretha Franklin's and Elvis Presley's estates each received no royalties whatsoever. The data that's available from other music services reflects similar gross underpayments to artists in the new regimes. We really need your help.

Thank you for the opportunity to make this presentation.

**The Chair:** Thank you very much, Mr. Hoffert.

Just for the record, I can remember back to the seventies when you had the big hit, "Sunny Days", and I'm glad to see that you're here on a sunny day.

**Some hon. members:** Oh, oh!

**The Chair:** Thank you for your presentation.

That's a good segue into....

**Mr. Paul Hoffert:** Thank you very much.

**The Chair:** We probably have a few minutes before the bells go.... Oh, the bells are going now. We're going to have to suspend, and when we come back we will come up with some agreement to have some time for questioning of both of you. We'd appreciate your staying. We have to go. This is a half-hour bell and it will take about 10 minutes to vote. I ask members to quickly return after that to that we can try to get in as much of this as we can.

We are going to suspend.

• (1120)

(Pause)

• (1215)

**The Chair:** We are going to call this meeting back to order.

What we're going to do, with the agreement of the committee, is one five-minute round. We'll give each party five minutes to question Mr. Vallance and Mr. Hoffert.

We'll start with the government for five minutes.

Mr. Falk, you have the floor.

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

Thank you both, Mr. Vallance and Mr. Hoffert, for coming out and providing testimony to this committee. Sorry for interruption, but at least you got to eat out of the deal on the government's nickel. We'll send you a T4 or something. Just kidding.

First of all, I want to congratulate both of you on your careers and your achievements and accomplishments in the music industry. You both have very distinguished careers, and I want to acknowledge that and thank you for your involvement in the industry.

Mr. Vallance, you talked a little bit about the copyright, and you were providing a little bit of opinion. If you could, expand a little bit on that.

But I would also like you to comment on the funding that the Canadian government provides to the music industry through organizations like FACTOR, which puts that money into four different areas within the music industry. The four different components are the new musical works component, the collective initiatives component, music entrepreneur component, and the Canadian music memories component.

Are we putting money into the right places? Is it being administered properly? I think maybe I heard that perhaps it's not, and I wonder if you could give your comments on that.

**Mr. Jim Vallance:** You might be asking the wrong person.

I grew up in the 1960s and 1970s and there was no funding back then. I'm perfectly happy without funding. It wasn't easy then, and it's not easy now. But I'm biased on the topic. Paul would maybe have some further thoughts on that.

As I mentioned in my presentation, I think funding in most cases is life support. It's artificial. It creates a industry of dependence. Yes, it gives young musicians and young writers a head start, and I'm okay that far, but there's a point at which you have to either fish or cut bait, as they say. Either you're a professional and you're able to stand on your own and drive whatever income is still available in these trying times, but I'm not in favour of funding a career from A to Z.

I'm not qualified to comment on the funds that you mentioned because I don't have any personal interaction with them.

**Mr. Ted Falk:** One of the comments you made in your testimony is that 93% of our funding goes to existing artists who are well established in their careers, and you were wondering about the usefulness of doing that.

**Mr. Jim Vallance:** That was a FACTOR number, I believe, or that was testimony from one of your other witnesses. Was that the number? Was it 93% of FACTOR funding? We might want to make sure we're on the same page with that number.

**Mr. Ted Falk:** That was the information we received from previous testimony.

**Mr. Jim Vallance:** Yes, and that's where I got the number as well, so we'll go with that.

Established artist—the word “established” speaks for itself. Again, at what point do you cut the umbilical cord? At what point do you have artists just go on and get along with their careers without government support at some level?

Yes, I can support FACTOR and other initiatives helping start-ups in the industry, but at some point you have to get on with it.

• (1220)

**Mr. Ted Falk:** Mr. Hoffert, please.

**Mr. Paul Hoffert:** Same question, different perspective.

I think it's not the right question, if I could be so bold to say. The right question is how can Canada support an environment in which creators can earn a living? There are two big ways to do that. There is a choice.

One is the way that Canada and most countries in the industrialized world have done it, through legislation and regulation. They create economic conditions that favour or support the creation of content. Absent that, there is giving money away, which Jim is not in favour of and many others are in favour of. I won't speak to it one way or the other.

The fact is that international copyright legislation over the last 15 years has had, by general agreement in all the industrial countries, what we call an anti-creator bias for reasons. You hear the reasons

when the folks are asked to pay copyright fees and stuff like that and they come and say it's a break on business.

Whatever the reasons are, it has produced an anti-creator environment in which the laws under which we operate today produce a lot less income than they used to produce, and they certainly exclude all of the new methods of distributing content that are Internet-based. So there are tariffs on broadcasts, there are tariffs on all the old business that's going away, and there are no tariffs on the new stuff.

As you get an environment like that, we can't earn a living. Therefore, since we have not been successful—not just us and not just Canada, but around the world—in doing that, there's been an increasing desire to put in place other programs that can support this generation, the next generation of creators, so that each country, in our case Canada, can hopefully maintain the vibrant reputation and revenue earning that we have had by having a lot of great creators.

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

Mr. Nantel, five minutes please.

[*Translation*]

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

I thank the witnesses for being with us today.

Very often witnesses impress us, for all kinds of reasons. Obviously, what you wrote is a part of everyone's life here, and we thank you very much for coming to share these secrets.

You knew an era when it was simpler to live from the products of your sector, since copyright was worth something. I think you were the person to whom I said, earlier, that I used Deezer this morning to listen—free of charge—to all of the works on Sarah McLachlan's new album, and I did not pay a cent because I am still in my free subscription period. Everyone knows that in order not to pay all I have to do is then provide another email address. I could keep enjoying new free subscriptions. It is like a “dumping” of products and the creators are providing raw material.

Luc Fortin from the *Guilde des musiciens et musiciennes du Québec* raised these problems this morning in *La Presse*. I'm wondering if there is a link to be made between those problems and the one raised by Mr. Hoffert.

Mr. Hoffert, you pointed to a very interesting angle concerning scoring, music that accompanies images and the people who compose that music. It is true that we have not talked about that very much during this study. Is there a link between the problem you have raised and the one mentioned in *La Presse*? Do you think we are losing ground regarding the recording of symphonic music and film music in Canada? Is there a link between your situation and that that of orchestras, that are not used enough for recording soundtracks for video games, films, etc.

[English]

**Mr. Paul Hoffert:** Yes, there is some linkage. It's part of the same general problem that, because the current situation does not pay people who create and produce music—producers, production companies, the older kind of record companies, the artists, the composers—we must produce the work that we do for less money. So there's less money to hire musicians and all the rest of it.

**Mr. Pierre Nantel:** Okay.

**Mr. Paul Hoffert:** So it is linked. In particular the situation with audiovisual works, which are normally never spoken of in the same breath because there are whole different areas of copyright and you have two different industries, the Hollywood movie industry looks at copyright differently than the record industry and deals with it differently, which has created some—

**Mr. Pierre Nantel:** A glitch.

**Mr. Paul Hoffert:** Yes, some loopholes that, of course, every good businessman will try to find to maximize their profit.

Anyway, this goes along. It's a big question, I think, larger than what we are discussing today. I'd be happy to speak about it at another time, but that's my answer.

• (1225)

**Mr. Pierre Nantel:** I'll pass along to Mr. Stewart.

**Mr. Kennedy Stewart:** Thank you.

Welcome to the witnesses.

I have a quick question regarding your talking about FACTOR. I actually was a performing artist for some time, and once you decide that you don't want to do cover music anymore, and you want to do original music, FACTOR really gives you that first step into doing a demo tape and doing a recording. It starts to launch your career, and helps you decide whether or not you can move forward.

Mr. Vallance, you said that you agreed with the FACTOR funding and you thought that might be a good place for us to continue funding. Do you think we should perhaps ring-fence that to make sure we preserve that funding for future artists?

**Mr. Jim Vallance:** I think vetting is a big part of any funding program. You have to know that your funds are going to the right place and being used in the appropriate manner. I think FACTOR has a long, positive history. They have always had good juries, a good board, and good administration. My criticism of FACTOR, if any, is: when do you stop funding?

I'm perfectly fine with startup initial funding for demos and that sort of thing. Again, my bias comes from my own history in the 1960s and 1970s when there was no funding. Someone mentioned it was easier back then. Well, it wasn't easier. It wasn't easy then; and it's not easy now.

The music business is not for the timid. If you can handle rejection, disappointment, humiliation, and years of minimal income with the hopes that hard work will eventually pay off, then you're cut out for the music business.

Startup funding, great, as you said, to see if you have the goods, but I would recommend that FACTOR.... And the information I had

regarding Nickelback, Sarah McLachlan, and those people who are accessing FACTOR funding was taken from the FACTOR website, so I'm assuming it's correct. I don't know to what extent they were being funded or for what programs, but if you're an established artist by FACTOR's definition, then I think that is the time to go off and either make it or break it and leave the funding for those who are just getting started.

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

Monsieur Dion, *pour cinq minutes*.

[Translation]

**Hon. Stéphane Dion:** Thank you very much, Mr. Chair.

I thank our two guests for their presence here with us.

[English]

Mr. Hoffert, you use very strong words that show how much you are concerned. You're saying that, with the conjunction of the new technologies and the current legal framework, we need to find a better way to follow the money in order to stop this situation that is, as you describe, against creators of music.

What kind of legal framework would you like to see? Can you be very specific about the new rules you would like us to implement or us to recommend to the Government of Canada to implement?

**Mr. Paul Hoffert:** I'll try to give you a big-picture answer that will be very incomplete because, in the time allotted to you and to all of us, this complex issue won't be solved.

The big picture is pretty simple. There's general agreement that the major economic frictional loss in the chain of payment for content is that ISPs charge from \$40 to \$60 to \$100 a month for essentially the majority of what people pay for as subscribers: music, television programs, and movies. My own experience at Harvard University, where I was a Fellow at the Berkman Center, included many studies to show this, and they have been validated by other studies done all over the world.

So you have a situation where you have one particular player who is essentially getting paid for and monetizing stuff that they are not paying for, and because the copyright system does not recognize that kind of Internet pass-through as touching the content, two things happen. Number one, nobody who made the content gets paid. They don't have licences. Number two, the ISPs are prevented from entering into a legal business that would be notionally much more profitable than the business they're in.

That's my opinion. It was buried in one line of my brief testimony.

• (1230)

**Hon. Stéphane Dion:** I understand your opinion, but now what's the solution?



**Mr. Paul Hoffert:** Well the solution would be.... Again, this is not simply my opinion, but I've met over the years with many people in the broadcast and ISP industry. As you know, I'm the chairman of The Bell Broadcast and New Media Fund and I know many of those people on a personal level. The sense I have is that, just as the cable industry when it started refused to pay any royalties for broadcast television for about 25 years and were sued continually and said "No we don't touch the content, we're just selling bandwidth", that's the same argument the ISPs use today. Once the thing was getting to the Supreme Court and it looked like there would be some government legislation that could compel them to do it, they basically said they were in the wrong business, they wanted to be in the content business. They wanted to pay a dollar and charge two dollars. Since then we all get all of our television content, not from broadcasters, not from television producers, but only from cable and satellite television companies who make a lot of money.

Those same companies own many of the ISPs, and they are not blind to the fact that if they agreed in an industrial sense to pay for this content, they could eat the lunch of the Apples and the other folks who are positioning themselves to be the content suppliers. And they have a great line with subscribers who already pay them a monthly fee. So the issue has been—not only in my view but in the view of many—that the political situation has been very unfavourable in the United States, Canada, and many other countries for imposing what a consumer might see as some sort of tax, a content tax or something, on the ISP level. So governments are loath to weigh in. Absent that, I believe that a long time ago there would have been some sort of copyright legislation that would have made the ISPs liable. Everybody would pay five bucks a month more for the fee and the whole thing would be different.

Where is it going? I believe the time is right, or almost right, for those ISPs to make a deal, either through government compelling them or simply because it's good business sense for them. At some point what might be the way—this is one way to do it—is for government to simply say that it believes that content should be paid for and that it will give the ISPs a period of time to come up with a non-governmental solution. Let the private sector work it out, and if they don't do it within a certain period of time, the government would look at potential legislation or something like that.

That's even a longer answer than, perhaps, I was allowed, but that was as short as I could make it.

**The Chair:** Thank you very much. That's going to have to be it.

I want to thank our two witnesses for coming today. We've had to shift gears a little bit. I apologize on behalf of the committee for the shortened time. If there's anything else you want to add to our study, we would very much appreciate it. If you could do that in writing it would be appreciated as well.

Thank you.

We will briefly suspend and bring in our next panel.

• (1230)

\_\_\_\_\_ (Pause) \_\_\_\_\_

• (1235)

**The Chair:** Good afternoon everyone. We are calling meeting number 22 of the Standing Committee on Canadian Heritage back to order.

Unfortunately, today we have a shortened meeting because of votes but we do have some witnesses before us, first here at the committee room. As well, we have a witness by telephone, and another by video conference. Unfortunately, we'll not have the full eight minutes for all of our witnesses to present. I'm going to try to fit it in at about five minutes at the most, so if you could keep your presentations to that time, we would appreciate it. If you can't get it all in, you could send it to us in writing, which we would appreciate.

We'll start for five minutes with Mo'fat Management. We have Stéphanie Moffatt and Mylène Fortier, and you have the floor.

[*Translation*]

**Ms. Stéphanie Moffatt (President, Mo'fat Management):** Thank you, Mr. Chair.

Ladies and gentlemen members of the committee, good afternoon.

My name is Stéphanie Moffatt and I am a lawyer and artists' manager. I manage the careers of Ariane Moffatt, David Giguère, Philémon Cimon and Marie-Louise Arseneault, and I am the delegated producer for other artists including Valérie Carpentier, the winner of the *La Voix* program in Quebec, as well as Isabelle Boulay.

I am accompanied by Mylène Fortier, who is the director of marketing for our organization.

First of all, I want to thank you for this invitation to appear before you, and I would also like to thank the government for the support it has provided up till now to the music industry.

If I understand correctly, the objective of the Canadian government is to ensure that the public has access to quality Canadian music content, while supporting the industries and artists.

I am sure that all of the Quebec producers made appropriate representations about their needs. As an artists' manager, I am going to concentrate on the "artist" aspect.

I would like to direct your attention to two solutions which I believe would make it possible to improve artists' revenues in this new industry and take into account the arrival of these new technologies.

The first solution is in my opinion the most urgent and the most obvious, but it may be politically difficult for you. It means involving the new players who arrive in the industry with the new technologies in sharing the income. By new players I mean Internet access providers, and those who manufacture devices that allow people to listen to music and the worldwide streaming services.

The second solution is to make amendments to the Copyright Act to adapt the provisions that govern copy for private use to these new technologies and new ways of listening to music.

With regard to the new players in the industry, it now seems quite obvious that the future of our sector rests on the consumption of music via streaming. Here we are talking about Deezer, Spotify, Rdio, Google, ZIK or YouTube. This new reality has completely perturbed our sector. In the past, the sale of a CD used to generate revenue both for the producer and the artist. Today, online music services generate a lot of profit but they go to third parties that are outside our industry. There are only minimal sums left for the producer and artists.

To substantiate what I am saying, I would like to provide you with some real, concrete figures. Recently, I did an exercise with Ariane Moffatt, one of the artists I represent. We put a single up for sale; its theme was springtime. We launched it on the first day of spring and afterwards we compiled data over a 30-day period. Ariane is privileged. She is a well-known artist and people are interested in her music. We are not talking about a new artist.

So for a single song by a known artist over a 30-day period, we observed that 23% of consumption came from sales and 77% was through streaming. We drew up a pie chart—I will try to give you access to it later—and we transferred that data, translated it into money. We observed that streaming only represented 3% of the revenue and that online sales represented 97%. This means that in the future, even for the best-known artists and producers—for this project Ariane was the producer as well as the author-composer-singer—the music industry revenues are in steep decline.

Who is making money with this type of sale or consumption? The Internet providers are making the money. I think that you have all of the legal means at your disposal to cause them to act in this file, thanks to your power over copyright and telecommunications and broadcasting. If you are to continue financing the sector as you have always done in the past, why not go and get the money from those who are collecting it from consumers?

You can be sure that the telecommunications companies are going to claim that they will transfer these costs to consumers, but in light of the profit margins they see every month, they are quite able to assume that small monthly stipend. It is up to us to not believe that argument and not let them use it.

●(1240)

Moreover, I think that calling this a tax is a mistake, because it is not a tax. It is a royalty. The point is to pay for the use that is made of the product. The same goes for the rights that telephone companies pay for each little piece within a device. The company should pay a royalty or a specific amount to be able to make the content available.

The best example I can give you in this file is that of milk containers in school. When our society decided that we wanted children to have access to milk and that we would give them containers of milk in the morning when they arrived at school, we did not refuse to pay dairy producers in order to reach that objective.

This is something similar. Since the Government of Canada's position — a very commendable one — is that it wants to provide access to quality Canadian musical content, it must do so. However, it has to find ways to pay the producers and the artists who are the source of that music.

I will speak faster.

●(1245)

**The Chair:** Thank you.

[*English*]

We'll have a chance a little bit later. I'm sorry.

We now are going to go to Music New Brunswick. We have with us here Jean Surette, and by telephone Richard Hornsby, and between the two, you have five minutes.

**Mr. Jean Surette (Executive Director, Music NB):** Thank you.

**The Chair:** Before we start, Mr. Hornsby, can you hear us?

**Mr. Richard Hornsby (Director of Music, University of New Brunswick, Music NB):** Yes, I can. Thank you very much.

Because of the shorter time, I'll default to Jean since he's present, and if there's time I can add a few comments.

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

[*Translation*]

**Mr. Jean Surette:** Thank you, Mr. Chair.

[*English*]

I'm Jean Surette. I'm the executive director for Music NB. Music NB is a bilingual provincial music industry association, a MIA as we call them, providing a support network for musicians and music businesses involved in the creation and promotion of music within the province of New Brunswick.

MNB's primary responsibility is to represent the interests of its members, but also to foster the New Brunswick music industry. Through our professional development program, we reach out to all corners of our province to deliver information and training about career development, industry resources, and funding programs. Through our events we provide showcasing and networking opportunities in bringing music creators and buyers together. We have over 300 members and reach over 2,000 subscribers through our weekly newsletters.

[*Translation*]

With regard to the Canada Music Fund, MNB wants to thank the Government of Canada and Heritage Canada for giving it the opportunity to speak about the challenges the music industry faces in our province. We also want to congratulate Heritage Canada for renewing the funding of the Canada Music Fund. This fund has helped to make Canada a leader in the musical world.

From one ocean to the other, several associations in the music industry have greatly benefited from the collective initiative programs administered by FACTOR and Musicaction and originating with Heritage Canada. MNB encourages Heritage Canada to recognize the work done by these associations to provide key development programs for artists' careers.

[English]

The Collective Initiatives program has helped Music NB directly in tangible ways. First there is education of artists and music industry professionals through career development programming on topics such as online and social media marketing, domestic and international touring, music licensing for film, television, video, video games and commercials, and funding program information and much more.

It also has helped us develop in New Brunswick a music industry Web platform to promote and help market artists and music businesses in the province while serving as a centralized provincial music industry resource for the media and the public. This is a platform that will be launched in 2014.

It also helps us with funding export marketing initiatives for our music industry conference, Music NB Week.

A provincial perspective. Like many places in Canada, New Brunswick has a large portion of its territory that is rural. A great many artists and industry workers work from these locations. Our urban centres have well-established organizations, cultural infrastructures, and a highly creative and innovative pool of artists and creators. Having said this, New Brunswick lacks experienced industry professionals to support and foster the careers of artists and music businesses.

Our challenge lies in being able to create ties between geographically and culturally diverse communities, delivering training and information to our industry while continuing community outreach and the promotion of N.B. music culture through our events.

As for exports to other markets, one of the main reasons artists relocate is often to take advantage of export and touring opportunities. MNB has been slowly developing international export strategies for the past several years and we're focusing on the eastern United States, since they're our neighbours. Our main hurdle is accessing significant funding for both inbound and outbound activities.

So we'd like to propose some things. These are: funding programs with a focus on artist development on a grassroots level; funding programs with a focus on industry development and mentorship, so we can grow our industry and support our artists; and funding programs for international export activity as well. The delivery of some components can be through digital platforms, promotion, and marketing as well. MIAs could access funding through the Canadian Council of Music Industry Associations, which we are part of and which is a national body.

• (1250)

[Translation]

As for expected results now, artists will have better tools. They will have access to more resources to develop their careers on national or international stages. There will be more support and training for the artists, industry professionals and businesses as well as the retention of many industry workers in the province, which will help to solve the problem we are facing currently. Moreover, there will be an increase in international exports, greater engagement from

the public for the artists and the industry in general, and naturally, more revenue will be generated.

[English]

Our recommendations include the following. First, the current funding for collective initiatives through FACTOR and Musicaction should be maintained.

More funding should be invested in artist development and industry development in all markets across the country. The provincial MIAs are best positioned to develop their respective industries at a grassroots level while leveraging local funding.

There should be funding for export initiatives outside of what FACTOR and Musicaction are currently administering.

The MIAs and their collective body, the CCMIA, could have the capacity to deliver such programs to their respective constituents.

I would like to thank you for giving MNB the opportunity to provide comments and suggestions on the review of the Canadian music industry to the House of Commons Standing Committee on Canadian Heritage. If anyone has questions or wants any information, we'd be happy to answer.

Thank you.

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

We're going to go to Winnipeg, Manitoba, via video conference. From Manitoba Music we have Stephen Carroll, who is a board member.

You have the floor, sir.

**Mr. Stephen Carroll (Board Member, Manitoba Music):** Hello everyone. I'm here representing Manitoba Music. I'm here in lieu of Sara Stasiuk, our executive director, who is away at an international conference presently.

Manitoba Music is also an MIA, a music industry association, and we represent Manitobans working in the field. The organization has over 750 members, representing 1,200 individuals working in music in Manitoba. Of our membership, we have about 80% who are artists; 20% are service providers, such as labels or agents; and 95% of the businesses we support through our programming are working in microenterprise, that is, companies with three employees or less. Entrepreneurship is our focus, as the industry association and as a provincially recognized sector council.

Training and professional development is a big part of what we do to support sustainable careers in music in Manitoba. In an increasingly complex and changeable business environment, we provide an essential service to our membership. Our provincial government, along with Western Economic Diversification, supports us for trade, that is, music export activity and capacity building of our Manitoba-based companies. We serve as a foundation for the development of a diverse membership and their enterprises.

Manitoba Music works, on a daily basis, directly with the local industry here, building capacity and increasing knowledge to achieve success. Our most recent economic impact study has found that over 4,200 individuals earn an income working in music in Manitoba, and that our industry contributes \$71.3 million to Manitoba's GDP. Our industry generated an estimated \$25 million to provincial and federal taxes, in 2011.

Manitoba Music would like to thank the Government of Canada for the renewal of the Canada Music Fund. The renewal of the funding will serve to grow the capacity of the music industry and increase our success and competitiveness in international markets. Through the funding we receive from FACTOR, we run the Music Works program.

Music Works is a training program that presents over 30 professional development events in Winnipeg and other select locations in Manitoba. The program sees 550 to 600 participants involved in 1,500 hours of total training. We also access FACTOR funding in support of export marketing ventures, such as international export showcase events, for which we leverage matching funds from provincial sources.

Above this, our membership directly accesses FACTOR and Musicaction programs, which they use to help support their business ventures, examples of which are album recording, album marketing, and tour showcase support. We'd like to note, with pride, that Manitobans routinely punch above their weight in competitive juries and application processes. We attribute this in part to our strong music industry association, which provides training and resources to understand context and to present professional business plans.

Manitoba would like to put forth that provincial music industry associations are growing in importance. The music industry is now completely transformed from the business models it used 10 years ago. In the past decade, distribution systems have moved from physical sales to streaming subscriptions. With these changes, the business has become even more complex, with multitudes of royalties and overlapping rights associated with Internet-based broadcasting and distribution.

The MIAs are filling the gap of artist managers in some cases, in delivering knowledge and training, so that artists entrepreneurs can maximize their revenues and increase profitability. Going forward, we would like to see the continued strengthening of the MIAs. Our regional capacity to work one on one with nascent artists and entrepreneurs is vital to a healthy national music industry.

A significant portion of the Canadian music industry is based in Toronto. Now, with the increased support being offered to Ontario companies—the Ontario Music Fund—our role to nurture and grow western Canadian companies has become even more critical. Regional representation, training in a changing age, and the development of the next wave of entrepreneurs to become the industry of the future, are our focus.

•(1255)

We would like to see continued support of the programs that we in our membership access.

On behalf of Manitoba Music, I'd like to thank the committee for their time and wish them all the best with their research.

Thank you.

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

As it sits right now we only have three minutes for questions.

Ms. Mathysen.

**Ms. Irene Mathysen (London—Fanshawe, NDP):** Mr. Chair, could we have unanimous consent to extend the meeting so that each party could have at least one round of questioning?

**The Chair:** Is there unanimous consent to extend the meeting for about 12 minutes? No?

Sorry, there's no consent.

We have three minutes left in the meeting. I'm bound by our rules to go to a seven-minute round for the government side, but it'll be only three minutes.

**Mr. Paul Calandra (Oak Ridges—Markham, CPC):** Madam, you had more to say. Do you want to complete your statement?

**Ms. Stéphanie Moffatt:** Thank you. I appreciate it.

[*Translation*]

Briefly, I would like to touch on private copies.

I think that the first measure would be very easy to apply. If the government could at least harmonize the private copy regime and update it in order to integrate iPods, smart phones and audio platforms, that would be an important step. This would bring a lot of income back to artists and producers.

There is also the exemption planned in section 68.1 of the Copyright Act to allow broadcasters to avoid the obligation of paying royalties on the first slice of \$1.25 million of annual income. I do not understand that exemption. Whereas the music industry's income is on the decline, broadcasters' income has been constantly increasing since 1996. Why give them an additional exemption? This is income that could go directly to creators and the government would not have to invest a penny. Those are two solutions that are easy to consider.

I would like to conclude by paying tribute to the work of Musicaction and the transparency of the way the funding is done. It is always pleasant to be able to determine where and to whom public funding goes. That deserves to be mentioned and commended.

Thank you.

**The Chair:** Thank you.

[*English*]

We're out of time.

I want to thank our witnesses for coming today. I do apologize on behalf of the committee for the shortened meeting. With that in mind, if you wish, we would be happy to hear from you in writing. We are wrapping up hearing from witnesses for our study in the next week or so, so we would appreciate any other input you might have.

On that note, the meeting is adjourned.

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