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Chair

Ms. Julie Dabrusin

Standing Committee on Canadian Heritage

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• (1100)

[Translation]

The Chair (Ms. Julie Dabrusin (Toronto—Danforth, Lib.)): Welcome to this 124th meeting of the Standing Committee on Canadian Heritage. Today we are resuming our study of remuneration models for artists and creative industries.

[English]

Beginning with a panel of three sets of witnesses, we have with us today, from the Alliance of Canadian Cinema, Television and Radio Artists, also known as ACTRA, David Sparrow, national president and a performer. We also have Laurie McAllister, director of the Performers' Rights Society and Recording Artists' Collecting Society.

We also have with us Robert Malcolmson, senior vice-president of regulatory affairs with BCE Inc., and from Rogers Communications Inc., we have Pam Dinsmore, vice-president, regulatory cable, legal and regulatory affairs, and Kristina Milbourn, director, copyright and broadband, legal and regulatory affairs.

I'm going to go in the order that we have on the agenda, so we can begin with ACTRA, please.

Mr. David Sparrow (National President and Performer, Alliance of Canadian Cinema, Television and Radio Artists (ACTRA)): Hello. I'd like to thank the committee for having us here today to speak about remuneration for artists and the important issue of recognizing and ensuring robust statutory and moral intellectual property rights for audiovisual performers in the Canadian Copyright Act.

My name is David Sparrow. I am a working actor. For almost 30 years, I have been a member of the gig economy, a precarious worker, and an artist. I have appeared in over 100 film and television roles and on stages across North America. That comparatively successful career does not necessarily make me a household name or financially stable. This is a tough business.

I am also the president of ACTRA, the Alliance of Canadian Cinema, Television and Radio Artists, where I help to represent 25,000 professional audiovisual English-language performers across Canada, who work to give voice to a wide diversity of Canadians, to help define Canadian culture and to project our culture to the world.

The average Canadian unionized performer earns less than \$11,000 per year through work in film, TV and other recorded media. They build their careers by working in a number of different

media and earning small incomes from a number of different sources. Every one of these micropayments is important and helps to pay the bills between gigs.

It is unfortunate that Canada has famous celebrities of years gone by who worked under terms that didn't include intellectual property protection, so that today, in their senior years, they are living in poverty and in subsidized housing. ACTRA has taken steps to negotiate use provisions into our contracts to ensure performers are paid for their work throughout its use, but the fact remains that we need strong copyright provisions to underpin our rights as audiovisual performers.

I am here today to make the case for the Copyright Act to be extended to audiovisual performers. Residuals and royalties, payments for the use and exploitation of our work here at home and around the world, are the fair compensation all performers deserve.

By example, through our negotiated contracts, I personally receive between \$4,000 and \$8,000 per year in royalties from the over 100 projects that I spoke of earlier. Do the math. It's not a lot of money.

We need a made-in-Canada copyright solution that will give performers, their unions and collection societies the tools that they need to go after the remuneration they are owed. Strong copyright law guards against unauthorized use or misuse of an artist's work. There are international treaties that Canada can carefully implement to address these issues, but we can start by amending the Copyright Act to ensure Canadian audiovisual performers enjoy the same copyright protections that our audio performers already enjoy under the act.

ACTRA is certainly available and willing to help or consult further with the committee to arrive at strong language that will do no harm and will address these issues in the Canadian context.

I will now pass you over to Laurie McAllister, who is ACTRA's director of the Performers' Rights Society and the Recording Artists' Collecting Society, PRS/RACS, for more insights and detail. Laurie also serves on the board of SCAPR, an international coordinating body of 60 performers' collective management organizations from 43 countries, working to improve the exchange of data and performers' rights payments across borders.

Go ahead, Laurie.

Ms. Laurie McAllister (Director, Performers' Rights Society and Recording Artists' Collecting Society, Alliance of Canadian Cinema, Television and Radio Artists (ACTRA)): Thank you, David.

The lack of economic and moral rights in Canada's Copyright Act means that audiovisual performers don't receive the legislated protection that others in the creative class receive, and it is out of step with international standards. In other countries around the world, audiovisual performers enjoy copyright protection, including the exclusive right to authorize the use of their performances, or an equitable remuneration right.

ACTRA, through its established collective bargaining process, negotiates use rights with producers for audiovisual performances. We are seeking the codification of those rights to underpin our bargaining efforts and provide a framework for future negotiations.

Establishing the right to receive royalties through contract or equitable remuneration is necessary to ensure that performers can earn a fair share of revenue generated from their exploitations. The need for a well-crafted statutory framework is critical, as digital distribution and consumption of content have dramatically risen, but the average income of performers has remained low. This value gap is evident in the fact that despite the production boom in Canada, the average annual earnings per performer in 2017 was, as David said, less than \$11,000.

The codification of these rights is also critical to establish reciprocity with countries whose audiovisual performers already enjoy copyright protection and economic rights. ACTRA PRS negotiates agreements with CMOs in foreign territories for the financial benefit of the recording artists we represent through ACTRA RACS. By extending our existing audio performance rights to audiovisual, we could leverage our long-standing relationships with foreign CMOs to collect royalties for Canadian actors from foreign jurisdictions.

As with economic rights, there is no good reason for audiovisual performers to be denied moral rights. A performer's resume, image and reputation have a direct impact on their ability to earn a living. As such, we ask that audiovisual performers be granted moral rights in Canada. That includes the right to be identified as a performer in the performance and the right to object to any material distortion or modification of the performance that would be prejudicial to their reputation. This would have no impact on the normal course of editing and exploitation, and is a right currently afforded to sound recording artists.

For the sound recording artists we represent through ACTRA RACS, we echo requests that have been expressed here by other witnesses.

The first one is to repeal the \$1.25-million exemption for commercial radio. Canada is the only country with such an exemption, and there is no reason that recording artists should continue to subsidize large, profitable media corporations that rely on the exploitation of an artist's work for profit.

Second, amend the definition of sound recording in section 2 of the act. Currently, performers and makers aren't compensated when sound recordings are used in film and TV, resulting in an estimated

\$55 million in lost revenue annually. In 44 countries around the world, including France, Germany, and the U.K., performers and makers receive royalties when sound recordings are used in film and TV.

Third, the private copying levy was intended to be technologically neutral but has been limited to blank CDs. We all know that copies of music are made on devices such as smart phones, meaning rights holders have not been compensated for billions of private copies made of their work. The impact has been devastating, with private copy revenues dropping from \$38 million in 2004 to less than \$3 million in 2016. We support the Canadian Private Copying Collective's proposal, which includes a long-term solution for copyright reform and an interim proposal for a four-year, \$40-million-per-year fund to ensure that rights holders are compensated for copies of their work until a more permanent solution can be enacted.

While it's easier than ever to have your creative work seen and heard around the world, it's harder than ever to be properly compensated. Most actors and recording artists receive modest compensation for their time spent recording a work, which is exploited for profit for decades while artists continue to struggle.

We've heard it many times: The middle-class artist is disappearing. It's critical that our legislation ensures that performers are fairly compensated for the value they create. To that end, we ask the committee to consider the recommendations we have outlined here today, mindful of the rights and the need of performers to share in the economic benefit of the works they create.

● (1105)

Mr. David Sparrow: We thank the committee for their time and work today. We look forward to questions.

The Chair: Thank you.

We will now go to Robert Malcolmson from BCE, please.

Mr. Robert Malcolmson (Senior Vice-President, Regulatory Affairs, BCE Inc.): Thank you, Madam Chair and honourable committee members. My name is Robert Malcolmson. I'm senior vice-president of regulatory affairs at BCE. Thank you for your invitation to provide Bell's views on copyright reform that will help ensure artists and content creators are paid for the work they create.

Bell is Canada's largest communications company, employing 51,000 Canadians and investing \$4 billion in advanced networks and media content last year. We're also a key supporter of Canada's cultural and democratic system, investing approximately \$900 million per year in Canadian content and operating the largest networks of both local TV and local radio stations in the country.

As a content creator and major economic partner with Canada's creative community, we share an interest in protecting the economic model that supports our cultural industries. I look forward to sharing this perspective with you.

In our presentation today, we will focus on the impact of organized content theft. This issue is fundamental to the topic the committee is studying, because no matter what remuneration model you adopt, creators can never be fairly compensated if their work is being widely stolen.

There is an emerging consensus among creators, copyright owners, legitimate commercial users and intermediaries that large-scale and often commercially motivated piracy operations are a growing problem in Canada. Piracy sites now regularly reach up to 15.3% of Canadian households through widely available and easy-to-use illegal set-top boxes. This is up from effectively zero five years ago.

In addition, there were 2.5 billion visits to piracy sites to access stolen TV content last year, and one in every three Canadians obtained music illegally in 2016. Each of these measures has also grown significantly over time.

According to research conducted for ISED and Canadian Heritage, 26% of Canadians self-report as accessing pirated content online. TV piracy has an estimated economic impact in the range of \$500 to \$650 million annually.

In light of these concerning trends, we believe it is necessary to modernize the Copyright Act and related enforcement measures to meet the challenge posed by global Internet piracy.

To be clear, protecting creators in this way does not mean targeting individual Canadians who access copyright-infringing materials. Rather, it means addressing the operators of commercial-scale copyright-infringing services. It is these large infringing operations that harm the cultural industries, which employ more than 600,000 Canadians, account for approximately 3% of our GDP, and tell the uniquely Canadian stories that contribute to our shared cultural identity.

With all of this in mind, we have three recommendations.

First, modernize the existing criminal provisions in the Copyright Act. Criminal penalties for organized copyright crime are an effective deterrent that do not impact individual users or interfere with legitimate innovation.

The act already contains criminal provisions for content theft undertaken for commercial purposes, but they deal with illegal copying, while modern forms of content theft rely on streaming. These provisions should be made technologically neutral, so that they apply equally to all forms of commercial-scale content theft.

Second, increase public enforcement of copyright. In jurisdictions such as the U.K. and the United States, law enforcement and other public officials are actively involved in enforcement actions. We recommend that the government should create, and consider enshrining in the Copyright Act, an administrative enforcement office, and should direct the RCMP to prioritize digital piracy investigations.

Third and finally, directly empower either the CRTC or the courts to order intermediaries to contribute to remedying copyright infringements.

All players in the ecosystem have a role to play in promoting compliance with the rules that support the appropriate remuneration of creators. Early this year, FairPlay Canada, an unprecedented coalition of creators, broadcasters and other industry players, filed an application with the CRTC seeking to require Internet service providers to disable access to the most egregious piracy sites. Earlier this month, the CRTC recognized the harm being caused by piracy but determined it did not have the statutory jurisdiction to grant the coalition's application. This committee could recommend that the Telecommunications Act be updated to provide that jurisdiction to the CRTC.

In addition, a new provision could be added to the Copyright Act that would apply more broadly to intermediaries such as ISPs, web hosts, domain name registrars, search engines, payments processors, and advertising networks.

• (1110)

In practice, this would mean adding a section to the Copyright Act that allows a court to issue an order directly to, for example, a web host to take down an egregious piracy site, a search engine to de-list it, a payment processor to stop collecting money for it, or a registrar to revoke its domain.

While financial liability for these intermediaries is not appropriate, they can and should be expected to take these reasonable steps to contribute to protecting the integrity of copyright, which is essential to all remuneration models for creators.

Thank you for the opportunity to present our views. We look forward to any questions you may have.

The Chair: Thank you.

Now we will go to Rogers Communications, with Pam Dinsmore and Kristina Milbourn.

•(1115)

Ms. Pam Dinsmore (Vice-President, Regulatory Cable, Legal and Regulatory Affairs, Rogers Communications Inc.): Thank you, Madam Chair and members of the committee. My name is Pam Dinsmore. I am vice-president for regulatory cable at Rogers Communications Inc. I am here with my colleague Kristina Milbourn, director of copyright and broadband at Rogers. We appreciate the opportunity to share our views with you today.

Rogers is a diversified Canadian communications and media company offering wireless high-speed Internet, cable television, and radio and television broadcasting. We support a copyright act that takes a balanced approach to the interests of rights holders, users, and intermediaries, thereby optimizing the growth of digital services and investments in innovation and content. As a member of both the Canadian Association of Broadcasters—the CAB—and the Business Coalition for Balanced Copyright, we also support their comments in this review.

While both the INDU committee and the heritage committee are dealing with Copyright Act reform, we understand that this committee's focus is on increasing remuneration to artists, creators, and rights holders for the use of their creative works.

Fair compensation for creators is key to ensuring the continued health of the Canadian media landscape, and we believe we are doing our part to ensure that creators are paid for their work. For example, in our capacity as a broadcaster, a BDU, and an ISP, Rogers contributes to the compensation of artists in the following ways.

We spend \$900 million annually on the production of Canadian programming; and each year we remit copyright royalties for the music in specialty and TV everywhere streaming services, as well as approximately \$25 million annually in copyright payments to compensate creators whose programming is retransmitted in the distant signals we distribute.

The importance of these contributions and royalty payments cannot be overstated. There is, however, leakage in the system. As we stated before the INDU committee, we have watched the rise of the streaming of stolen content on preloaded set-top boxes with deepening concern.

In our view, the proliferation of unlawful IPTV streaming services and preloaded set-top boxes is inextricably linked with decreased remuneration for creators. For instance, it has been estimated that streaming piracy is resulting in approximately \$500 million of lost subscriber revenue to the Canadian television industry. This means that for creators, on this \$500 million of lost BDU revenue, zero copyright royalties are being paid to rights holders for programming in distant signals, zero contributions are being made to the Canada Media Fund, and zero programming contributions are being made for Canadian productions.

That Canadians are increasingly and often unwittingly consuming stolen content online is borne out by recent studies. For example, Sanvine, a Canadian company that conducts network analytics, reported that in 2017 roughly 15% of Canadian households were streaming stolen content using preloaded set-top boxes. These boxes access an IP address that provides the stream. While illegal

downloading remains a major problem for rights holders, illegal streaming has become the primary vehicle by which thieves make the stolen content available.

We have taken action to address this growing problem using the existing remedies under the Copyright Act, but these remedies are insufficient. We therefore propose the following changes to the act.

First, the act should make it a criminal violation for a commercial operation to profit from the theft and making available of rights holders' exclusive and copyrighted content on streaming services. In our experience, the existing civil prohibitions are not strong enough to deter this type of content theft.

Second, the act should allow rights holders to apply to a court for injunctive relief against any intermediary that forms part of the online infrastructure that is distributing stolen content, including ISPs, domain name registrars, search engines, web hosting services, and content delivery networks.

For example, a rights holder should be able to quickly obtain an order from a court to require an ISP to disable access to stolen content available on preloaded set-top boxes without concern that the operation of section 36 of the Telecommunications Act might impede this effort. Currently, the existing judicial process available to rights holders is too time-consuming, too expensive, and too multi-faceted to be effective, in a world in which stolen content can be shared around the world with the click of a mouse before a court has an opportunity to provide relief against copyright infringement.

The Fair Play coalition of which Rogers is a part explicitly requested that the CRTC create an agency for the expedient adjudication of online piracy disputes. In denying the Fair Play application, the commission specifically pointed to the Copyright Act review as the right venue for considering this issue.

•(1120)

In our view, it is now incumbent on this committee to seriously consider that request of rights holders in order to preserve the healthy operation of the Canadian broadcasting system.

In addition to these proposed amendments addressing illegal streaming, we have two further suggestions that, if implemented, would benefit creators.

First, amend subsection 19(3) of the Copyright Act to create a more advantageous royalty split between artists and record labels. More specifically, change the 50-50 split to a 75-25 split, for example, in favour of artists. This was a suggestion made to the INDU committee last month by noted copyright lawyer Jay Kerr-Wilson, who underscored that such an amendment, if implemented, would result in the immediate enrichment of creators without threatening the radio industry.

Second, augment the resources of the Copyright Board to increase the expediency with which it releases its decisions. Last year, within the context of the Copyright Board consultation, the BCBC introduced a number of suggestions to improve the operation of the board. We would direct this committee to that document in order to ensure that Canada's rate-setting body continues to keep pace with the rapid progression of technology so that creators can receive remunerative payments within a reasonable amount of time.

These are our brief comments. We would be pleased to answer any questions you may have. Thank you very much.

The Chair: Thank you.

[Translation]

We will now begin the question and answer period.

Mr. Breton, please go ahead.

Mr. Pierre Breton (Shefford, Lib.): Thank you, Madam Chair.

[English]

I will ask my questions in French, so I don't know if you need your headset for the translation.

[Translation]

My first question is for Mr. Sparrow and Ms. McAllister.

The value gap, which Music Canada defines as the large gap between the value of the creative content consumed and the revenues flowing to the persons and companies that create it, has been the topic of many discussions in the music sector in Canada and internationally.

Is there a comparable gap in the Canadian television and film industries? If so, what are the causes and the consequences of this value gap for the sector in Canada?

Mr. Sparrow and Ms. McAllister, can one of you answer that question?

[English]

Mr. David Sparrow: I think the first and most important thing is that because we as audiovisual performers are not currently recognized under the Copyright Act, we don't have the statutory and moral rights to basically demand or negotiate the payments tied to international and even national exploitation of our work. We do have strong contracts within ACTRA that allow for residual payments to be paid as our producer partners gain monies, but there are other monies around the world that we don't have access to. I would say that is certainly a gap that we're not seeing filled.

[Translation]

Mr. Pierre Breton: How do ACTRA members obtain fair and equitable compensation for the value they provide to works protected by copyright?

[English]

Mr. David Sparrow: Right now we have, as I said, very strong contracts. In fact, this is our 75th year as a union representing performers, and we have long contracts that deal with residual payments and royalty payments.

It's usually a producer who receives a licensing fee or monies. We get 3.6% of that distributor's gross revenue, split among all of the performers in a project.

However, as I said, there are other monies around the world. For instance, we got into an agreement with Spain through the Performers' Rights Society that Laurie could speak to, and when we signed that agreement, \$928—which is not the biggest number in the world, but is important to me—flowed to me from an account in Spain. It was not going to come to me until we made that deal. If the Copyright Act is changed to give us those statutory rights, then there are opportunities all around the world for those monies to flow to performers to benefit them.

[Translation]

Mr. Pierre Breton: Thank you.

My next question is for you, Ms. Dinsmore.

Earlier you referred to a new division of royalties, with 75% going to artists and 25% to recording studios. You made this suggestion to the Standing Committee on Industry, Science and Technology last week. Can you elaborate? Also, where do things stand now in that regard?

• (1125)

[English]

Ms. Pam Dinsmore: The proposal actually was broached with you, I believe, by the Canadian Association of Broadcasters at their appearance on September 24. Susan Wheeler, who also is at Rogers, discussed this and suggested that this committee look at that split. It was raised by Jay Kerr-Wilson in front of the INDU committee.

Under subsection 19(3) of the Copyright Act, under the regime for radio and for commercial radio, ultimately the monies, the royalties that accrue from that tariff, are split fifty-fifty between artists/performers on the one side and the labels on the other side. What we're suggesting is that this calibration be revised to provide more money to the artists and less money to the labels.

As we know, the labels are primarily multinationals. They're large companies. Many of them are based in the U.S. There are not that many that are Canadian. I think 2% of the monies go to Canadian labels. On the artists side, about 28% of the monies go to Canadian artists right now. We think that if the pool were bigger, then obviously the 28% pot would be greater and more money could very quickly and easily be funnelled toward Canadian artists.

[Translation]

Mr. Pierre Breton: My last question is for you, Mr. Malcolmson. Thank you for your recommendations; we understood them well.

Are you aware of any other copyright management models elsewhere in the world? What could be applied here, in Canada?

[English]

Mr. Robert Malcolmson: There are numerous examples in other countries of regimes that allow for intermediaries to block access to pirated content. I think in the FairPlay application, we cited 47 other countries that have those regimes in place to help protect the remuneration of artists by blocking access to piracy. In our proposals, both in front of the CRTC and here today, we advocate taking those models that have proven successful in other jurisdictions and applying them here.

I think some of the data we filed with the FairPlay application showed that where there are blocking regimes for egregious pirate content, you stem the flow of piracy in the range of 90%. They're very effective, they're expedient, and they can be done at very low cost relative to protracted judicial proceedings.

[Translation]

The Chair: I will now turn it over to Mr. Steven Blaney.

Hon. Steven Blaney (Bellechasse—Les Etchemins—Lévis, CPC): Thank you very much, Madam Chair.

Thanks to the witnesses for being here.

If I understand correctly, the representatives from Rogers and Bell are in agreement about broadcasting content. You are losing about 15% of the market because of illegal sites, and I think the message is clear.

[English]

I would like some more clarification about the presentation from our friend from ACTRA.

If my understanding is correct, you mentioned that those who are involved, actors, are not covered by the Copyright Act. Is that correct?

Mr. David Sparrow: Yes. It's my understanding at this time that audiovisual performers are not protected under the Copyright Act, but audio performers are—musicians—

Hon. Steven Blaney: Audio, but not visual.

Is it the case in other countries? You've mentioned some recommendations. You went through them. You would recommend that those visual actors would be included in the Copyright Act. Is it the same in other countries? Is it the case?

Ms. Laurie McAllister: Yes. There are lots of countries around the world that I think we could look to as examples, where

audiovisual performers receive economic benefit for their work. We could look at France, Germany or the Netherlands.

Hon. Steven Blaney: Since you have those strong contracts, what would it add to your protection or benefit if this were included in the Copyright Act?

Ms. Laurie McAllister: What we're looking for is certainty in the Copyright Act, certainty that we can continue to negotiate for these rights. As I've heard it described before, having it codified in the act provides a contractible space—

• (1130)

Hon. Steven Blaney: Okay—

Ms. Laurie McAllister:—where it's recognized that these rights have value, and these rights are to be bargained for or negotiated.

Hon. Steven Blaney: What about the revenue, what I would call the elephant in the room? We mentioned illegal streaming, which is a loss of revenue, but now there are new ways for a consumer to access visual products. Yesterday I knocked on my superintendent's door and he was watching Netflix. From an actor's perspective, what are your thoughts on the revenue you are getting from these new forms of sharing and diffusing content?

Mr. David Sparrow: That's a very important point. I think as we look at being an actor in this country and around the world, it's becoming tougher and tougher to make a living.

Each one of these words I'm about to say is an hour-long conversation, but they each mean something to performers. New technology, fragmentation, consolidation, streaming services and certainly the actual cost of living if you're trying to live in Toronto or Vancouver make establishing these rights within the Copyright Act even more important, so that as technologies and delivery systems change, we can see that the long tail and those micropayments will add up to paying the bills in between the jobs we're fortunate to land.

Hon. Steven Blaney: You're saying that from the government's perspective, the Copyright Act is a way to address this issue.

Mr. David Sparrow: I think it underpins each of those conversations. There'll be other work to do; the devil's always in the details. We could become a part of various international agreements and ensure that we have a Canadian context for them and that they do no harm as we enter into them. Absolutely, recognizing the rights of audiovisual performers is the right direction to go in.

Hon. Steven Blaney: Thank you.

Madam Dinsmore, I was interested to find you were willing to share more with artists than you actually do. Is that correct? You said you want the split of rights to go from fifty-fifty to 75:25. Would this mean more revenue for the artists?

Ms. Pam Dinsmore: This would mean more revenue for the artists, but it's not a bucket that Rogers controls. It's a royalty.

Hon. Steven Blaney: Okay, that's true. It's from the record labels. Are you not involved in it?

Ms. Pam Dinsmore: No, not directly.

Hon. Steven Blaney: Okay. I will share my time with my colleague here.

The Chair: Okay.

Mr. Shields, you have about two minutes.

Mr. Martin Shields (Bow River, CPC): Let me follow up on that. Can you tell me how the revenue from Bell and Rogers—we'll start with you—is shared with the actors? Do you pay the actors?

Ms. Pam Dinsmore: I can go back over how we contribute to the system, and how ultimately that money trickles down to the actors.

Mr. Martin Shields: It's nice of you to suggest that the record labels should give up some of theirs. Are you willing to give up some of your revenue to them?

Ms. Pam Dinsmore: As a licensed Canadian broadcaster, we have obligations for Canadian programming expenditures—

Mr. Martin Shields: No, are you willing to give up more money, as you suggested the record labels should?

Ms. Pam Dinsmore: I don't know what the mechanism would be for that.

Mr. Martin Shields: It's a little strange that you're suggesting somebody else give up money, but not your company.

Let's go to piracy; you brought that up.

We had the guy representing border stations in the U.S. Do you know who his complaint was with? It was the CRTC—

Mr. Robert Malcolmson: Yes.

Mr. Martin Shields: —for legitimizing the stealing of American signals on Canadian cable networks. You want the CRTC to enforce it; he wants the CRTC not to enforce piracy in Canada.

Mr. Robert Malcolmson: What he described was the retransmission regime whereby U.S. border stations are authorized under the current Copyright Act to be retransmitted by cable and satellite providers like Rogers and Bell.

Mr. Martin Shields: But no money goes to the people who produce it.

Mr. Robert Malcolmson: Copyright royalties are payable every time a signal is retransmitted, so there is a payment in the form of copyright royalties, and there is a legal right to retransmit those signals. Our perspective as the largest operator of Canadian over-the-air television stations is that if we're focused on supporting Canadian culture and artists, there's certainly a case to be made for the Canadian over-the-air stations to be remunerated when they're retransmitted in Canada.

The U.S. border stations don't make any contribution to Canadian culture, so we don't see the public policy merits of their being compensated for being retransmitted here, but we certainly see public policy merits that would benefit actors, creators and producers of Canadian local TV stations being remunerated when they're retransmitted.

• (1135)

[*Translation*]

The Chair: Thank you.

We will now move on to Mr. Pierre Nantel.

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

I want to thank everyone for being here. There are a lot of sharp people around the table.

As you clearly stated, with surgical precision, Ms. Dinsmore, our committee's mandate is to make sure that creators are protected in Canada. That is especially important given the strange dance going on right now between two committees which will present two separate reports. Yet the new act will have a single author, who will choose what to put in the two reports, according to the government's wishes. It is very unfortunate that the members of these two committees are working in this uncertainty, not really knowing what kind of fruit they are picking, but they are picking nonetheless. They are gathering information.

First, I would like to ask the ACTRA representatives to reiterate how important it is for Canada to manage copyright in a way that is in keeping with the times and international standards. That is not the case right now, which is creating problems for you and for rights holders alike. You just said that you can collect revenues abroad, because there is a way to collect royalties that does not exist here. At the same time, foreign rights holders are not very interested in investing or disseminating works here because they are not as well protected as elsewhere. Is that correct?

[*English*]

Mr. David Sparrow: It's always surprising to me that there are monies collected by foreign countries that those countries should flow to Canadians, but they won't do it until our own country recognizes us in the Copyright Act. Frankly, they owe the money and they should make it flow.

Perhaps Laurie can speak to your question.

Ms. Laurie McAllister: Reciprocity forms the basis of those international exchanges. Because we are lacking that in our Copyright Act, we're not able to access the money that's collected in foreign territories for Canadian audiovisual productions, featuring Canadian performers, that are shown overseas. For our membership, that is probably one of the key things we're looking to resolve with this review.

[*Translation*]

Mr. Pierre Nantel: Ms. Dinsmore, you can see what a logical mind my colleague Mr. Shields has when he asked you how you could suggest that someone else forego some of their profits while your company is unwilling to do so. You know how much I respect you for your expertise and professionalism, but I think some of our witnesses are getting lost at times.

This is an era with less money in the system, or rather the ecosystem, as the Honourable Mélanie Joly, Minister Rodriguez's predecessor, said. She was right. Things have not been going that well for about 10 years, but before that we worked together very well. For 50 years, creators developed the content that you broadcast, which gave you an audience, and money flowed back to the creators. The formula worked well. Now, on the other hand, you agree that publishers and record companies are perhaps taking a bit too much. For their part, artists are complaining that radio stations are raking in huge profits and want them to forego the exemption from paying royalties on the first \$1.25 million in advertising revenues. We are now fighting amongst ourselves.

[English]

I will speak in English to make sure that we understand each other.

We're having a family discussion here and we're blaming everyone: "You shouldn't do that" and "I did this for you 20 years ago" and "Why do you still do that?" and "You keep all the money and the creators are dying."

All that is nice. It's a family supper and we can discuss it, but the reality is that the money is leaving the country. The reality is that we are not in charge, not in control anymore. It is good business for telecoms, although not for the media side.

I understand when you say that you buy productions. You're talking about Bell Media probably losing money, and I'm sorry for Sandie Rinaldo. I'm sorry for everyone in the news business, but you guys, you wireless guys, you Internet mobile appliance suppliers, you are contributing to the invasion. You are the passers of all this new system coming out.

I see here both of your presentations, and I appreciate the fact that they're translated. The one that was submitted to the CRTC was all in English, I remember. It was 11 pages on such a broad topic. That was not very generous from BCE.

• (1140)

[Translation]

You are saying now that Bell would like to help protect the economic component that supports our cultural industries.

In 1995, the Canadian Radio-television and Telecommunications Commission, the CRTC, created the Cable Production Fund, a funding initiative designed to facilitate the production and broadcast of high-quality Canadian television programs in under-represented categories in peak viewing periods.

Wasn't the idea behind the Canada Media Fund—a perfect example—and of quotas to ensure that cable distributors help fund the creation of Canadian content to be broadcast on our screens? It seems you are abandoning that principle now. Is that true?

[English]

Mr. Robert Malcolmson: I'll try to break down what I think your question is.

You're right that today we find ourselves in a regulated ecosystem that is much different from the unregulated ecosystem with which we compete. I guess our perspective on it is not necessarily to look to the ISPs to contribute to culture per se, but perhaps to that parallel

ecosystem—the Netflixes of the world and the Amazon channels, and all of the over-the-top, non-Canadian services that are coming here, filling a market need and serving Canadians, but also taking revenue out of Canada while making no contribution to Canadian culture.

Mr. Pierre Nantel: It means good broadband business for for you. People need a lot of broadband.

Mr. Robert Malcolmson: Certainly any traffic that travels on the broadband pipe is good for business, but the other perspective is all of that traffic on the broadband pipe requires continuous investment in building out that network in order to be able to serve the appetites of viewers—

Mr. Pierre Nantel: I'm sure a gas station is an investment.

The Chair: We will now be going to MP Anju Dhillon, please.

Ms. Anju Dhillon (Dorval—Lachine—LaSalle, Lib.): Thank you, Madam Chair.

My first two questions will be for ACTRA.

We've had other artists testify before the committee that recorded music isn't considered a sound recording when it's included in a soundtrack. Can you please comment on this?

Ms. Laurie McAllister: That was one of our two asks, and we echo those musicians who have come and asked that the definition of sound recording in section 2 of the Copyright Act be amended. This would mean that sound recordings included in a soundtrack in an audiovisual work would be considered sound recordings, and that the performers and the makers would be remunerated for them.

I don't think I spoke to this issue, but the authors and publishers receive remuneration for that, while the performers and makers are currently excluded.

Ms. Anju Dhillon: Perfect.

Recently, in light of our new NAFTA—or the USMCA, as it's called now—Canadian cultural rights were advocated for and protected under the new deal. Can you please tell us how this deal has positively affected your industry?

Mr. David Sparrow: The broad cultural exemption is a wonderful thing. As Canadians, we punch way above our weight in our productions like *Murdoch Mysteries* and *Frankie Drake Mysteries* and other great productions that are seen in hundreds of countries around the world. It projects Canada's culture to the world.

The exemption means that as a sovereign nation we are allowed to invest in our own culture and the voices of our own people. It's great that it was protected and it will continue to hopefully protect the processes we have in place in terms of enabling the Canada Media Fund and other funding bodies to be able to invest in Canadian culture and bring Canadian works to our screens and screens all around the world.

Ms. Anju Dhillon: Perfect.

Would the other witnesses like to speak to this point?

●(1145)

Ms. Pam Dinsmore: We were very involved with that part of the negotiations. We were kept up to speed on a regular basis with what was going on. We too are very pleased that the cultural exemption has been maintained. It's very important for our industry, businesses and Canadians to see themselves reflected on their screens, so yes, we are very supportive of the cultural exemption and the fact that it was protected.

Ms. Anju Dhillon: Would you like to add something?

Mr. Robert Malcolmson: I would echo the comments that have been made.

Ms. Anju Dhillon: My following two questions will be for Rogers and BCE.

I'd like to talk about ISP copyright liability. What do you think you can do to protect more copyrighted material? Could you speak about the notice and notice regime at the same time, please?

Ms. Pam Dinsmore: I'm happy to address the notice and notice regime. It's important to understand that it only relates to downloads. It's not a useful mechanism for streaming, which is the issue we've come before you with today, looking for some other solutions.

Sure, the notice and notice regime has been around for many years. It was codified five years ago in the act. ISPs are exempt from liability for the content that travels on their pipes, but in exchange, they must participate in the notice and notice regime. If they, for some reason, don't, then they can be sued for damages, but there is no copyright liability consequence of not being part of the notice and notice regime.

We actually send about 2,400,000 notices a year. It's an automatic process. If we can't deliver notice, we have to loop back to the rights holder and let them know that we couldn't deliver the notice. We've spoken to the INDU committee about the fact that we would like to have formalized notices baked right into the act so that they would all look the same. They would be standardized, so there would be fewer notices that are not actually making it to the final destination. We're very much supportive of that regime.

Again, let me just stress that it only is useful with respect to illegal downloading, not illegal streaming.

Ms. Anju Dhillon: Once these notices are emitted, is there a change in the behaviour of the people you've sent them to, or does nothing change?

Ms. Pam Dinsmore: It's interesting that you ask that question. I had to address this five years ago. In fact, it turned out that there were impacts, as the same household—not necessarily the same user—received one, two, three, four notices. There was a corresponding impact on, effectively, recidivism. It was deemed at that stage to be useful enough that this Parliament decided to codify it in the last iteration of the act, and that's the iteration that we see today.

Ms. Anju Dhillon: Perfect.

BCE, would you like to add to that?

Mr. Robert Malcolmson: I would just add to your last point that while the notice and notice regime is an imperfect remedy in the sense that it doesn't address streaming—it addresses downloads, as Pam said—it does, I think, play an important role in educating the

consumers who receive those notices that they may be unwittingly consuming copyright-infringing content. The provision of those notices to people who are using copyright-infringing material is a good educational tool.

At the same time, as we said in our presentation, the content piracy nevertheless continues to grow at a very disturbing rate, and it's undermining the entire ecosystem.

Ms. Anju Dhillon: You work with other countries that also see copyright infringement. Do they send you notice across this whole industry, or are you more Canadian-focused?

Mr. Robert Malcolmson: Well, we get requests to send notices to infringers from content owners, both inside and outside of Canada, if that's your question.

Ms. Anju Dhillon: Do you have to comply with them? Are there penalties for you if you don't?

Mr. Robert Malcolmson: If we didn't comply with the notice and notice regime, yes, we'd be subject to penalties, but we comply. Like Rogers, we send out millions of notices every year. We comply with the regime.

The Chair: That question brings you to the end of your questions.

We will now go to MP David Yurdiga, please.

Mr. David Yurdiga (Fort McMurray—Cold Lake, CPC): Thank you, Madam Chair.

I thank the witnesses for coming today and talking business, and this is all about business.

When I was growing up, we didn't have a lot of choice. We were limited to what was available at the stores and on the radio and TV. However, that has changed. I don't think industry has caught up yet to the reality that we can get programming from all around the world. I think it's more of a competition issue. We have more choices. We have the ability to choose what we want to see and when we want to see it. There's the time element and everything else. Things are changing rapidly.

My question is to Mr. Sparrow. Is competition the real factor as to why artists are making less? Is it because there's so much other material out there? Do you have an opinion on that? Can you just give your point of view on that aspect?

●(1150)

Mr. David Sparrow: It's interesting that right now in the world there are apparently 500 English language TV series being recorded. None of us has the time to watch all of that programming. There is a lot of work for performers.

The question, as I'm repeating today, is simply how the long use of that work will be protected. Will you simply be paid for the day's work, or will you actually be paid for the ongoing use?

You mentioned what we grew up with, and we're probably similar ages. We had three stations to choose from. You may remember *Gilligan's Island*. Bob Denver worked at a time when there were no contract residuals or royalties. That's why we grew up on that program. It could play all through the seventies with no payments to the actors whatsoever. Bob Denver actually ended up retiring in less than splendid conditions, because although he was world famous, there were no monies for him. We've been able through ACTRA to negotiate with our producer partners to have some of those residuals and royalties.

However, at the same time, as I had mentioned, many of our productions in Canada are now seen in hundreds of countries around the world. The question is simply, are we receiving competition statutory rights through that?

Yes, competition has increased. Somebody said just a little while ago that they felt there was less money in the system. Actually, because of all the streaming services competition and the need for content, in many ways there's more money in the system, but it's not trickling down to our performers.

Mr. David Yurdiga: Thank you.

I'll make a little side comment. At the end of the day, it's the consumers who decide what they want to watch. Unfortunately, there's the piracy end of things. That's a really big challenge, and I assume that the dollar value is significant. That's being led through the networks.

However, the networks are doing fine. Myself, I consume a lot of data, and my children, and everything else. We pay our data fee, which sometimes I think is high, but I'm willing to pay it because I want to watch what I want to watch.

There are some challenges there too with infrastructure. I understand there's a lot of investment on the telecommunications side. A lot of the time the urban centres subsidize the rural areas, because they don't have enough customer base. I understand the business side of that.

How can we deal with the piracy? They're very ahead on the technological side. If you put up roadblocks, they'll go around them. Are we going to win the war against piracy, or are we going to have to learn how to live with it?

Can I get a comment from the networks?

Mr. Robert Malcolmson: I'll start.

Certainly we can win the war against piracy, if we're provided with the right tools to win that war.

As I said earlier, there are over 40 countries around the world that have recognized and are confronting the same piracy problem we're confronting. The solution that they have adopted, which has had a 75% to 90% success rate, is having Internet service providers block access to that pirated content so it's no longer available to the consumer who wants to consume pirated content. It can be done expeditiously, efficiently, and at a much lower cost than having to go to court every time you find a pirate site.

If you look at the proliferation of pirate sites available on the Internet, under the current legal regime a producer or creator or

broadcaster would have to go to court each and every time it wanted to get an order from a court to block one single source of piracy. Complicating that situation is that most of the pirate sites are located offshore. They operate online, anonymously. It's hard to find the defendant and hard to enforce when you finally get an order, and then they pop up somewhere else. It becomes an endless game of Whac-A-Mole, trying to stem the tide of piracy.

The answer, we think, is having Internet service providers like Bell and Rogers block those sites as they come in.

• (1155)

The Chair: On that Whac-A-Mole note, we will be moving over to MP Randy Boissonnault for the final five minutes.

Mr. Randy Boissonnault (Edmonton Centre, Lib.): That probably means that I have a big stick.

I want to go to ACTRA for a minute, and then maybe we'll split the time.

You have Bell and Rogers here. What can they do to increase the share of the pie to get more money to artists and actors?

Mr. David Sparrow: I think that first off—and I'm not sure it's the mandate of this committee, but I'll just say it—

Mr. Randy Boissonnault: Go ahead.

Mr. David Sparrow: ISP providers paying into the CMF and other funding models in order to support Canadian content would be huge in terms of creating more content and hiring more performers.

We count them, I would say, as great partners in our industry. We've had long-term contracts with them. This is basically recognizing that when they talk about their Canadian content investments, it's all of their content investments, from news magazines to sports to other. They are doing some great programming right now as well, but more drama and Canadian storytelling is always welcome.

Mr. Randy Boissonnault: Thank you. It's a technical question, but on the issue of neighbouring rights to individuals and entities, would you advocate for a similar set of neighbouring rights for those who make cinematographic recordings, and thus for the film and television industry also, so that these can be captured and those artists can get fair compensation for their work as well?

Mr. David Sparrow: Do you want to address that?

Ms. Laurie McAllister: We currently have very strong collective bargaining rights, and we negotiate for those rights. If you're talking about a regime whereby we maintain those rights but also enjoy a form of neighbouring rights, I think that is something we would be very willing to discuss and explore.

Mr. Randy Boissonnault: It's been brought up by other proponents. I have three minutes left, so I'm going keep moving.

Ms. Laurie McAllister: Yes.

Mr. Randy Boissonnault: This is to both BCE Inc. and Rogers. I appreciate your being here. Your weight in the ecosystem is significant. We have to state that.

Your submissions to this committee ring hollow and “tin ear”. They're technical and they're overweighted to INDU. This should have been a different submission. This is the place in which we're advocating for artists. You said so in your submissions, and yet what we see is “go after the ISPs; shut down the piracy”.

We get that; we know that. What are you going to do to make the piece of pie that goes to artists bigger? Even if we get the \$500 million back, it's the same size of pie; there's nothing more that's coming from your shareholders to go into the pockets of artists. Where, then, is the creativity from industry to put more money in the pockets of artists? You won't have things to sell from Canada if we don't support the artists, and consumers don't see that coming.

It's like climate change. One day there are six tornadoes in this city and there are 22 centimetres of snow in September in Edmonton. It's too late. What, then, are you going to do before we get to the point of 1.5° warmer and the planet is overheating, within the ecosystem of content, to get more money to artists?

You have a minute each: Pam, and then Robert.

Ms. Pam Dinsmore: It's a fair point, except I think that you can't discount the \$500 million that's leaking out of the system.

Mr. Randy Boissonnault: It's the same size of pie.

Ms. Pam Dinsmore: But it's on that money that the monies are not being then allocated to support systems such as the CMF, CPE, and copyright payments. That's the problem: the problem is the leakage. We don't think there need be more mechanisms, such as an ISP tax. If you need higher royalties, go to the copyright board and get those royalties revised.

Having an ISP tax is not the answer. That is going to simply raise the cost of Internet to Canadians, which is of deep concern already to a number of people in this government. Really, we want to make it clear that leakage is the problem. The \$500 million is significant, and that's why our priority is to try to put mechanisms in place to stem the flow of streaming piracy.

Mr. Randy Boissonnault: You suggested that the recording industry cut what they're getting from artists in half so that artists can get more, going from 50% to 25% so that the artist can get 75%. Would you look at carving out some of what you get from the Canada Music Fund to put into a transitional fund for artists so that they could get more money?

You and BCE get the lion's share of Canada Music Fund payments. If we're going to get rid of the \$1.5-million royalty regime, that would be one part of it, but you could actually take less money from the Government of Canada and put the rest into a fund for artists.

Are you prepared to go there?

• (1200)

Ms. Pam Dinsmore: We don't want to impact the local commitments that we have on our radio stations, and unfortunately it all comes out of the same pie.

Mr. Randy Boissonnault: Thank you.

Robert, you have 45 seconds.

The Chair: Actually it's more like 20 seconds.

Mr. Randy Boissonnault: Thanks, Madam Chair.

Mr. Robert Malcolmson: I'll be quick, but to address your first question, today BCE contributes, I think, \$900 million a year; 30% of our media business revenues are reinvested in Canadian programming, which ultimately the artists and actors share in; and 5% of our broadcasting distribution revenues are ploughed back into the creation of Canadian content. What we're saying to you is that the system was working, but the leakage from piracy is constantly reducing the amount of money that is going into that system, which funds culture, and we need to solve that first. We need to stop this from happening so that we can continuously contribute to culture.

The Chair: I want to thank all of the witnesses. If there are other comments that you want to make, you can also put in briefs with additional comments, if there are things that you feel you need to bring up in response to some of the questions that were asked.

I would like to thank all of you.

We are going to suspend briefly while we change panels. I'm going to ask the members to please do this quickly, because we have another full panel coming up.

Thank you.

• (1200)

_____ (Pause) _____

• (1205)

The Chair: I call the meeting back to order for our second hour.

We have with us in person, from Sirius XM, Oliver Jaakkola. We have Spotify, by video conference, with Darren Schmidt. We have Jennifer Mitchell from Casablanca Media Publishing. Thank you.

We will start with the video conferences in case we run into technical issues.

We will start with Darren Schmidt from Spotify. You can start your presentation, please.

Mr. Darren Schmidt (Senior Counsel, Spotify): Thank you, Madam Chair.

Thank you for inviting Spotify to contribute to this committee's study. My name is Darren Schmidt. I am senior counsel at Spotify responsible for content licensing in Canada, and globally. I have been working on music industry issues for 17 years. Before joining Spotify, I worked at a major music company, often touching on issues related to Canada.

I'm delighted today to be able to talk to you about Spotify, particularly the benefits of our service to recording artists and songwriters as well as their fans, and also, as we've been requested to do by this committee, to explain generally the various ways we pay royalties to rights holders, recording artists and musicians.

First let me introduce the company.

Spotify is a Swedish company created in Stockholm in 2006. Our service launched for the first time in 2008 and was made available in Canada in 2014.

Our mission was and remains to unlock the potential of human creativity by giving a million creative artists the opportunity to live off their art and by giving billions of fans the opportunity to enjoy and be inspired by these creators.

Spotify is now available in 65 markets. We have more than 180 million active users on our service every month, and 83 million paying subscribers. Through August 2018, we've paid over 10 billion euros back to rights holders around the world.

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

More than 10,000 unique Canadian artists have been promoted through Spotify's editorial and algorithmic programming in the past month alone.

In 2017, we partnered with the Canadian government to celebrate Canada's 150th birthday. Influential Canadians created and shared their own Spotify playlists of top Canadian artists and tracks. This fall, we're planning to launch a campaign specifically targeted at growing our francophone hip hop audience.

Artists' revenues are rising because the music industry as a whole is growing again, after a terrible run in the early 2000s. Canada, like many markets, entered a steep decline in revenues as piracy sites like Napster took off. Broadly speaking, recorded music revenues nearly halved since their peak in the late nineties, and Canada was no different

However, things have changed, much for the better. Not only is the global music industry back to growth, but so is music in Canada, and 2017 was the first year that revenue from music streaming services like Spotify accounted for over half of the overall music market. This is a remarkable achievement, given that revenue from this segment was negligible just five years ago; and Spotify has been a big part of that comeback story.

With that introduction out of the way, as we've been asked to do, I want to turn now to providing some detail for this committee about how Spotify licenses its music and how those licences result in payments to rights holders and creators.

By its nature, Spotify's service is one that relies on licences from rights holders in order to get content on our service. As I believe the committee is aware, music has two separate copyrights associated with it: one for the song or musical composition, and a separate copyright for the sound recording itself. The copyrights to the songs are typically held by music publishers—we will be hearing from one today—while the sound recordings are typically owned by record labels. To make things more confusing, the music publishers and record labels, particularly the larger ones, are often owned by the same overall holding companies and sometimes share ultimate management.

Spotify obtains licences from both sides of this divide. For the sound recordings, we obtain global rights from the three major record companies—Universal, Sony and Warner—as well as Merlin, which represents the rights of many independent record labels. Spotify also has direct licences with hundreds of smaller and medium-sized record labels around the world, as well as with some recording artists directly, to the extent that they control the right to their own music.

On the music publishing side—that is, for the songs underlying the sound recordings—the world is much more fragmented. This fragmentation has two primary causes.

First, unlike the world of sound recordings, it is relatively common for a musical composition to be owned by several different entities.

● (1210)

Consider the track *In My Feelings*, by Canadian artist Drake. The copyright for that sound recording is controlled by a single record label, but the musical composition underlying that track has 16 different credited songwriters, along with five different music publishers, each controlling a different percentage of those rights. Here we have an example of per-work ownership fragmentation.

Second, depending on the territory, different kind of entities or royalty collection societies will control different kinds of composition rights. Canada is an excellent example of that. In Canada, Spotify has a licence with SOCAN, but that licence is limited to the public performance rights of the compositions played on our service in Canada. However, the reproduction right, sometimes called the mechanical right, for those same compositions for which Spotify also obtains a licence comes from other entities—primarily CSI, along with others—so Spotify pays SOCAN, CSI and others, and those entities in turn are responsible for distributing those royalties to their rights holders, those being the songwriters and music publishers.

I should note here that I'm leaving a lot out, primarily about how in Canada, unlike in some other territories, there is no blanket mechanical licence, which would be very helpful in ensuring that all songwriters are appropriately paid.

There are a lot of changes forthcoming in the market as well. For example, SODRAC, which controls primarily Francophone mechanical rights, was recently purchased by SOCAN, which until recently focused only on performance rights. All of this may substantially change the licensing landscape in the near future.

In summary, Spotify was a late entrant into Canada due to our determination to respect copyright and seek licences rather than rely on copyright safe harbours. Since launching in 2014, our story, and that of Canadian music, has been one of success. Today, millions of Canadians are choosing not to pirate music but to access legal music and pay for it.

This encapsulates the origins of Spotify. We believed that if we built a legal and superior alternative to stealing, artists and songwriters could now thrive. That work has begun, and we still have a long way to grow.

Thank you for letting us contribute to this committee's study. We look forward to engaging with you.

I'm happy to answer your questions.

• (1215)

The Chair: Thank you.

We will now go to Jennifer Mitchell, from Casablanca Media Publishing.

Ms. Jennifer Mitchell (President, Red Brick Songs, Casablanca Media Publishing): Thank you very much, Madam Chair and honourable members, for this opportunity.

I am the president, founder and owner of Casablanca Media Publishing and Red Brick Songs, a leading Canadian-owned independent music publisher for 17 years based in Toronto, Ontario.

When I co-founded Casablanca in 2001 with my late business partner, Ed Glinert, we started with very little. Now, 17 years later, we have seven Canadian employees, and I'm proud to say that our organization is over 70% female. We control over 700,000 music publishing copyrights in Canada, 30,000 in the U.S. and 4,000 worldwide.

Some of the well-known songs that we are privileged to represent include *Imagine*, by John Lennon, *What a Wonderful World*, *My Way*, *Despacito*, *Start Me Up*, by the Rolling Stones, and even the theme to the *The Simpsons*. We represent almost every genre of music, including current hits and songs that have been recorded over the decades. We also represent brand new songs by Canadian songwriters that have yet to be recorded.

That is who we are, but, as my family always asks me, how do we actually make any money? Well, we do a number of things.

First of all, we administer or sub-publish music publishing copyrights, largely in Canada but also internationally, for other music publishers and for songwriters who control their publishing. This represents the majority of our revenue. In most cases, we don't own the copyright.

On a typical day, our team liaises with rights organizations like SOCAN and CMRRA, chases unpaid royalties, tracks income, processes monies we've received, talks to our foreign reps in the U. K. about an upcoming tour, or pitches songs to a music supervisor in Toronto or L.A. to be licensed in film or TV.

Second, we invest in the creation of new music-publishing copyrights, which we co-own with songwriters. As you can imagine, this is the riskier part of our business model. This is where we attempt to build a house in the air, if you will use that analogy, by bringing the best builders together, financing their training and their materials, guiding their designs and then hoping that someone will ultimately want to pay something to rent that house, because there is no land value on day one and maybe not even on day 1,000.

As music publishers, we both develop new songwriters and sign songwriters at more advanced stages in their careers. We become their personal cheerleaders, pseudo-managers and long-time business partners.

As an example, we signed the 22-year-old Tom Probizanski from Thunder Bay, Ontario, which allowed him to move to Toronto. We then paid for him to go to L.A. and Denmark to co-write, and we set up his co-writing sessions. We also arranged and financed his trip to Banff to speak on a panel and introduce him to the Banff World Media Festival audience. When he later released his latest EP under the name of Zanski, we paid for his blog and playlisting promotion so that he was featured in Clash magazine and EARMILK and various Spotify playlists.

For another songwriter, Dan Davidson, from Edmonton, Alberta, we've arranged co-writes in China and financed radio promotion, which led to a top 10 Canadian country radio hit.

For Jeen O'Brien, from Stratford, Ontario, we guided her and helped her secure J-Pop releases in Japan, as well as various placements in TV and ads for Capri Sun and Google.

Even with older well-known songs like *Skinamarink*, which was made famous by beloved children's entertainers Sharon, Lois & Bram, we have continued to promote and extend the economic life of this song by securing a Bose ad in 2016 that aired worldwide and a book publishing deal with Penguin Random House to release a picture book in 2019.

We make these investments of money, connections, time and knowledge because we believe in our songwriters, we love what we do, and we hope that the combination of our connections and knowledge and their talent will equal success, financial or otherwise, but so often it doesn't, and the one radio hit pays for other developing songwriters. Likewise, the sub-publishing and administration side of our business pays for our investments in Canadian songwriters.

This is a risky business. It takes decades to build. As I said earlier with the house analogy, there is no land value for a song if the house is a teardown. You can invest in a songwriter and walk away with nothing.

• (1220)

This is why the music publishing business is a true business partnership with songwriters. One cannot succeed without the other. There is always a team behind a hit song, and the team is behind the scenes. A hit song is what allows publishers to keep investing in songwriters and building Canadian talent to export worldwide. Unfortunately, for both songwriters and publishers the amount of money being generated in the music publishing industry today is fractions of cents. One million streams might generate an average of, say, \$300 in publishing royalties for a songwriter, and that's if the song has only one writer.

The transition from physical product to a digital world has been very difficult for songwriters and music publishers. Too often we found our music being used on a platform, and that platform profiting without compensating songwriters and publishers. We survived only because we had other revenue streams, such as royalties from radio stations and private copying royalties. Changes to the Copyright Act in 2012 created new exemptions that decreased the amount of these royalties just when we needed them the most.

Of course, as we continue to transition to a fully streaming world, the importance of royalties from radio stations and private copying cannot be overstated. It's not only about diminishing revenue for music publishers; it's also about increased costs. Besides the sheer volume of data publishers now have to process, the costs of identifying unpaid uses are significant. Claiming works on YouTube, for instance, is a full-time job and a great example of a service downloading its operational costs onto songwriters and publishers.

Meanwhile, creators are relying on publishers to collect this income and to reinvest this income in their careers. The Canadian economy is relying on small and medium-sized businesses like mine to provide full-time, stable jobs, but to survive in the music business today, independent music publishers like me need to be able to earn a reasonable return on our investment in creativity. The 2012 amendments to the Copyright Act have not made that easier. In fact, they have made that harder than ever, which makes your work here today that much more critical. The review of the act is an important opportunity for Canada to address the expanding value gap and to get things right for songwriters and publishers.

To do that, Parliament can take a few simple steps.

First, it can revisit the immunity afforded to ISPs, hosting services and other Internet intermediaries, who continue to profit from the use of music without paying their fair share to rights holders. Intermediaries should be required to act quickly and block access to sites that facilitate infringement by others. When an intermediary is a content provider and profits from the use of music directly or indirectly, the creators and owners of that music should profit too.

Then, it can amend the new and expanded copyright exemptions that have led to a dramatic reduction in royalties from radio and private copying over the last five years.

Finally, it can introduce clear processes and rate-setting standards for the Copyright Board of Canada. The board's unpredictable decisions have led to royalty rates for music streaming that are a fraction of the comparable rates in the U.S. and elsewhere.

I would like to take this opportunity to thank the government for agreeing to term extension in the USCMA. It benefits companies like mine and the songwriters we invest in, and we look forward to seeing this implemented as soon as possible.

Thank you again for the opportunity to appear.

The Chair: Thank you.

We will now continue with Oliver Jaakkola from SiriusXM Canada.

[*Translation*]

Mr. Oliver Jaakkola (Senior Vice-President and General Counsel, SiriusXM Canada): Thank you, Madam Chair and members of the committee.

Thank you for inviting us to contribute to your study on copyright. My name is Oliver Jaakkola and I am senior vice-president and general counsel of SiriusXM Canada, Canada's only satellite radio broadcaster. We are a CRTC-licensed broadcaster with over 2.5 million subscribers in Canada.

• (1225)

[*English*]

We assume you have some familiarity with our service, but as we are short on time, I have attached additional pertinent information, as appendix A, to a handout of our speaking notes that I have distributed in both French and English, including a summary of our expenditures on copyright and Canadian content development.

Incidentally, I will mention that we have paid copyright royalties in excess of \$175 million to creators, makers and performers. In addition to that, we have paid cumulatively and in an ongoing capacity \$110 million to music education, sponsorship of Canadian artists, and cultural infrastructure through Canadian content development. We are also committed to paying tangible benefits in the amount of \$28.7 million over seven years to a number of CRTC-mandated funds, including those that would promote the development of Canadian artists and their participation in the broadcasting system.

Satellite radio is an expensive technology, but one of great value in a country with the vast open spaces of Canada. For us to continue to provide a competitive service with a North America-wide distribution platform for Canadian artists and creators, Parliament must promote an ecosystem that encourages dissemination technology such as ours.

Our submissions are focused on two themes.

The first is that the copyright system needs to be a level playing field. Everyone who provides access to content in the digital environment should play by consistent rules, particularly as they reap value from that content.

The second theme is that this committee should consider creative ways to make the collective system more efficient and more responsive. This allows artists to profit from their content, and it allows providers of music and other content to know what their licensing costs will be.

What does a level playing field for music services in the digital environment look like? We say it involves three elements.

First, it means that organizations that are providing music to Canadians should be treated in a fair and consistent way. Sirius XM offers music to Canadians, and it pays a royalty for that music determined through the Copyright Board process. The problem is that we have competitors in the music space who offer music in vast quantities but who are able to take advantage of certain mechanisms in the Copyright Act. This has been described as the value gap problem. It applies, in particular, to services that allow users to upload content for the world to consume en masse and for free.

These services reap considerable ad revenues. We support the call of many parties who have asked this committee to take a hard look at the hosting shelter under the Copyright Act; in particular, the committee should ask itself whether it distorts the competitive environment to have sections of the act favour some services and not others. Reports submitted to this committee indicate that services in the position of Sirius XM may be paying as much as 20 times the royalties of user-uploaded services.

Second, there should be care to avoid double-counting of royalties. Sirius XM is aware that there is a call for extending the private copying levy to storage media on devices, but if the levy is extended, care should be taken that it does not apply to memory in dedicated devices when the music service is already paying the tariff for such copies. Otherwise, a service will pay twice for the very same activity, a situation the Supreme Court decried in the *ESA* case in 2012.

Third, this committee should take care to avoid any recommendations that might disturb the Supreme Court of Canada's technological neutrality findings in the *CBC v. SODRAC* case in 2015. In that case, the Supreme Court examined the copyright balance and properly recognized that services that disseminate content to Canadians make meaningful contributions through the risks they take and investments they make.

Satellite radio is a perfect example of these contributions: before the first song is broadcast, multiple satellites have been launched into space at great expense and must be maintained with care and at significant cost. Sirius XM also subsidizes the costs of its receivers installed in new vehicles and the costs of after-market radios sold to consumers. Without this investment, users in many rural and remote areas would have far less access to news, ideas and music. A level playing field requires these kinds of investments to be properly recognized in coming to a fair and equitable copyright rate.

Our second theme is that copyright royalties can be set far more fairly and efficiently. This idea was raised in the *ESA* case I mentioned a moment ago, wherein the Supreme Court properly recognized that Parliament's purpose in creating collective societies was to "efficiently manage and administer different copyrights under the Act".

At paragraph 11, the Supreme Court quoted a passage suggesting the following:

When a single economic activity implicates more than one type of right and each type [of right] is administered by a separate collective, the multiplicity of licences required can lead to inefficiency. . . .

In its decision, the Supreme Court suggests that when single-user licensing becomes fragmented, the resulting inefficiencies cause everyone, including the copyright owners, to suffer as a result.

Unfortunately, Sirius XM has had to live through that inefficiency repeatedly. We provide a satellite radio service and an adjunct online service using primarily satellite radio content. It's a simple offering, yet the tariff system requires Sirius XM to deal with numerous different tariffs with multiple collectives, each involving fragments of rights. Simulcasts online? That's one tariff. Allowing a user to pause a simulcast? Sorry, that's a completely different tariff.

Now consider that rights are further divided among multiple collectives, each of which is entitled to file inconsistent tariff proposals. The result for a user is many different proceedings as well as tremendous inefficiencies, costs and uncertainty. Tariff proceedings drag on for many years and result in retroactive payments. There has to be a simpler solution.

Leading scholars like Daniel Gervais have raised the idea of a one-stop shop licensing system. The basic idea is to bring all collectives together into a "multiple blanket" licence, or single tariff, so that all rights for a given service can be cleared quickly and fairly.

If you look at the history of copyright, you see that it used to be that performing rights societies and reproduction rights societies licensed completely different activities—one an opera, the other a vinyl record. Back then it made sense that different societies would clear rights separately, but in this era, almost every digital dissemination involves a composer, a performer and a maker, and a performance and a reproduction.

Is there a way to achieve a single clearance mechanism for all these uses? What can Parliament do to streamline the system fairly and efficiently? Perhaps this could be done through an omnibus licence application initiated by a given user, as suggested by the Supreme Court of Canada in the *CBC* and *SODRAC* case. Sirius XM suggests that this committee explore all potential opportunities to make rights clearance simpler for creators and users alike. This won't be easy, but it would be a tremendous legacy of this study.

Subject to any questions, these are my submissions.

Thank you.

• (1230)

The Chair: Thank you very much.

To everyone on the committee, my apologies; I want to clarify that we did not have enough copies of the submissions. That's why we distributed a little bit to everyone. You will be able to get a copy electronically later. This is in case you're wondering why you don't have a copy of the submission at the moment.

We'll begin our question-and-answer period with Mr. Randy Boissonnault, please.

Mr. Randy Boissonnault: Thank you very much.

I am now old enough to say that I've lived through the digital revolution. When I was at university, we had the old Mac Classic microcomputers. They had a monochrome screen. It was not pre-Internet, but pretty darn close.

We've gone through the wonder of the web. Now we're in an era called the "tyranny of the technology", and it's putting a lot of our artists at risk.

Let me be clear: I want all of your businesses to succeed. Before I got into Parliament, I was in business. I love business. I love those you employ and all the economic benefits, but I also love the arts. I love musicians. I love performance and visual artists. We have to create an ecosystem where we can survive.

My concern is that artists and their work are becoming a utility and that the technological aggregators are literally becoming, or positioning to be, the robber barons of the 21st century. We'll see what happens when cannabis is legal later this week, but as we're talking about technology right now, you are positioning yourselves to take advantage of really good creators, and I'm not sure they're getting paid.

Mr. Schmidt, I'll start with you. I am a Spotify customer, although you may shut off my feed after today's questions. Let's hope not. Look, you made a general statement that there's more money for artists. I believe that. I'm not sure, but I think there's more money in the music industry. I think we've plugged some holes on piracy.

Here's my question. I did some math with YouTube and another aggregator of music, and to make \$2,400 a month, which is the minimum wage here—an Alberta wage is \$15 an hour—it would take 16.5 million hits on one streaming site and it would take 9.8 million hits on another streaming site for one artist to make \$2,400 in one month. That's 180 million hits just to make a living wage for the year.

My question to you is this: How do artists get paid per hit on Spotify today in Canada?

• (1235)

Mr. Darren Schmidt: First, I promise you we will not be shutting off your Spotify service. Thank you for being a subscriber.

I think that question is somewhat difficult to answer. As I described in my opening statement, generally speaking we don't have relationships directly with these creators. We have relationships and licences with rights holders, copyright owners, be they record labels that own the copyrights to the sound recordings or music publishers or a collection of societies to which we pay royalties. They then distribute those royalties to their members or their recording artists. We don't have any visibility into how that's done or what money they choose to pay; all we know is we already pay the vast bulk of our overall revenue for content, and we expect that goes to compensate creators.

Mr. Randy Boissonnault: An example comes from a parallel industry, which is the music industry, but not from the aggregated side. In the case of record labels, big three music labels dominate, and in that area the top 1% of artists account for 77% of all recorded music income. The top 10 selling tracks command 82% more of the

market and are played almost twice as much on top-40 radio. Do you have data on who your superstars are, how many hits they get, and then, by extension, how much more money they're making than the person whose creation maybe isn't so interesting for listeners?

Mr. Darren Schmidt: We certainly have that data, yes. I don't have it with me today. We'd be happy to get that for you. We have giant teams of people here who do nothing but data.

Mr. Randy Boissonnault: I'm interested in seeing whether the aggregational technology, in doing this legally, as you so rightly said, is flattening and making the income less equal than it was in the old bricks and mortar radio world.

I have limited time, so I'm going to move on to Ms. Mitchell.

What could be done to increase the returns to artists and improve the copyright framework for the benefit of both creators and users?

Ms. Jennifer Mitchell: I think the biggest issue, which I addressed, was trying to prevent larger companies from hiding behind exceptions that exist right now in the Copyright Act and not fairly compensating creators. I think we need to strike a balance between creators and digital companies that doesn't exist right now in the current legislation to create more of a willing buyer and willing seller negotiation when we have those negotiations.

Mr. Randy Boissonnault: Okay. I'm going to pause you there. Should we get rid of the royalty radio payment exemption right now?

Ms. Jennifer Mitchell: Of course not.

Mr. Randy Boissonnault: Why not? Radios don't have to pay for the first \$1.25 million they make. It's a royalty exemption.

Ms. Jennifer Mitchell: Yes. Sorry, I didn't understand your question. Anything that increases radio royalties or private copying is obviously beneficial for creators and buyers.

Mr. Randy Boissonnault: Okay. Would you like to add anything else?

Ms. Jennifer Mitchell: Obviously, I think we need to look at the points I addressed. Making sure the Copyright Board is more efficient is very important. The issue that I addressed about ISPs is very important. As I said, we need to look at trying to create a balance in the legislation between creators and between these larger digital companies. I think it's really important that we take that view when looking at the Copyright Act.

Mr. Randy Boissonnault: That's definitely our job as government. The job of this committee, and the reason I'm on this committee, is to weigh in on the side of artists. The industry committee is there for consumers. At some point we have to put all this stuff in the middle and come up with a revised and renewed copyright framework. I'm here so I can be listening to streaming media and go to live performances and know that we have Canadian content well into the lifetime of my grandkids. I'm not sure we're heading down that path right now.

To Sirius XM, Mr. Jaakkola, should we get rid of the radio royalty payment exemption?

Mr. Oliver Jaakkola: It's my understanding that there are cultural and historical reasons that this exemption was introduced—

Mr. Randy Boissonnault: I mean now. Those were in the past.

Mr. Oliver Jaakkola: Obviously, satellite radio was never eligible for such an exemption.

I think that one of the things this committee needs to look at.... To put it simply, we are looking for a more level playing field going forward, but you have to balance certain cultural interests. I would caution the committee to look at the treatment of licensed broadcasters versus unlicensed foreign streaming services. You want to make sure that in eliminating any of these exemptions, you're not losing a small broadcaster that does have a 35% Canadian content requirement—

• (1240)

Mr. Randy Boissonnault: Understood.

Mr. Oliver Jaakkola: —in favour of a streaming service that has none.

Mr. Randy Boissonnault: I see your submission. I know we're done, so thank you for the technical nature of your submission, which helps us with our colleagues over at Industry.

Thank you.

The Chair: Now we will go to Mr. Blaney, please.

[Translation]

Hon. Steven Blaney: Thank you very much, Madam Chair.

[English]

I entered politics in the same year that Spotify was created and I'm glad to see it is a multi-billion-dollar company now.

Maybe I can begin my questions with you, Mr. Schmidt. You mentioned that you were open to sharing some data with us today. Is it possible for you to share how much was returned to Canadian artists over the course of the last year?

Mr. Darren Schmidt: I can't share that today because I don't have that available to me, but we can look into that and figure that out, although I guess the question goes back to an earlier issue, which is that we don't necessarily have visibility on what ultimately goes to artists and creators.

Of course we license and pay the rights holders of these various rights; what they end up paying to those creators is between them.

Hon. Steven Blaney: Would it be possible to share with us how much is going to the rights holders of Canadian artists?

Mr. Darren Schmidt: I can look into that. The reason I hesitate, sir, is that we don't share per territory user numbers, just for competitive reasons. I'm somewhat limited to what we publicly disclose in our financial filings, but I can look into whether we can disclose that information to you and this committee.

Hon. Steven Blaney: I understand that there are two ways for Canadian artists to get revenue from you. It could be from being used by your users, like Mr. Boissonnault, or are you investing directly in Canadian cultural content at this time?

Mr. Darren Schmidt: We have a number of employees in Canada right now. I think it's 30-something. There is an editorial team that develops dedicated playlists, and we've had live shows in Canada. I mentioned in my testimony that we're working with an upcoming event to promote francophone hip-hop artists. There are always things happening in Canada.

Hon. Steven Blaney: Okay. Is there no formal program for you to invest in Canadian artists at this point in time?

Mr. Darren Schmidt: That's true. As a digital service provider, we're hearing from Casablanca Media Publishing, and I may have the name wrong, but they develop artists. They have those relationships. They spend money on A & R, or artists and repertoire. That's what they do. It's important for them to have those relationships, develop that content, and get those copyrights, and then they license that content to a service like us.

Hon. Steven Blaney: I have one last question. Are there some countries where you are regulated in terms of the amount you share with the rights holders of the product you stream?

Mr. Darren Schmidt: That's a pretty broad question. The answer has to be yes because, as in Canada, there are tariff rates. We don't pay under the tariff rates because we have licences negotiated with some of the bodies in Canada. In the United States, for example, there is section 115 of the Copyright Act, which regulates, you could say, the amount of royalties that we pay for mechanical rights, for example. There are similar examples throughout the world.

It's much less common—in fact, I don't think it's ever true—on the sound recording side of the ledger.

Hon. Steven Blaney: Thank you.

I will turn to you, Mr. Jaakkola, from Sirius XM. Thank you indeed for your recommendations, which are pretty interesting and helpful.

I have the same kind of question for you. Are you investing in Canadian artists? Can you share with us the amount of your revenue that goes to the rights holder of the content that you are diffusing?

Mr. Oliver Jaakkola: I apologize, but I don't have those exact figures with me today. I do have these high-level numbers of cumulatively \$175 million to copyright holders, in addition to another \$110 million to the cultural sector. That's through a variety of mechanisms and through contributions to FACTOR, Musicaction and so forth.

Through our CRTC obligations, we do have an ongoing commitment of 4% of our revenues. As I've mentioned, we also have a commitment to tangible benefits in the amount of \$28.7 million that goes to a number of mandated funds that promote—

• (1245)

Hon. Steven Blaney: The CRTC is asking this 4% to go to what?

Mr. Oliver Jaakkola: The 4% is for Canadian content development.

Hon. Steven Blaney: It's to Canadian content, yes. This would apply only to Canadian companies.

Mr. Oliver Jaakkola: Yes, Canadian artists or creators.

Hon. Steven Blaney: It's to Canadian artists, but the fact that you're based in Canada means you have to—

Mr. Oliver Jaakkola: It's because we are a CRTC-licensed broadcaster.

[Translation]

Hon. Steven Blaney: My last question is for Ms. Mitchell.

[English]

Madame Mitchell, you mentioned, if I have it correctly, that you have the rights to the song *My Way* by Frank Sinatra. Is that what you said?

Ms. Jennifer Mitchell: Yes, I did.

Hon. Steven Blaney: Can you give me an example of how much revenue is brought by a user of that song? What kind of revenue is this song generating annually in Canada, or can you give an example of the way it works for you to collect the money and then give it to the owner of the rights to that song?

Ms. Jennifer Mitchell: I can't give you an exact revenue figure off the top of my head, obviously, but a song like *My Way* would generate performance revenues. That would be money that we would otherwise collect—for example, in Canada, from SOCAN. It would be revenue from television performances, concert performances, radio performances, and the like.

There's a digital aspect to that as well. It would include mechanical revenues from physical products, as well as digital products and streaming services such as Spotify. It would also include sync licensing and print licence rights. There are a variety of different revenue streams.

Hon. Steven Blaney: Okay. If *My Way* plays on Spotify, then are you collecting the revenues through SOCAN?

Ms. Jennifer Mitchell: I'm collecting it through SOCAN and I'm collecting it through CMRRA, which is part of CSI.

The Chair: That's the end of your time. We will go to Mr. Nantel, please.

[Translation]

Mr. Pierre Nantel: Thank you very much, Madam Chair.

Thanks to all the witnesses.

[English]

I'll be speaking English. It's much simpler since everyone is speaking English and we are in a remote translation situation.

First and foremost, I have to say that Sirius XM was the game-changer 15 or 20 years ago when you applied. Clearly what we see here is that when a content accesser—because we cannot say broadcaster—is regulated, there are great benefits to us, because you know what your terms of engagement are and we can support you, and clearly you did support music.

I can tell you that the passing away of Mrs. Sasseville has been a very troubling thing for everyone in the music media in Canada, especially in Quebec, where you contributed a lot. You do a lot of

business too, and most copyright owners have received great shares, related especially to your international or United States sales and the sudden exposure of these smaller markets to a bigger market, thanks to you.

Because of that, I need to ask a question to Mr. Spotify here, Mr. Schmidt. Actually, to me, Mr. Spotify is Nathan Wyszniak. Is he still working for Spotify Canada?

Mr. Darren Schmidt: Yes, he is. I'm trying to be Mr. Spotify, though.

Mr. Pierre Nantel: He's Mr. Spotify in Canada to me, and he surely faces a lot of heat.

He's been very active and present, mediating with the music community and engaging a lot. He's been very involved. For this I must congratulate the company.

I want to make sure everybody understands that we are not a domestic market of the United States, and especially that we have a little bubble of France in Canada. Because of that, we have specific stuff, specific content and specific approaches to the legal aspects and to appreciation of the value of copyright.

I want to make sure we understand quite well the nature of your business, Ms. Mitchell from Casablanca Media Publishing. For example, you were talking about Paul Anka's *My Way*. Can we say that you provide administrative services for independent publishers? Is that a proper way to present Casablanca?

• (1250)

Ms. Jennifer Mitchell: I am an independent music publisher. As such, I provide administrative services and I also invest in copyright with songwriters.

Mr. Pierre Nantel: In your situation, I can say that artists are actually asking you to manage songs the best way possible, to give them more exposure and enable them to make as much money as possible. It's great, and I appreciate that. Obviously, there is talent development involved in your case, as well as a lot of administrative support for various rights owners who have not signed with major international labels.

If you had negotiated the amounts paid by streaming services like Spotify, would you have had it be different from what it is now, from the micro-pennies per play?

Ms. Jennifer Mitchell: Well, in Spotify's case, we obviously make more money from their paid subscription services, so we support the paid subscription model wherever possible. As a publisher, one of the biggest issues we have is the split between the amount paid to publishers versus the amount paid to labels, but I think that's more an issue for the Copyright Board, probably, than it is for Spotify overall.

Obviously we would like to see the revenue increase. Overall, one of our bigger issues in terms of compensation is in trying to deal with some of these larger companies that are hiding behind the copyright exemptions right now, and not coming to the table at all to negotiate. For all the issues we may have had with Spotify, they are at the table negotiating. There are many that are not.

Mr. Pierre Nantel: I know. I understand.

We had testimony from David Bussi eres. I think it's important not to make a weird comparison of the money earned by a spin, because obviously a spin on the radio reaches thousands of people, while a spin on Spotify reaches me in my headset. What he said was about his song, *Lumi ere*, and we can take it for granted that the song was a hit song. It played on radio. People liked it. People streamed it. He received, for 30,000 spins on Spotify, \$10.80, which I don't want to qualify. This is what he got. Those 30,000 spins means 30,000 people are going, "Oh, I like this song. I'll play it." It was \$10.80. I would say at the same time that he had a very specific submission that we can check out. On the radio, the same song went to fifth position on the airwaves. He had 6,000 rotations, and he earned \$17,346—so about \$17,000.

I'm going to ask you and Mr. Spotify—Mr. Schmidt—how we can manage this. With the comparison of these two environments, how can a regular person marketing in Canada cope with this change of attitude towards music listening and the ridiculous money coming in?

Please, you go first; and then Mr. Schmidt, please.

The Chair: I'm just going to give a heads-up. You have a half a minute to respond because we're going to have to move to committee business, but you can also provide answers in writing.

Ms. Jennifer Mitchell: Sure. Was the question directed to me?

The Chair: I think it was to Mr. Schmidt from Spotify.

Mr. Darren Schmidt: First of all, I can't speak to the example that you've given about the difference between the radio play payout and the Spotify payout. I can speak to the Spotify payout, though.

I think there is a reality of streaming revenue share economics, as opposed to unit-based economics. Think of the late 1990s: Every sale of a CD will result in a specific incremental piece of revenue that will ultimately be paid to a rights holder. Here, no matter how many times something is streamed—a million, one time, whatever—there is only a certain amount of revenue coming in from that user, and the bulk of that revenue gets paid out. As I said, we paid out 10 billion euros as of August of this year. That amount continues to grow as the user base continues to grow.

•(1255)

Mr. Pierre Nantel: Mr. Schmidt, can you please send us some sort of answer to this comparison from David Bussi eres. It speaks

volumes to us. It's a Canadian example. It's a pure comparison between ways of consuming music, and it is not replacing CD sales—actually, it is replacing CD sales, so we may have \$18,000 from radio and potential CD sales. Then compare it to streaming, because nobody buys records anymore.

Please tell me how Canadian artists can cope in such a situation. Maybe we need the government to support them like crazy, but it surely won't come from you.

The Chair: Unfortunately, we are over time and we have to go to committee business, but I believe that I note now three requests for extra information for Spotify. There was one by Mr. Boissonault, one by Mr. Blaney and one by Mr. Nantel.

If you would be able to get back to us with that, Mr. Schmidt, that would be very helpful.

Is that a yes?

Mr. Darren Schmidt: Yes. Sorry; I wasn't sure if you could still see me, but yes.

The Chair: Thank you.

That's going to bring an end to this meeting.

Thank you to all of the witnesses for your evidence today.

We have some committee business, so everyone else stay. The witnesses are going.

I don't think we're going to go in camera, because we don't have time.

The Chair: We're back.

It'll take too long to clear the room, but we do have to vote on the budget for the review of Bill C-391, an act respecting a national strategy for the repatriation of aboriginal cultural property. You have all been provided with a copy of it.

Hon. Steven Blaney: I move that we adopt this budget.

The Chair: Thank you so much.

(Motion agreed to)

The Chair: Thank you, everyone.

The meeting is adjourned.

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