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Chair: Mr. Scott Simms





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• (1305)

[English]

**The Chair (Mr. Scott Simms (Coast of Bays—Central—Notre Dame, Lib.)):** Thank you for joining us. We still have a few members missing, but there is a reason for that.

I just want to say welcome to our guests. We are now officially into the study of Bill C-10.

Let me just start by saying that we are expecting—and you may have been alerted already—a vote to commence in the House. Albeit it's only one vote, it takes a long time.

If the bells go, that gives us 30 minutes of bells and then later on the voting. As you know, we still vote virtually. We don't have the app up and running, so we have to do a voice count virtually. That takes in excess of 45 minutes.

What I'm going to do is this. We're going to proceed. When the bells happen, it's pretty much going to—if I may be so bold to say—wipe out a substantial amount of your testimony. Therefore, what I'm going to say to you is that if the bells go as we expect and the meeting is called to a halt, I'm going to tentatively reschedule the entire meeting for March 12, rather than proceed and give you only a few minutes. Actually, you wouldn't have any minutes.

I want to hear from you, though. You are valued witnesses, suggested by our members, and I would be deeply regretful if we didn't hear from you before we launched into clause-by-clause for Bill C-10. I apologize for this. It is a part of democracy that is very necessary, but sometimes when a vote happens in the House, it conflicts with what we want to do here at the committee.

That being said, I also want to say to my colleagues that, if that happens, I would like to reconvene this meeting for just committee business immediately following the vote. As soon as we get online and as soon as you get into our virtual room, we can have a committee business meeting for just members and designated staff.

Again, I apologize to our witnesses. It's more than likely to happen.

In the meantime, we still have work to do. We haven't been sidelined officially as of yet.

I want to thank our guests for being here. From the Alliance des producteurs francophones du Canada, we have Carol Ann Pilon, executive director. From the Canadian Association of Broadcasters, we have Kevin Desjardins, president. As well, from the Indepen-

dent Broadcast Group, we have Joel Fortune, legal counsel; and Luc Perreault, strategic adviser.

That being said, we're going to start with Madam Pilon.

The way we normally start this is that you have five minutes to do your opening remarks. I am a little bit flexible on your five minutes, but I don't mean to be rude if I cut you off towards the end.

Nevertheless, Madam Pilon, you have five minutes, please.

[Translation]

**Ms. Carol Ann Pilon (Executive Director, Alliance des producteurs francophones du Canada):** Good afternoon.

I am here on behalf of the Alliance des producteurs francophones du Canada, or APFC, which, as you know, represents independent French-speaking producers working in francophone minority communities across Canada.

Our members contribute to the economic well-being, cultural vitality and survival of their communities by promoting a diversity of francophone voices across the country.

The APFC has made its position clear to all of the appropriate authorities regarding the principles that should guide the current review of the Broadcasting Act.

We appreciate this opportunity to do so yet again.

The first principle is to end the preferential treatment for online companies exempting them from the obligation to support the creation and dissemination of Canadian content. Bill C-10 would put an end to that fundamental unfairness. We welcome and wholeheartedly support this change.

The second principle is especially important: to include clear provisions in the objectives of Canada's broadcasting policy that would mandate the Canadian broadcasting system as a whole to reflect the situation of official language minority communities, or OLMCs, and encourage OLMC-produced programs. Currently, only the Canadian Broadcasting Corporation is required under the act to reflect the situation of OLMCs and their unique needs. No such objective applies to the system as a whole.

As a result, the Canadian Radio-television and Telecommunications Commission, or CRTC, imposed specific conditions of licence on the public broadcaster regarding the share of independent programming expenditures that must be allocated to OLMC producers. Other than vague expectations that were not met and an incentive that proved equally ineffective, the CRTC did not impose similar requirements on private broadcasting undertakings.

This underscores the importance of including a clear provision in section 3 giving the CRTC the ability to implement concrete and effective measures aimed at enhancing the vitality of official language minority communities.

This also shows that the Official Languages Act alone is not enough to ensure that the regulations governing Canada's broadcasting system meet the overall objectives of the broadcasting policy. Experience has shown that the CRTC often makes decisions that undermine the interests and vitality of OLMCs.

It is paramount that the Broadcasting Act mention the objectives relating to OLMCs if those objectives are to become a reality. On that point, representatives of both English and French OLMCs agree across the board.

We have attached our proposed amendments to that end. They pertain to sections 3 and 5.

The third principle is to incorporate meaningful provisions in the act to strengthen the foothold of original French-language programming in the Canadian broadcasting system.

Although members of OLMCs are minorities in their respective provinces and territories, francophones as a whole are a minority in Canada, and especially in North America. They become even more vulnerable when their ability to express themselves hinges on market forces alone. For that reason, we are proposing amendments to sections 3 and 11, which are also attached.

Furthermore, as an association that represents independent producers, we urge lawmakers to include a provision, in sections 9 and 10, that would give the CRTC the power to regulate commercial relations between independent producers and broadcasting undertakings. The independent production sector, for the most part, is made up of small and medium-size undertakings; when left to fend for themselves, they have no leverage against large broadcasting groups and international online undertakings, which control access to broadcasting and enjoy annual revenues in the billions. It is imperative that the CRTC have the ability to rebalance and regulate such an uneven distribution of power.

Other aspects of Bill C-10 certainly raise questions and concerns within the community of Canadian cultural content creators and producers, but we have chosen to focus on the issues we feel are most significant, given what we are and who we represent.

That said, the APFC is a member of the Coalition for the Diversity of Cultural Expressions, which the committee will be hearing from later this afternoon. The APFC supports the principles and objectives endorsed by the coalition.

Thank you, and I would be happy to answer any questions you have.

• (1310)

**The Chair:** Thank you, Ms. Pilon.

[*English*]

Next for five minutes we have, from the Canadian Association of Broadcasters, Kevin Desjardins.

[*Translation*]

Mr. Desjardins, you may go ahead for five minutes.

[*English*]

**Mr. Kevin Desjardins (President, Canadian Association of Broadcasters):** Thank you, Mr. Chair and members of the committee, for the opportunity to appear before you today on this important piece of legislation.

My name is Kevin Desjardins. I'm the president of the Canadian Association of Broadcasters. The CAB is the national voice of Canada's private broadcasters, representing the vast majority of Canadian private radio and television operators from coast to coast to coast, in both official languages, in communities large and small.

For nearly 100 years, Canadian private broadcasters have been a part of the cultural and economic fabric of the nation. They have provided a platform for Canadian stories, invested in Canadian talent, employed Canadian workers, reflected Canadian diversity, paid Canadian taxes, entertained Canadian audiences and informed the Canadian citizenry. They remain especially proud to be the primary source of news and information in communities across the country.

The legislation we are here to study comes at a critical moment for our sector. Over the past decade, the competitive landscape for Canada's broadcasters has fundamentally changed. Unregulated digital competitors have moved into the Canadian market without hindrance and without oversight. They have fragmented audiences, driven down revenues and driven up programming costs. In short, they have turned traditional broadcasting business models on their head.

Canadian broadcasters are now threatened on both ends of their value chain. The advertising marketplace has changed radically, with online platforms now consuming half of those advertising dollars. In fact, private conventional TV stations posted a negative margin of 7% in 2018-19, the seventh consecutive year of losses, and that was before COVID-19. Similarly, nearly as many Canadian viewers are watching Internet streaming services as watch television through cable and satellite providers. In addition to decreasing audiences and subscriptions, these new over-the-top entrants have fundamentally changed consumer behaviour.

These structural changes require structural solutions. Broadcasters are doing their part, investing in new content and new technologies, following audiences onto new platforms, but they remain hindered by unsustainable and inequitable regulatory obligations. This is why the sector welcomed the introduction of Bill C-10.

The Broadcasting Act is 30 years old, and it shows. The act presumes there are limited ways for content to reach Canadian audiences. This presumption arose at a time when Canadians could only watch or listen to programs over the public airwaves. Because licences to operate broadcasting channels over those airwaves were scarce, they were valuable. Broadcasters' regulatory obligations, especially with respect to Canadian content, were proportionally high.

Today, because audiences have a multitude of content platform options, traditional broadcasting licences are no longer worth what they once were. Nevertheless, regulatory obligations have remained as onerous as ever, and in some cases have become heavier. This has left Canadian broadcasters as some of the most heavily regulated businesses in Canada, attempting to compete in one of the most profoundly disrupted industries in the world.

Together, these trends have created an existential crisis. A study published by Communic@tions Management Inc. last summer estimates that local TV and radio broadcasters stood to lose more than \$1 billion in revenues between 2020 and 2022. This situation is simply untenable.

Canada's private broadcasters are not interested in turning back the clock. They are optimistic about the future, they want to continue evolving with Canadians and they remain committed to providing cultural and economic value to the nation. However, they can no longer shoulder the same significant obligations they always have, and they can no longer do it alone. This is why the changes that Bill C-10 will enact are so critical and why we need to move forward expeditiously.

Bringing digital broadcasters into the regulatory system is a necessary first step, which Bill C-10 gets right, but it is not enough to simply apply a parallel regime to extract additional dollars from digital giants. We need to rebalance obligations and create a modern, agile and sustainable regulatory framework that will allow Canadian broadcasters to adapt to the marketplace for decades to come.

These changes are particularly vital for sustaining one of the most important services that our domestic broadcasting industry continues to provide: local news. In an era of misinformation and global pandemics, it is critical that we identify the ways to continue to support local news voices that reflect the reality of the communities in which they live and reflect a fair and accurate vision of Canada back to Canadians.

• (1315)

We must start by empowering local news providers to do what they do best. We know, certainly, that digital giants will have little interest in delivering the evening news in Lethbridge, Saskatoon, Peterborough or Quebec City.

We know that the bill as presented is not perfect. I know that in the coming meetings you will hear from other broadcasters with

varying footprints in the Canadian industry, and they will express a range of views. However, I'd like to leave the committee with two key principles on which private broadcasters agree.

**The Chair:** Mr. Desjardins, do it very briefly, please.

**Mr. Kevin Desjardins:** First, now is not the time to add new regulatory obligations on Canada's broadcasters. You may hear from groups who have enjoyed growth over the past decade as they benefited from the broadcasting system, and they will be seeking greater assurances. They may even suggest that the CRTC oversee the commercial relationship between broadcasters and producers, or that additional quotas for certain programming be instituted. This is simply not the time for such discussions.

Secondly, I'd urge you to recognize that the legislation that is being amended is the Broadcasting Act. This legislation—

**The Chair:** Mr. Desjardins, the bells are ringing. We have about 28 minutes to the vote.

I was going to suggest that we get five minutes from the Independent Broadcast Group, considering we heard the first two, although I see that Mr. Rayes has his hand up. We do have some flexibility in the time before the vote. I'd like to hear from the third group if that's okay.

Mr. Rayes, go ahead, please.

[*Translation*]

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

I just wanted to know what the plan was.

This is the first time I've had to vote during a committee meeting. Previously, we all had to stop what we were doing and make our way to the House. Since we're doing things virtually, I'd like to know what the process is, so we can plan accordingly.

Once the meeting resumes, we'll already be into our second hour. Does that mean we won't hear from all of the witnesses in the first panel, or are we just going to continue the meeting with them and reschedule our time with the second panel?

We don't have much time to prepare, so I'd like some clarification, please, Mr. Chair.

[English]

**The Chair:** Thank you for that. Yes, for clarification, what I suggested earlier was that we keep going until the votes. As you know, even one vote takes close to an hour, so that would bring us to approximately 2:30 or three o'clock. I don't think it's enough time to do justice to three people doing their testimony. The issue is too important for that, if I may say so.

What I suggested was that we return and do a committee meeting in camera and just do committee business. If you do not wish to do that, that's fine too. I can email you my vision for what I'd like to see for the coming days and meetings.

What I'm going to do right now, in the very quickness of time, is to say to our friends from the Independent Broadcast Group that I hope you can do five minutes or less, because I would like to hear from you. I will reinvite all six groups today to come back on March 12, tentatively. I think that's only fair, given the situation we are in. It's not your fault. It's democracy at its best—or worst, depending on how you look at it.

Nevertheless, I'm going to go quickly to the Independent Broadcast Group.

Mr. Rayes, if you have further questions, you can email Aimée and I'll deal with it right there.

We have Mr. Fortune and Monsieur Perreault.

Monsieur Perreault, it's nice to see you again, sir. You have five minutes. Pardon me if I have to be a little strict on it.

• (1320)

[Translation]

**Mr. Luc Perreault (Strategic Advisor, Independent Broadcast Group):** Good afternoon, Mr. Chair and members of the committee.

My name is Luc Perreault, and I am a strategic adviser at the Stingray Group, a member of the Independent Broadcast Group, or IBG.

Joining me is Joel Fortune, legal counsel at IBG.

Our group represents 12 independent broadcasting undertakings, which are not affiliated with any of Canada's big cable companies or satellite-television distributors.

Our membership is made up of radio and television broadcasters who are also active throughout the digital media sphere. We provide Canadians with wide-ranging content, from local news, music, weather forecasts and alerts to documentaries, magazine programs, lifestyle programming, dramatic series and sports.

We provide that content in English, French, indigenous languages and 25 third languages spoken in Canada today.

In many ways, independent broadcasters represent Canada's diversity. Collectively, they are major employers in the media sector. We estimate that 40% of all employees in the broadcasting sector work for independent broadcasters. That is equivalent to thousands of jobs and, according to a 2019 study, more than \$2.5 billion in direct and indirect economic activity.

Bill C-10 would update the Broadcasting Act to take into account the realities of the Internet. It's critical to get this right. However, the bill has a glaring gap because it fails to regulate Internet-based distribution. Mr. Fortune will now speak to that.

[English]

**Mr. Joel Fortune (Legal Counsel, Independent Broadcast Group):** Under the existing Broadcasting Act, the CRTC has the authority to oversee all aspects of the broadcasting industry, and the CRTC's powers are technologically neutral. Bill C-10 will change this. The CRTC's authority to oversee companies that use the Internet to distribute programming services will be stripped away.

What does this mean in practical terms? First, Canada's cable satellite and IPTV distributors are all moving to Internet-based distribution. Once these established distributors move to the Internet, the foundation for the existing CRTC rules will be gone. This includes the foundation for rules that ensure Canadians have access to Canadian services and the rules that protect consumers, such as those that require advance notice of service changes.

Second, new global web giants are entering the Canadian market with their own distribution platforms. This includes making apps and services available through services like Amazon's Fire TV Stick and Apple TV, and also on set-top boxes like Roku and other Android devices.

Canadian programming services are already in a battle for visibility and fair access on all these platforms and others. No one knows what the future holds, but the Internet is not immune to consolidation and market abuses. Some elements of the emerging Internet of 20 years ago are now dominated by a few web giants. Governments around the world are awake to the potential harms this can cause, but Bill C-10 is not.

The CRTC needs the basic authority to oversee how Canadian services are treated and to make sure we have fair access to our own market, including on Internet platforms.

IBG has proposed simple changes to Bill C-10 to preserve the CRTC's authority over Internet distribution: first, to ensure that Canadian services are visible to consumers; second, if necessary, to require designated Canadian services to be offered on Internet platforms; third, to make regulations regarding the distribution of programming services, regardless of the technology used; and fourth, to resolve disputes between different types of broadcasting undertakings.

The act must also include related policy objectives for Internet distribution, which we propose.

Lastly, Bill C-10 removes the objective of Canadians' having any ownership interest in our own broadcasting system. We have proposed updated language that safeguards this objective while recognizing the importance of diverse and independent media ownership.

We have tabled our proposed amendments with the committee.

Incidentally, if the committee is concerned regarding how consumers are treated by Internet distributors, you may also wish to look at new paragraph 9.1(1)(f), introduced in clause 7 of Bill C-10, to make sure that it does not exclude the Internet, which it currently does.

Thank you for the opportunity to make these remarks. We greatly appreciate the committee's invitation to appear before you today.

**The Chair:** I thank you for that.

Okay, folks, that brings us to the end of our witness testimony. Let me outline once again. We have about 20 minutes left until voting time, so here's what I'm proposing. With that timing, it will be around 2:30 eastern time when we conclude the vote.

I suggested earlier that we come back for committee business, only to outline what I was thinking about the timing of this study of Bill C-10 and the date proposed for when we can start clause-by-clause. I have a date in mind right now, but given that we're already inviting people back, I suspect that date may be moved.

It's just a discussion, but if you feel that time... I know you were anticipating a vote today, and I know you're probably anticipating that this will be cancelled. I didn't communicate that we would be doing committee business, so I respect that. I would like to have a committee business meeting, but if you don't and I get a critical mass of MPs who don't want to go, that's fine. I can communicate via email what I was thinking about the timing.

Are there any comments from that?

• (1325)

[*Translation*]

Mr. Champoux, you may go ahead.

**Mr. Martin Champoux (Drummond, BQ):** Mr. Chair, I just wanted to comment on your suggestion.

I agree that it's a good opportunity to deal with some committee business, time permitting. During the next few meetings, we'll probably be quite busy hearing from witnesses.

As we saw today, the unforeseen can occur, so I think it's a good idea to come back after the vote to discuss previously moved motions and work planning.

[*English*]

**The Chair:** Okay, I see some thumbs up around the screen.

We will, either at 2:30 or following the vote, whichever is later, get together for a few minutes. Hopefully it won't take long.

I want to thank, from the bottom of my heart, Madame Pilon, Monsieur Desjardins, Monsieur Perreault and Mr. Fortune. I also want to say my apologies to Madame Guay, Mr. Skolnik, Madame Noss, Mr. Morgan Lewis, Monsieur Péladeau and Madame Tabet. I apologize, if you are listening at this point, because we are going to have to.... It's not enough time to do justice to this, especially given your testimony on this important issue.

We will tentatively reschedule for March 12. If that changes, we will let you know and we will invite you back. You just scored yourselves 10 minutes on opening remarks, instead of five. Congratulations. I bid you all a good weekend.

Colleagues, we'll see you after the vote. Thank you.

[*Proceedings continue in camera*]

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