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• (1550)

[English]

The Vice-Chair (Mr. John Nater (Perth—Wellington, CPC)): I call this meeting to order.

Good afternoon, everyone. Welcome to meeting number 11 of the Standing Committee on Canadian Heritage.

Once again I'll be chairing today's meeting in Ms. Fry's absence, so we'll muddle our way through. If anything happens to me, we have Mr. Champoux on deck as our designated survivor, our second vice-chair.

Voices: Oh, oh!

The Vice-Chair (Mr. John Nater): I do want to acknowledge that this meeting is taking place on the unceded traditional territory of the Algonquin Anishinabe people, and, of course, the territories of those who are attending virtually as well.

Pursuant to the motion adopted by this committee on Monday, January 31, 2022, the committee is meeting for its study of the Status of the Artist Act and its impact on improving basic working conditions for artists.

Today's meeting is taking place in a hybrid format pursuant to the House order of November 25, 2021. Members are attending in person in the room and remotely using the Zoom application. The proceedings will be made available via the House of Commons website.

I'm going to skip the next paragraph for those in person. You know the rules. For those participating virtually, I would like to outline a few rules to follow. You may speak in the official language or your choice. You have the language option choices at the bottom of your screen of either the floor, English or French. If interpretation is lost, please inform me immediately and we will ensure interpretation is properly restored before resuming proceedings. Before speaking, please wait until I recognize you by name. When speaking, please speak slowly and clearly. When you are not speaking, your mike should be on mute. I remind you that all comments by members should be addressed through the chair.

We have six sets of witnesses with us this afternoon. Each set of witnesses will be given five minutes to make opening statements.

When you get near the end of your opening statement, I will try to gently interrupt you to let you know when time is coming to an end. If I do so, would you wrap up with the last few sentences. If you're not able to finish your opening statements, we do have writ-

ten copies with us as well, and you might be able to make note of them in answers to questions.

Without further ado, we will go to our opening comments, beginning with ArtSpring and Mr. Howard Jang, executive and artistic director.

Mr. Jang, the floor is yours for five minutes.

Mr. Howard R. Jang (Executive and Artistic Director, ArtSpring): Thank you very much.

My name is Howard Jang and I am of Chinese descent and a fourth-generation Canadian. I would like to take a moment to express my gratitude for the privilege of living and working on Salt Spring Island, the unceded ancestral territories of the Coast Salish First Nations people of Salt Spring and our surrounding areas.

Over the past 30 plus years I have dedicated my career to building the right environment for the artist and the arts to succeed. Recently I joined the community arts centre, ArtSpring, here on Salt Spring Island. Our cause sounds deceptively simple—to enrich lives and build communities through the arts—but the impact is great and the potential is enormous.

Prior to being with ArtSpring I was with the Banff Centre for Arts and Creativity, where our cause was to be a resource for the advancement of arts, culture and leadership—an artists-focused mandate. It showed me very clearly what environment was needed to support artists of all disciplines throughout their entire career. And, most recently, as executive director with the BC Alliance for Arts + Culture and board member for the Dancer Transition Resource Centre, for me the capacity and funding gaps were so obvious.

It would be an understatement to say that the past three years have been the most disruptive in modern history and continue to be. It is also widely understood that the arts and cultural sector will be one of the last that will begin to enter a recovery period.

In terms of recovery, we have been using the phrase for several months that there's "light at the end of the tunnel", but I would certainly say that the light we see at the end of the tunnel is so different from the light we entered it on. With restrictions and mandates lifting we are now beginning to see a clearer picture of what our new world will look like.

Excuse the analogy, particularly here in British Columbia, but it feels like we have been hit by an earthquake and we are trying to rebuild from the ash and rubble. We know we must rebuild to become earthquake proof.

A comprehensive study released a couple of months ago in the U.K. entitled “Culture in crisis—Impacts of Covid-19 on the UK cultural sector and where we go from here” provided a comprehensive understanding of what the cultural sector is facing. “Culture in crisis” shares research findings from one of the world's largest investigations into the impacts of COVID-19 on the cultural industries. Over 15 months of research findings were shared in real time with policy-makers, and more widely so that the cultural sector policy and practice could be informed by evidence emerging from the project.

Here are three key findings.

For audiences, while the shift to digital transformed cultural experiences for those already engaged with cultural activities, it failed to diversify cultural audiences.

For the workforce, the cultural sector is undoubtedly at an inflection point and facing imminent burnout alongside significant skills and workforce gaps.

For organizations, in light of the pandemic and Black Lives Matter, many cultural organizations re-evaluated their purpose and their relevance to local communities, which was complemented by increased local engagement.

We need to rebuild with the goal of regrowth, re-emergence and sustainability.

Our most single pressing issue is how our current models of funding can respond to the changed needs of artists, audiences and communities as we move toward the new light of greater social, racial and environmental activism in our work and presentations. The arts hold up a mirror to our world while also pointing the way forward. Ford Foundation president, Darren Walker, said “the arts create empathy, and without empathy, you cannot have justice.”

You have asked us to talk about how the Status of the Artist Act has an impact on improving the basic working conditions of artists. As it relates to the Status of the Artist Act, the primary focus is on working conditions, and the definition of an artist in the act is as an independent contractor, in essence part of the gig economy. The act does not address basic needs.

This much we know. The gig worker was the most disrupted part of the economy due to COVID-19. If you were to ask an artist how much money they earned, they will tell you that in terms of monthly income, not annual income, because making ends meet is the most pressing issue.

The Canada emergency response benefit provided \$2,000 per month in guaranteed income along with the Canada emergency wage subsidy, which subsidized employee wages for eligible businesses. The fact that the government was able to provide this emergency support so quickly and with few bureaucratic hurdles for applicants proves that what is often deemed impossible is actually not.

While CERB was the closest Canada has come to a federal basic income program, it still left many out and was dependent on meeting a previous employment threshold. Here's how one artist put it: “COVID is the best thing that has ever happened to me. I was in a position I had never been in before. I could make the work I wanted

to make with no restrictions. The security put things in a different perspective.”

• (1555)

This is where basic income differs. Basic income programs are not tied to employment, and unlike welfare and disability assistance, they do not require constant monitoring to determine eligibility and deservedness. Recent examples in Ireland, Finland and New York state give me hope that providing basic income is good for the economy and well-being.

The Vice-Chair (Mr. John Nater): Mr. Jang, I'm sorry to interrupt, but we're at the end of your five minutes. Could you wrap up in a couple of sentences and come back to that in questions?

Mr. Howard R. Jang: I will.

I can give the examples of Ireland and Finland and upstate New York. Addressing the income crisis will advance the recovery period of our sector, which is, as I have said, the last in line.

Thank you for your time.

The Vice-Chair (Mr. John Nater): Thank you very much, Mr. Jang.

Next we will go to Digital First Canada. Scott Benzie is the executive director.

Mr. Benzie, the floor is yours for five minutes.

Mr. Scott Benzie (Executive Director, Digital First Canada): Thank you, Chair and committee members, for allowing me to speak today.

My name is Scott Benzie. I am the lead coffee-getter of a new organization called Digital First Canada. Our main goal is to ensure that artists who choose digital platforms as a distribution model are heard and included in important discussions like these.

I would like to say at the outset that I certainly don't speak for all digital creators, as they are a far too diverse collection of Canadian storytellers, but I'm happy to lend my insight where it's valuable. I know that the topic of this meeting is the Status of the Artist Act. I promise to do my best to limit my statement to that act.

I would like you all to ask yourselves one question when considering the act: Are digital first creators artists, and are they covered under the act? If you come to the answer that, yes, they are, there are a few places in the act that I would like to address.

The proclamation states:

(b) the importance to Canadian society of conferring on artists a status that reflects their primary role in developing and enhancing Canada's artistic and cultural life, and in sustaining Canada's quality of life;

(c) the role of the artist, in particular to express the diverse nature of the Canadian way of life and the individual and collective aspirations of Canadians;

I think we would all agree that those are admirable. I hope the government would in no way pass legislation that would violate that proclamation and decide which artists are more valuable.

If you believe digital creators are covered under the artists act, I ask you this: Are they also eligible for tax incentives, tax credits, averaged salary declaration, access to EI and other programs that we're discussing here, or do they have to be a member of an approved union, lobby group or association to have their artistry validated?

There are more digital creators in Canada than any membership of any organizations we hear from all the time in these meetings, but today, nothing in the act covers the rights of the digital creator—rights that should be protected with their platform partners, and, more importantly, the right to not have the government intervene and decide what types of content should be discovered and what should not. The act discusses at length the rights of artists when negotiating with producers, but makes no mention of the rights of artists who are their own producers, who own their own content and who should have the ability to compete equally globally, on global platforms.

If you believe digital first creators are covered under the act, I invite you all to have some conversations with us before making decisions that affect us.

Now, in turn, maybe you think digital first creators are not artists covered by the act. That's okay. Maybe you think digital creators are influencers, and cat videos, and young kids in their parents' bedroom. I assure you that they are not. They are filmmakers, documentarians, musicians, dancers, comedians and the modern variety show. But they do not need your validation. If you believe digital first creators should not be covered by the act, you would agree that we shouldn't be writing legislation that would punish them under the cover of an act that doesn't include them.

Let me tell you what would be at risk. Canada is number one on the planet in percentage of content that is exported around the world on YouTube. I'm going to say it again: They are number one on the planet's second-largest search engine—English and French, indigenous and new immigrants, marginalized and silenced, and, yes, sometimes even cat videos—shout-out to Oreo Cat on TikTok.

Thousands of creators make a living and employ thousands of people. This is not a bunch of 18- and 19-year-olds doing very well, although it's great to see some of that too. The next generation of Canadian creators is not waiting on permission or approval from media giants. They are launching their careers on open platforms.

Creators have fostered the great Canadian cultural renaissance without an artists act, without a lobby group and without a handout. If you don't want to support what we're doing and listen to us when it comes to making decisions that will affect our livelihoods, we kindly ask that you get out of the way. There has been a divide created between digital creators and more traditional artists, but it is a false one. We support all artists in Canada, and we hope they get everything they deserve. We would love to help. We are all, in the end, just trying to find our audience. Digital creators just choose a different distribution model, one that relies on complex technical models and a global playing field.

I would like to end on a positive note. Despite a pandemic, despite a lack of access to any government programs or funding, and despite being a relatively small country when compared with the machine to the south, there are more people around the world today consuming Canadian content, generating export and tax dollars and exploring our culture direct from the mouths of Canadians than at any point in our history. That should be celebrated.

Thank you.

• (1600)

The Vice-Chair (Mr. John Nater): Thank you, Mr. Benzie.

Next we will hear from the Directors Guild of Canada and Mr. Dave Forget, national executive director, and Samuel Bischoff, public affairs manager.

Gentlemen, the floor is yours.

Mr. Dave Forget (National Executive Director, Directors Guild of Canada): Good afternoon, everyone. Thank you Chair, vice-chairs, and members of the committee.

My name is Dave Forget and I am the national executive director of the Directors Guild of Canada. With me today is Sam Bischoff, public affairs manager.

We appreciate the committee's invitation to present DGC's comments on the federal Status of the Artist Act and its impact on working conditions for artists.

The DGC is a national labour organization representing key creative and logistical professionals in the film, television and digital media industries. Today, we have over 6,000 members covering all areas of direction, design, production, logistics and editing. In 2018, the Canada Industrial Relations Board updated the DGC certification to represent the functions of director, assistant director or first assistant director, computer graphics designer, set designer, location manager, picture editor, sound editor, and art director, excluding artists covered by the certification granted to other artists organizations.

First enacted in 1992 and substantially revised in 1995, the federal Status of the Artist Act is directed at improving the economic and social status of professional artists. In practice, this federal legislation presents a number of limitations. While its purpose is to establish a framework to govern professional relations between artists and producers, our experience as a labour organization is that it's not achieving its initial promise.

At the moment, the only group represented by the DGC that is covered under the act is directors and assistant directors working on National Film Board productions. The act does not have the reach to cover most self-employed creators working on film and television production.

The reality is that federally regulated employers such as the CBC or other private broadcasters no longer typically hire DGC members directly under contract as they used to. Instead, they commission content to be produced by independent producers, who in turn enter into contracts with DGC members under a DGC collective agreement. Therefore, in practice, only a very small proportion of DGC members are working under the jurisdiction of the act.

Nonetheless, we do have some experience working with the act and have some comments on how the act is functioning for artists working under the National Film Board production contract.

First, the Status of the Artist Act lacks effectiveness and provides little provision to reach a scale agreement. In practice, even when a party is willing to negotiate, additional issues may arise. It has been difficult, for example, for the guild to conduct a complete negotiation to secure both the initial and subsequent agreement with the National Film Board. Our initial agreement took over five years to negotiate and our subsequent renewal agreement, which was just recently ratified by our director members, took over two years.

For this reason, the DGC recommends including a provision in the act that ensures binding arbitration for a first contract as is currently the case in Quebec's Status of the Artist Act, as well as in provincial and federal labour codes.

The benefits to artists derived from the act are only available once an agreement is secured. Keeping in mind the precarious nature of working conditions, any delays in the process only further negatively impact the artists. Any measure that would ensure meaningful bargaining would be a significant improvement.

Moreover, even in such a clear example as with the National Film Board, in our experience, whenever the NFB collaborates with the co-producer, often the co-producer becomes the engager and the agreement falls to the side. This includes all the protections that have been negotiated, such as collective rights, minimum rates of pay and contributions to health plan and retirement plan, among other things. Of course, this also further diminishes the effectiveness of the act.

Furthermore, we've noted in our experience how much technology redefines the work of artists and their categories. This prompts the need to make the act more flexible and responsive to technological change. It has become necessary to update the definition of what an artist is and simplify the recognition process. The DGC recommends updating the act's definitions and language to move beyond traditional filmmaking into more digital spheres of audiovisual endeavours.

Based on our experience, we hope we've provided practical recommendations for improvements that would serve to strengthen the act.

Members of the committee, I want to thank you for your time.

Samuel and I would be pleased to answer any of your questions.

• (1605)

The Vice-Chair (Mr. John Nater): Thank you very much, Mr. Forget.

[*Translation*]

The next witness is the representative for the *Guilde des musiciens et musiciennes du Québec*.

Mr. Lefebvre, the floor is now yours.

Mr. Éric Lefebvre (Secretary-Treasurer, *Guilde des musiciens et musiciennes du Québec*): Good afternoon.

My name is Éric Lefebvre, and I'm the secretary-treasurer of the *Guilde des musiciens et musiciennes du Québec*. First and foremost, I would like to say a few words about our association. It has about 2,700 members, including musicians, instrumentalists, conductors, arrangers, orchestrators, in short, people who practise just about every profession related to being a professional musician. We're affiliated with the American Federation of Musicians, and we're known as local 406 within that federation. We're also accredited under federal and Quebec legislation on the status of the artist to represent all professional musicians in Quebec.

As part of our activities, we negotiate collective and framework agreements with producers in virtually all areas of artistic production. We understand that Canada's Status of the Artist Act applies primarily to federal institutions and broadcasting undertakings under the jurisdiction of the Canadian Radio-television and Telecommunications Commission, or CRTC.

Within our federation, we have indeed negotiated collective and other agreements with the Canadian Broadcasting Corporation and the National Film Board, which are important agreements because of the standards they promote and which are frequently applied by production companies that obtain the services of artists subject to provincial government regulations. Unfortunately, that is not always the case, and we still have to deal with a significant number of independent producers, who cannot be regulated in any particular way to ensure that agreements with reasonable working conditions can be reached between artists and those producers.

At the same time, we believe that the Status of the Artist Act could play an even greater role with respect to the performers, musicians and singers when their recorded performances are broadcast or distributed on an online platform, be it an audiovisual platform or a sound recording platform.

In a 2014 Supreme Court decision in *Canadian Artists' Representation v. National Gallery of Canada*, the court upheld the ability of an artists' association to negotiate royalties for authors of pre-existing works in a framework agreement under the Status of the Artist Act. This reality that was noted by the Supreme Court is a step in the right direction that would allow us, as performers, if given the opportunity, to negotiate terms and conditions for royalties related to the use of recorded performances by musicians and singers.

A problem arises for us with the Copyright Act, under which producers who are not signatories to a collective agreement, in the case of audiovisual works, are not required to pay royalties to performers. In order for performers to receive royalties when their performances are recorded as part of a film, video or television program, it would be important for artists' associations to be able to negotiate directly with federal undertakings and CRTC-regulated organizations, as provided for in the act, a framework agreement providing for the payment of compensation without regard to the fact that a collective agreement or contract has been previously negotiated for the payment of a royalty. It is therefore important to ensure that the Status of the Artist Act and the Copyright Act are complementary acts.

In addition to the right to negotiate, it is also important that individual creators and artists have rights to their works and performances. The Copyright Act was amended in 1997 and 2012 to benefit performers, but this has not diminished our concerns about the performances of our member musicians and singers. In fact, a section of this act ensures that performers lose their rights to their performances when they agree to have them integrated into an audiovisual work. In this context, it would be important for the Status of the Artist Act to allow for the negotiation and payment of royalties related to the use of a video, film or television program, whether the content is broadcast or distributed on an online platform.

In 2018, we appeared before this committee and expressed our concerns, which have unfortunately not changed since then. Creators and artists continue to grow poorer. The pandemic has obviously not helped artists make a living from their art. Furthermore, the Copyright Act, as it stands, does not allow us to improve our remuneration.

- (1610)

The structural changes in the industry created by Google, Amazon, Facebook, Apple and Netflix have turned the middle class of musicians into a class of poor artists.

The Vice-Chair (Mr. John Nater): Mr. Lefebvre, please wrap up your presentation in a few sentences.

Mr. Éric Lefebvre: Okay.

We suggest that the committee include in the Status of the Artist Act the possibility for artists' associations to negotiate terms of use that would apply to content broadcast and distributed on online platforms.

Thank you for your attention.

The Vice-Chair (Mr. John Nater): Thank you very much, Mr. Lefebvre.

[English]

Next up we have the International Centre of Art for Social Change and Judith Marcuse, founder and director.

Ms. Marcuse, the floor is yours.

Ms. Judith Marcuse (Founder and Director, International Centre of Art for Social Change): Thank you so much. Thank you for inviting me today.

I am 75, an artist, producer, educator and consultant working here in Canada and abroad, most recently with the World Health Organization in Geneva on the arts and well-being in relation to the UN's sustainable development goals. I have been involved with arts policy questions over some five decades.

Today, I'm taking a wide shot about the well-being of Canadian artists, and it should take five minutes and 25 seconds if I speak correctly.

Prepandemic, professional artists in Canada earned 46% of the median income of all Canadians. The incomes of BIPOC artists are significantly lower. According to Hill Strategies, 72% of professional arts workers are independent gig workers. Some 94% of all arts funding in Canada goes to the largest arts institutions: opera, ballet, symphonies, museums etc., leaving 6% for the rest of the sector. The Canada Council is Canada's largest granter.

These are just three statistics, but they speak to the ongoing struggles of most artists and their organizations simply to survive. Many are predicting that there will be reduction and triage of government spending soon, putting the sector and its artists in further jeopardy.

On May 7 last year, some 50 arts organizations and arts service organizations signed and sent a letter titled "Reframing the Arts" to then heritage minister Guilbeault and 44 other officials. It proposed a fresh, more inclusive approach to arts and cultural policy, including better recognition of community-engaged arts. This is a sector of over 400 professional arts organizations and hundreds of independent artists who work with and within communities in every corner of Canada. We have yet to receive a response to that May 7 letter.

I have some thoughts to share.

We need an inclusive scan of Canada's whole, interconnected arts ecology, a multilayered mapping. It would collate existing data and fill in the gaps. The last full national survey was carried out by the Massey commission in 1949, 70 years ago. The landscape has changed radically, and policies that impact artists need to respond to today's realities.

I advocate for a universal basic income. Basic income programs for artists are currently running in Ireland, Finland, and New York State. Ireland also provides pensions to their artists. A model of guaranteed income, in the form of CERB, has been a critical economic survival mechanism for artists during the pandemic.

Status of the artist legislation will not fulfill its potential without changes to tax and labour codes, including income averaging for artists and tax relief for those who donate to arts organizations, of similar size to the tax deductions allowed in the United States. We also need changes to EI that respond to the self-employed status of the majority of arts workers.

I propose that Canadian Heritage support and convene a dialogue with non-arts policy makers and, very importantly, with those who are now open to integrating the arts into their own change agendas, especially in the areas of health and well-being, the environment, social justice, housing, immigration, job creation and economic development. These partnerships create employment. The doors to arts integration are more open than ever before, providing new earning possibilities for artists.

Reinstitute regular exchange across geographical and jurisdictional silos, involving Heritage officials, Canada Council, provincial and territorial arts councils, municipal arts agencies, foundations and artists. Some funders are currently really addressing the inequities of arts funding policies and adjusting them to become more inclusive and fair.

Develop more clarity on Heritage's role vis-a-vis the arts and culture. Expand Heritage's current very limited parameters for support of artists' professional training and capacity-building. Develop new supports for community-engaged artists whose work directly affects the well-being of families and communities.

I advocate for the Canada Council to become considerably more transparent, responsive and accessible to the artists it is tasked to serve. I would be pleased to provide more context for this recommendation.

Arts education at all levels is a critical element of a healthy, interconnected arts ecology. Heritage can liaise with arts educators, researchers, national organizations and policymakers. The situation for arts education across the country is truly dire, and jurisdictional barriers should not be an excuse not to talk.

• (1615)

Look to policies that are working outside of Canada—the extraordinary success of social prescribing in the U.K., the pensions and other support for senior artists in many countries, and the arts organizations that are also social enterprises. It's a long list.

Critically now for the well-being of artists, define how we re-frame arts and cultural policy, not as something separate from us but as an essential, creative element in all our lives, a way to imagine, co-create and nurture connection and possibility and solutions, even across difference. I believe support for the rights and well-being of our artists is core to the well-being of our country.

Thank you.

The Vice-Chair (Mr. John Nater): Thank you, Ms. Marcuse.

Our final panellists this afternoon are from the Screen Composers Guild of Canada. Mr. John Welsman is the president and John Rowley is the vice-president.

The floor is yours.

Mr. John Welsman (President, Screen Composers Guild of Canada): Thank you.

Mr. Chair, members of the committee, it is my distinct pleasure to appear before you today to discuss the Status of the Artist Act. My name is John Welsman. I'm president of the Screen Composers Guild of Canada. With me is John Rowley, vice-president of the SCGC.

SCGC is certified under the Status of the Artist Act to represent all anglophone screen composers and producers of music for audio-visual services in Canada. SCGC's members create musical scores and background music for original television and film productions. They work with other members of the creative team to conceive and develop the sound of the production. They write and perform the music, sometimes in collaboration with other musicians and performers. Screen composers embrace the latest in digital technologies to oversee every aspect of the engineering, mixing and editing of the sound recordings. They synchronize the music to the picture and deliver individual musical components to the production's mixers. They adjust and amend the score as required by the media producer.

When a media producer engages a Canadian screen composer for a project, it triggers one point under the "key creative points" system used by CAVCO and the CRTC to determine whether a screen project officially qualifies as Canadian content for regulatory and taxation purposes.

Over to you, John.

• (1620)

Mr. John Rowley (Vice-President, Screen Composers Guild of Canada): The Status of the Artist Act is a key instrument for ensuring that artists and creators are equitably remunerated for their work by producers and other intermediaries who engage the services of key creatives and assemble their contributions into a finished TV or film project.

SCGC members are the only points-generating key creators in the Canadian content system without a collective agreement with the Canadian Media Producers Association. This leaves the screen composers that SCGC represents in a marginalized and vulnerable position, which some CMPA members exploit by demanding as a condition of engagement that SCGC members surrender their intellectual property rights and revenues that rightfully belong to the composer as author and maker of the score under Canada's copy-right framework.

The demands from CMPA members are often accompanied by “work for hire” and “work made in the course of employment” language, even though the Status of the Artist Act recognizes that artists and creators who are hired by producers are independent contractors, not employees. In fact, where such language is included in agreements, the agreements between independent media producers and screen composers often go on to stipulate that no employer-employee relationship exists.

Where producers demand a grant of screen composers' rights and revenues, demands are typically couched in this type of language as a “take it or leave it” condition. If the screen composer refuses, they won't get the job.

I should note that this situation is unique to anglophone screen composers in Canada. AQPM, representing Quebec-based francophone media producers, has entered into an agreement with SPACQ, representing francophone screen composers.

I'll hand it back to John Welsman.

Mr. John Welsman: We have on multiple occasions requested that CMPA sit down in good faith to negotiate the type of scale agreement that the Status of the Artist Act makes possible, and that CMPA has negotiated with every other organization that represents creative and technical contributors to film and TV projects in Canada. Every time we ask, CMPA finds an excuse to avoid negotiations. Most recently, they actually told us they were too busy negotiating scale agreements with other creator organizations to talk with us.

This situation is ironic, given CMPA's strident advocacy in favour of regulated terms of trade to protect producers from forced buyouts by broadcasters. This is why SCGC has proposed three amendments to the Status of the Artist Act.

SCGC respectfully recommends the following: first, the definition of producer should clearly capture independent media producers; second, forced buyouts should be a prohibited pressure tactic under the act; and third, the act should make explicit the board's authority to order arbitration at the sole expense of the recalcitrant party.

We thank the committee for the opportunity to be here today and look forward to answering any of your questions.

The Vice-Chair (Mr. John Nater): Thank you very much.

That concludes our opening comments. We will now move into our rounds of questions. The first round will be from each party for six minutes each. We will begin with Kevin Waugh from the Conservatives for a six-minute round.

Kevin, the floor is yours.

Mr. Kevin Waugh (Saskatoon—Grasswood, CPC): Thank you, Chair.

Welcome to all six groups.

It's interesting looking at the Status of the Artist Act. Technological changes is a big area when we look at this act. Should the Status of the Artist Act be amended now?

I'll send this to Mr. Benzie with Digital First.

We've seen so many changes in the last number of years. With technological changes, people are getting their information in new ways and their entertainment has certainly changed in this country and in the world.

Can I just start there? Should the Status of the Artist Act be amended for the technological changes that we're seeing today in the world?

Mr. Scott Benzie: Thank you, Mr. Waugh, for your question.

The truth is that it's not that easy. I think trying to lump an industry like ours all into one act with a bunch of different creators and artists with different needs would be really difficult. Half of our world is technology. Half of our world is understanding very complex algorithms and very complex technical decisions that our artists have to make on a day-to-day basis.

If there's going to be one catch-all act for all artists in Canada, it certainly should be amended to include technology and digital-first creators. It might be more fruitful to do separate, quite frankly, because I don't know that our needs are really the same, other than trying to find an audience.

• (1625)

Mr. Kevin Waugh: I learned a lot on Monday, and then you backed it up by saying Canada leads the world in percentage of content that is exported today on YouTube. Darcy Michael and Oorbee Roy were here on Monday and they both gave us their stories.

Do you have thoughts on that?

Mr. Scott Benzie: Going back to the original stat that we both quoted, 90% of Canadian digital creators' audiences consume their content from outside of Canada. We're number one in the world. I think the COO of YouTube said there are other countries around 70 or 80%, which is great, but we're the only one at 90%.

It's important because it's so different from conversations we're used to having about culture in this country. I don't know that for digital-first creators the importance of having their content prioritized and shown in Canada is as important as it is for some other artists. We have to compete globally on global platforms. Currently we're the best in the world at doing it.

Mr. Kevin Waugh: Yes, you are competing worldwide.

Are digital creators covered under the act? Should they be covered under it or should they not be covered? What's your impression?

Mr. Scott Benzie: The truth is I don't have an answer. I posed that question to you guys to have that conversation.

As the act is now, it would be silly for us to be in it. It doesn't even address any of our needs.

I really think that question is something to consider when we're talking about legislation going forward in this country. It's not like digital-first creators are going away or that our impact culturally in the world is going to be lessened in the next few years. I think when we're making any legislative decisions, we really have to take a good hard look at digital-first creators and the impact that we might have on them.

Mr. Kevin Waugh: It's probably the biggest growth area in this country right now. Would you agree?

Mr. Scott Benzie: There's no doubt about that.

I'm careful not to use words like “new” and “emerging”. A lot of our creators have gone through.... My peers and colleagues here in traditional arts have found themselves distributing digitally. These people have been doing it for a very long time. They've just chosen to find their audience a different way.

Mr. Kevin Waugh: I'm going to move over now to John Welsman and John Rowley.

How long as your disagreement with CMPA been going on?

Mr. John Welsman: We first approached CMPA through the DGC, who is present here today, in a sort of partnership back in 2015.

I forgot to thank you for your question. I'm sorry.

At the time, we were told there was simply no appetite on the part of CMPA for including composers in the agreement. Since that time, we've approached them three times and each time we've been met with, simply, the door is closed at this time or there's no interest. The most recent one was that they don't have time, as I mentioned.

Mr. Kevin Waugh: That's disappointing, isn't it, because the composing of music is the most important thing in any production? Often to us in media, sound is the most important thing, so when I heard your story and that you don't have an agreement.... Despite composing being the most important thing in any production, seven years later you're still trying to get an agreement. That should be, as all former broadcasters, a concern. Wild sound and music are number one; picture is second, so I feel your pain here in committee today.

Mr. John Welsman: I appreciate your thoughts and couldn't agree more.

I could never have imagined I'd be appearing before a heritage committee to talk about this, but over time it's become clear that there just isn't the interest on their part. Because of the slight unclarity in the act—and this speaks to one of our suggestions for the act—I suppose CMPA doesn't feel compelled to sit down with us. The intent of the Status of the Artist Act was to give groups like ours, which are certified under the act, the power to bring these federally appointed entities to the table.

We did undertake...a few years ago with CTV—that was before 2015—and we kind of got caught when they were purchased by Bell.

• (1630)

The Vice-Chair (Mr. John Nater): I do have to stop you there, Mr. Welsman, but maybe we'll have another chance to finish that thought in another round of questioning.

Mr. Coteau, from the Liberals, the floor is yours for six minutes.

Mr. Michael Coteau (Don Valley East, Lib.): Thank you very much.

I want to thank everyone for their presentations. They were really insightful.

I just want to say that I have a lot of respect for artists in Canada. You promote Canadian culture, you maintain our identity, and especially during this time period, coming out after COVID, it means so much. Thank you so much for everything you do.

I'm going to continue with you, Mr. Welsman, if you don't mind.

I just have a couple of really quick questions. You're saying that when someone in your field creates music, as a composer for a TV show or a movie, technically you don't collect the royalty rights afterwards for that content? Is that correct, usually?

Mr. John Welsman: At the time a piece of music is composed, under the Copyright Act in Canada, the composer is the sole owner of that copyright.

When we negotiate our deals with independent producers, there is an imbalance of power—we have to face it here—and in that negotiation, they are frequently asking us to assign the copyright to them, or a portion of it. That effectively means that a portion of the downstream revenue, the royalties that would come to us through SOCAN—formerly SODRAC—would then be diverted to the producer or shared in some way.

Mr. Michael Coteau: I'm going to jump back in.

You're saying that once it's created and there is negotiation, you could receive 20% royalty rights and they'd get the 80% for future use—I'm just making this up.

Are you saying that it's really hard as a composer to negotiate because otherwise they'll just go somewhere else? Why can't you just negotiate a better deal?

Mr. John Welsman: Well, there are other composers, and they do essentially.... It's a take-it-or-leave-it proposition for some members of the CMPA. We should be clear here: This is not all media producers by any stretch, but it's increasingly common that they're exerting that pressure. We have had mid-career composers who aren't starting out—they should be commanding their full rate—with an offer on the table that could be one quarter—

Mr. Michael Coteau: I'm going to jump in, John, and I'm not trying to be rude. It's just that I have six minutes and I have a bunch of questions. I think this is a very interesting point.

Explain this. You're saying that in the Quebec model, they have a system in place where there is a negotiated collective agreement that protects composers like you, so they often end up with much better deals. Is that what you're saying?

Mr. John Welsman: That is essentially it.

Mr. Michael Coteau: Okay.

I'm going to jump now to Mr. Éric Lefebvre from the music guild of Quebec.

[*Translation*]

Thank you, Mr. Lefebvre.

Thank you for your presentation.

[*English*]

My French is not very good, so I'm going to use the interpreters if that's okay.

I just want to ask you a question. The negotiations that take place in Quebec are usually for all different types of benefits. Does it range from pensions to different types of health benefits etc., or is it specifically just for contract work?

[*Translation*]

Mr. Éric Lefebvre: It depends on the association the producers are negotiating with. For example, in terms of benefits, the only thing that's negotiated for musicians is a pension fund. The Union des artistes has managed to negotiate a pension fund and group insurance for its members. However this is generally not the case. For example, the Association des réalisateurs et réalisatrices du Québec only succeeded in negotiating a share of remuneration, which is paid into an RRSP or some kind of pension fund.

Generally speaking, few artist associations are able to negotiate attractive benefits. This is the exception rather than the rule.

• (1635)

[*English*]

Mr. Michael Coteau: Right.

How much time do I have left, Mr. Chair?

Mr. John Nater: You have a minute and a half.

Mr. Michael Coteau: A minute and a half. Thank you so much, sir.

I'm going to go back to John, if that's okay, from the Screen Composers Guild of Canada.

Are there models out there where there are co-operatives or guilds that look to come together within your sector to negotiate, or do you have to go through the larger organizations like the CMPA, as I think it's called?

Mr. John Welsman: If I may, my counterpart has a legal background. If he would, I would like him to answer that question.

Mr. Michael Coteau: We have one minute left—maybe 50 seconds.

Mr. John Rowley: If I can reframe that little bit, I would say that all of the other points generating key creatives within the CanCon system do have agreements with CMPA. CMPA represents all of the anglophone independent media producers, so it really is the organization that the other key creatives have their agreements with. That's certainly where the screen composers would want to have their agreement.

Mr. Michael Coteau: I would love to have a follow-up meeting with the both of you if you have some time in the future. Thank you for your time.

Mr. John Rowley: We'd appreciate that, thank you.

Mr. John Welsman: Thank you very much.

Mr. John Nater: Thank you, Mr. Coteau.

[*Translation*]

Mr. Champoux, you have the floor for six minutes.

Mr. Martin Champoux (Drummond, BQ): Thank you, Mr. Chair.

I also want to thank the witnesses appearing before the committee today. It's a pleasure to welcome them and benefit from their expertise.

My first question is for Mr. Bischoff or Mr. Forget of the Directors Guild of Canada.

You talked about the difficulties of negotiating, which are mitigated by Quebec's status of the artist legislation, compared to the Status of the Artist Act of Canada.

What would you recommend to ensure that this federal legislation also facilitates your negotiations with producers?

Mr. Dave Forget: Thank you for the question, Mr. Champoux.

I'll answer in English because I don't want to make any mistakes.

[*English*]

It's quite simple. We're asking for a provision to be included, particularly for first agreements, that there be binding arbitration. If negotiation in the first instance is not successful, what the Quebec law provides for is a binding arbitration that will ensure that an agreement is in place.

We don't have that benefit on the federal side, and the result, as you see from our testimony, was that our first agreement with the NFB was six years in the making. The recent renewal of our agreement—and we're glad that we concluded an agreement—took two years to do.

[*Translation*]

Mr. Martin Champoux: Thank you.

I'll now turn to Mr. Lefebvre, who also addressed the issue of negotiations.

Mr. Lefebvre, what do you think of the Directors Guild of Canada's request?

Mr. Éric Lefebvre: Arbitration is indeed one of the solutions. In fact, one of our requests was mandatory arbitration, not just for the first agreement but for subsequent agreements as well. It's still a fairly cumbersome exercise, because arbitration means that you have to go to court and the parties have to retain counsel.

I'll give you an example. We negotiated an agreement with the Association québécoise de l'industrie du disque, du spectacle et de la vidéo, or ADISQ, in the phonogram field. ADISQ is the association that represents record producers—that's what CDs were called at the time. The first agreement that was negotiated expired in 1996. Subsequently, we were never able to renew it. We have been negotiating for more than 20 years with an association of Quebec producers that represents sound recording and record producers.

We also hope that the provincial legislation will be amended because it has some shortcomings, including the definition of the word “producer”. There are also gaps in the federal legislation, as I noted when listening to my colleagues.

For example, broadcasters commission television programs from independent producers, who then hire artists. As I understand it, independent producers aren't covered under federal legislation. Canada's Status of the Artist Act covers broadcasting undertakings and federal institutions. If the federal legislation more broadly defined the word “producer”, it would be possible to designate the producer as the one who bears the financial risk. It would be easier to say that we will negotiate with a broadcaster, with CTV, for example, which would be required to negotiate with an artists' association.

Right now, broadcasters are saying that they aren't the producers and that they have no responsibility to negotiate with any association. So they wash their hands of it. If broadcasters had the opportunity to negotiate working conditions, we would indeed find it much easier to ensure that artists could agree to reasonable working conditions. Ultimately, the financial risk is borne by the broadcasters.

• (1640)

Mr. Martin Champoux: Mr. Lefebvre, you mentioned broadcasters. This gives me an opportunity to follow up on one of the comments you made in 2018 about the presence of online broadcasters.

What has been the impact of online broadcasters or streaming companies on your profession or specialty?

How will the passage of Bill C-11 address these shortcomings?

Mr. Éric Lefebvre: As I understand it, Bill C-11 will bring online platforms under the authority of the CRTC. This could help the Status of the Artist Act so that online platform operators would become interlocutors. Currently, we cannot send a notice to bargain or ask an online platform operator to come and negotiate with an

artists' association. It is currently impossible. We can't establish a legal link.

As you were saying, online platforms have significantly changed the way music and audiovisual works are consumed. In sound recordings, the sale of physical albums has fallen dramatically. A lot of the revenue that was generated by the music industry is now in the pockets of online platform operators outside the country. Just to give you an idea, for every sale of a record costing \$25, the producer received \$10—

The Vice-Chair (Mr. John Nater): Mr. Lefebvre, I'm sorry for interrupting you, but we have to move on to the next speaker.

[*English*]

Mr. Julian, it is your round for six minutes. The floor is yours.

[*Translation*]

Mr. Peter Julian (New Westminster—Burnaby, NDP): Thank you very much, Mr. Chair.

I'd like to thank all the witnesses for being with us today.

I'm grateful for their contribution to Canadian society and the Canadian economy. As artists, they do so in a number of ways.

We hope they will stay safe and sound during this ongoing pandemic.

Mr. Lefebvre, you talked about binding arbitration, and you also raised the issue of covering the costs of artists entering the binding arbitration process. My understanding is that there may be a disadvantage for the artist in the context of arbitration.

Should we find a way to support artists when it comes to binding arbitration?

You also raised a rather serious issue in relation to web giants and streaming companies.

Do you find that tools such as binding arbitration can be useful when it comes to web giants?

Mr. Éric Lefebvre: I will go back briefly to what I said earlier. It's better to go to arbitration than to have no agreement at all. Our organization is currently in that situation. We have been negotiating with a producer association for more than 20 years, without a collective agreement. Obviously, in such a situation, it's preferable to go to an arbitrator, who will determine the working conditions.

My point was that it's a fairly cumbersome process. However, it's better to have this process in place than to end up with working conditions that are impossible to renew, because the parties remain in their position for years. In general, it's easy for a producer association to stick to its position and not enter into a collective agreement. That doesn't improve the lot of artists and their working conditions.

On the issue of broadcasters and online platforms, right now it's impossible to negotiate with online platforms under the current regime. However, if Bill C-11 is adopted, it may give us the opportunity to at least engage in some kind of discussion with online platforms on compensation conditions, which are related not only to the use of the works, but also to the performances. This will also allow artists to be remunerated for the use of all the content that ends up on an online platform.

• (1645)

Mr. Peter Julian: Thank you very much for your comments.

I'm a New Democrat, and I'm in favour of binding arbitration, but it has to be useful to artists at all stages of the process.

[English]

I'm going to go to Mr. Forget and Mr. Welsman now because both of you also mentioned binding arbitration as being essential. Thank you very much for giving us some idea of what it's like to conduct negotiations with the National Film Board and the CMPA.

To what extent do we need to make sure that the binding arbitration is in place, but also that it isn't to the disadvantage of artists, that there are resources available as well? How would that change the Status of the Artist Act to ensure that you're actually getting good-faith negotiations with these institutions?

Mr. John Welsman: Again, because of my colleague's legal background, I would like John Rowley to respond if he would.

Mr. John Rowley: Thank you.

With regard to the kinds of support that would be meaningful, this notion of the cost being at the recalcitrant party's expense, in the case where they dig in their heels and refuse to move negotiations forward in a meaningful way, would be a useful tool to enable an organization such as ours without huge resources to be able to put CMPA on notice to move things along, if the changes are made to the definition of producer, and then, if things aren't moving along, to make an application to the board and have the board step in and impose arbitration.

Mr. Peter Julian: Thank you.

Mr. Forget.

Mr. Dave Forget: I think there's certainly a consensus that having binding arbitration would help the process. What it would do is ensure that a deal was secured.

With regard to the costs, all of those are issues to be considered, but maybe I could frame it this way. The prospect of binding arbitration might be the encouragement that some parties need to come to the table and bargain meaningfully and arrive at a deal. The prospect of binding arbitration might be the thing that ensures that a

deal gets made in the old-fashioned way, with a coming together. It certainly would be helpful.

Thank you, sir.

Mr. Peter Julian: Thank you.

Mr. Benzie, I'll ask you the same question. With the global platforms, with the web giants, would the ability to have binding arbitration not be helpful for the folks you represent?

Mr. Scott Benzie: My initial reaction is no. Are you suggesting that individual creators negotiate with their online platforms?

Mr. Peter Julian: I'm suggesting that [*Technical difficulty—Editor*] pushes the online platforms to actually provide an adequate income or return to artists.

Mr. Scott Benzie: Again, it's a really different and difficult question for people in our position. Digital creators cover everything from people making two dollars a month to people making a million dollars online. The ability for each individual creator to arbitrate with an online platform is impractical. Do you want them to arbitrate with each individual platform? They all have different discovery models.

There are easier solutions to problems with online creators—

The Vice-Chair (Mr. John Nater): I do have to end it there, Mr. Benzie and Mr. Julian. Thank you for that round.

We will now move to our second round of questioning. This is the five-minute and two-and-a-half-minute round. I will be very tight with the timing on this round. We have limited time and we want to get through the whole round.

We will start with the Conservatives.

Rachael Thomas, the floor is yours for five minutes.

• (1650)

Mrs. Rachael Thomas (Lethbridge, CPC): Thank you.

Mr. Benzie, I will direct my questions to you. I want to thank you for being here. I believe it's important for us to hear about digital first creators, because it's something [*Technical difficulty—Editor*] definitely not given enough space or time to within Parliament. Certainly, these are individuals who are helping to shape the culture of our country.

You outlined in your remarks that of course digital creators are punching above their weight. I think they deserve a great deal of celebration in that regard. At the last committee, we were able to hear from Darcy Michael and Oorbee Roy. They both came forward and shared their success stories, which was very inspiring for us.

During his time, Darcy Michael expressed some concerns with regard to Bill C-11, the streaming act, and if it should pass, the fact that it would have quite detrimental consequences for him. Of course, the same would be true for Ms. Roy and many other digital first creators as well.

Mr. Bittle at that time berated Mr. Michael here at committee. However, he wasn't satisfied, I guess, so he took it to Twitter. On Twitter he accused Darcy of parroting "misinformation" about Bill C-11.

I guess what I'm wondering from you, Mr. Benzie, is this. You're someone who has reviewed Bill C-11 in depth. You're someone who I believe is an authoritative voice—it's quite evident—with regard to digital first creators in Canada. Can you provide some further insight? Will Bill C-11 impact digital first creators or will it not?

Mr. Scott Benzie: Thank you, Mrs. Thomas.

To address the first point, about creators coming to committee, I'd like to thank the committee, actually, for having us involved, finally, in these discussions. Digital first creators don't have lobby groups. We don't have associations.

That's why, Mr. Julian, negotiating with the platforms is just impractical for us. We don't have teams of lawyers and lobby groups who can put all that together.

You know, for those creators to step forward and tell their stories I think is really important, and I think it's important for everybody to hear them. Things are changing in our cultural world. I'm hopeful that they'll come back. I'm hopeful that, going forward, we're treated with the same respect as my other colleagues here on the call. That's all I'll really say about that.

With regard to throwing around terms like "misinformation", the fact of the matter is that Darcy was absolutely correct. This bill will have a dramatic impact on digital first creators. An argument can be made that user-generated content is absolutely still in this bill. That exemption, clause 4.2(2)(a), is far too vague. It's far too broad. There are no guidelines. It basically includes the entire Internet. I'm hoping that when you guys start to debate Bill C-11, we're welcomed back to this table to have that discussion.

I'll add one last point. I've heard terms like "parroting misinformation" myself in conversations with heritage members and with other MPs—that we just don't understand the bill, or we're not smart enough to understand the bill, or we don't get it, or we're just parroting misinformation. It's condescending and it's not true. Hopefully, you'll listen to us when we're having these conversations going forward.

Mrs. Rachael Thomas: Mr. Benzie, thank you for your answer to that. I want to give you an opportunity to expand on that a bit more.

We have heard from the heritage minister that in no uncertain terms does Bill C-11 include user-generated content, that Bill C-11 has fixed that mistake that was in Bill C-10. I guess I'm just wondering what your response to that would be.

Mr. Scott Benzie: Well, it's not true.

I don't want to attribute everything to malice, because sometimes it's just ignorance and not understanding this. Our world is very complex. As the minister has said, 4.1 excludes social and digital content. In that bill, 4.2 brings it all back in. The framed "sandbox", as he called it, that would give the CRTC jurisdiction over that bill is actually the Sahara Desert.

I think the first point in that exclusion is any content that "directly or indirectly generates revenues". That's the entire Internet. That's everything, because even if creators are creating something that they're not making money on, platforms are running ads against it, so it's generating revenue. Anything that has an internationally recognized code is literally any piece of musical content that has ever been produced and has a grid code, so if my niece is singing a Shawn Mendes song in her basement, by the letter of the bill, that could be covered, with CRTC discretion, in the bill.

I think the minister and his team have said a lot of great things about the bill, and to my colleagues, I think this bill is important to you. There is just this issue about digital first creators and user-generated content that doesn't need to be in it.

• (1655)

The Vice-Chair (Mr. John Nater): Thank you, Mr. Benzie. I'm sorry, but we do have to leave it there.

Next up we have Tim Louis from the Liberals for a five-minute round.

Tim, the floor is yours.

Mr. Tim Louis (Kitchener—Conestoga, Lib.): Thank you, Mr. Chair.

I want to thank all of our witnesses. This has been extremely helpful to hear.

I would like to start with Mr. Jang. We haven't heard from him since the beginning, but he really set the tone.

It was something you said, Mr. Jang. You said that artists don't say how much they make per year; they say how much they make per month. As a musician for my whole life, that really resonated with me. I actually would set goals for how much I would need to make each week for what bills would get paid that week, so I wanted to set the stage. We've talked about it today: The median income of artists is almost 50% lower than of all Canadians.

The volatility, especially in the performing arts section, which we would be very aware of as we have heard that repeatedly, is not because people didn't want to work, but because they couldn't work. We've also heard that most artists don't have any of the social benefits such as paid vacation time, sick leave, maternity or paternity leave, supplementary health care through an employer or any kind of retirement or pension, yet at the same time, about half the artists are self-employed.

As you have seen, your performing arts centre has so many different sectors. What extra challenges do you feel all those factors have for someone whose career already was precarious before the pandemic and now faces a sector that admittedly, as you said, is going to be one of the last to recover? What can we learn from supports and what can we do moving forward?

Mr. Howard R. Jang: I focused on basic income because one of the words that jumped out to me when you were asking us to appear was for us to talk about the “basic working conditions”. The word “basic” is actually pretty critical. One other area that I did not have time to get into and is not necessarily a federal area is the area of housing as well, and the issues around housing.

When we talk about basic needs, we are talking about, as I said, the reference to stating your income in terms of monthly income, which comes from a long study that has been done and which I've read, with interviews of 200 artists, artists who are not the celebrity artists. They are the ones who are really trying to make it on the bare minimum.

Housing is the issue. Income is the issue. Also, it's housing as it relates to not just where they live, but where they do their work, the studios in which they need to work, with the equipment they need to have. When I was at the Banff Centre, one of the things we did to encourage a residency was that instead of paying for the residency in their home, we paid for them to rent equipment so they could do the work they needed to do.

These basic needs, the infrastructure, are really what's at stake right now.

Mr. Tim Louis: I thank you. I wish I could expand on this, but I want to move on just because my time is limited.

Mr. Welsman and Mr. Rowley from the Screen Composers Guild, I know—we don't have to mention it now—that one of your asks that we talked about was child care, which would fit in with housing and those kinds of supports for people in need.

Today we heard “take it or leave” conditions from you. We heard about surrendering legal creative rights, and you and I have spoken about maintaining legal creator rights and those copyrights. I know we've heard it before, but I think it bears repeating that you're the only key creatives in that Canadian content certification system who are asked to surrender their legal creator rights. You mentioned that Quebec doesn't have that condition, so what can we learn from the Quebec model? Also, if you don't mind, can you expand on one of your asks, which was about the definition of a producer, to make sure we capture those independents?

Mr. John Welsman: Thank you, Mr. Louis, for the question.

Briefly about the Quebec situation, it was AQPM, the producers organization in Quebec, that negotiated an agreement. I believe it was under the provincial status of the artist act in Quebec. Whichever is the case, they have an agreement with the composers guild there, SPACQ. This ask from producers doesn't take place in Quebec, so we are treated differently in English Canada.

I will ask my colleague John Rowley to expand on that.

• (1700)

Mr. John Nater: If you could do so in about 20 seconds, that would be great.

Mr. John Rowley: Thank you.

Tim, what did the second part of the question relate to?

Mr. Tim Louis: It was on the definition of producer that captures independents.

Mr. John Rowley: Yes. Right now the act is ambiguous as to whether those producers who actually execute on the broadcaster's requirements to participate in a CanCon system are captured. It's unclear. We believe they're captured but we would like clarity in the act to make sure that it's clear that they are and that we can put them on notice to negotiate.

Mr. John Nater: Thank you for that round, Mr. Louis.

We will now move to Monsieur Champoux.

[*Translation*]

Mr. Champoux, you have two and a half minutes.

Mr. Martin Champoux: Thank you, Mr. Chair.

I'd like to talk to Mr. Benzie a bit and set the record straight, in a way.

Mr. Benzie, we had artists here on Monday, “TikTokers”, if I can put it that way. They are very successful, and that's very good. You also said that we didn't really know what we were talking about when we discussed this. I find it a little condescending to appear before a committee, when we're discussing the Status of the Artist Act, and talk about something completely different and say that we don't know what we're talking about.

On the contrary, we are very open to artists who produce content on digital platforms. In fact, I call them artists, Mr. Benzie. My door is wide open, and I would welcome them to listen to their expectations and to see how we can include and represent them, especially since user-generated content must not be regulated. I find it a bit rich when you and people in your industry treat us as if we don't know what we're talking about.

That being said, in your first intervention, you raised the fact that you were not absolutely convinced that you met the criteria that would allow you to be defined as artists. Personally, I think that you are artists by right, and the Status of the Artist Act gives you the opportunity to form an association and perhaps obtain the strength you need to negotiate with the platforms.

On Monday, Mr. Michael, who has been quoted several times by my colleagues, talked about the danger of regulating this industry, but he was quite happy to say that he was part of the Alliance of Canadian Cinema, Television and Radio Artists, or ACTRA, and that he had his pension fund and the benefits that come with it. Your organization could consider something like that. Once again, Mr. Benzie, I'm telling you that my door is wide open. You say that you have been patronized by the members of Parliament you have met. Personally, I have never had a request to meet with anyone from your organization, but I would be happy to sit down with you.

When we talk to online platforms like YouTube and TikTok, we understand each other. They know that broadcasting activities can and should be regulated. They agree with that. We agree that freedom of expression must be protected and that users who want to share content on digital platforms must do so without being subject to the same regulations as people and companies that have broadcasting activities. I think there is a case for agreement. We can sit down, discuss and respect each other's objectives. I think that, in order to do that, we have to lower our voices and treat each other with a minimum of respect. We may not understand your industry enough to your liking, but we are open to learning more. So I wanted to reach out to you today.

I have no further questions, Mr. Chair.

[English]

The Vice-Chair (Mr. John Nater): That is the time for that round.

[Translation]

Thank you very much, Mr. Champoux.

[English]

For the next round, we will move to Mr. Julian, who has two and a half minutes.

Mr. Julian, the floor is yours.

[Translation]

Mr. Peter Julian: Thank you very much, Mr. Chair.

I fully agree with what Mr. Champoux just said. It's important that we get to the bottom of things and that we ask good questions. It's also important that both sides feel respected.

That said, I will come back to Mr. Jang.

[English]

Mr. Jang, as you were giving your presentation, you were going to speak more about the examples in Ireland and upstate New York. I know you have other examples as well to give us. We've seen in other countries that artists are actually supported by things like a guaranteed livable basic income. Are these the kinds of things that can make a difference, and what are the international examples you really want to give us or reiterate?

• (1705)

Mr. Howard R. Jang: Thank you very much.

I mentioned three examples from Ireland. Under that country's basic income program, \$6 million was earmarked for \$1,000

monthly stipends for up to 130 artists and cultural workers. The recipients received their first disbursements early this past year with monthly payments to continue for at least the next six months.

In Finland there was actually a two-year study of the treatment for basic income. A group of 2,000 randomly picked initially unemployed people received a guaranteed, unconditional and automatic cash payment, although it was only a modest 560 euros per month instead of the basic unemployment allowance of a similar amount. McKinsey did a report on this two-year study and released it earlier this year. The final results from that are in, and the findings are intriguing. The basic income in Finland led to small increases in employment, significantly boosted multiple measures of the recipients' well-being, and reinforced positive and social feedback loops.

In upstate New York they launched a pilot of universal basic income for 100 Ulster County residents, and those residents, who must make less than \$46,900 annually, received \$500 monthly cheques for a year.

The results are coming in on this kind of very basic need, and it's actually about the nets that are there to really support the work. I quoted an artist who talked about the impact of the CERB program here in Canada and what that actually did to free them up to create the work they wanted to create.

The Vice-Chair (Mr. John Nater): Thank you, Mr. Jang.

Thank you, Mr. Julian. That concludes that set of questioning.

The next round goes to Ms. Gladu.

Marilyn, you have five minutes.

Ms. Marilyn Gladu (Sarnia—Lambton, CPC): Thank you, Mr. Chair.

Thank you to all the witnesses.

As a recording artist, an author and a former stand-up comic, I will say that certainly the arts are quite important to me. I want to start by talking about who's covered by this act and who's not.

I'm going to start with you, Mr. Benzie. You were a bit reticent to comment on whether or not you were covered. Is there a concern that if you were covered you would be over-regulated, or what is the concern there?

Mr. Scott Benzie: To be completely honest, I had no idea this act existed up until about a month ago. digital first creators have never had to operate under any rules or regulations to make themselves successful. We've never really needed the government to intervene on our behalf, so this is all relatively new to us.

I don't actually believe I can give you a very good answer, but the act itself says nothing about our world today.

Ms. Marilyn Gladu: But you haven't been regulated and there hasn't been any problem. Is that fair to say?

Mr. Scott Benzie: That's correct. In fact, our organization didn't exist before Bill C-10, and I hope it doesn't exist six months from now, but we'll see where that goes.

Ms. Marilyn Gladu: Very good.

Mr. Forget, you talked about how this act doesn't cover self-employed artists, and we saw, in some of the programs the government rolled out, that anybody who was self-employed kind of fell through the cracks in those. Do you think the self-employed artists should be part of this act?

Mr. Dave Forget: The act does cover the self-employed. I think what we're talking about here is precarious workers, gig economy workers. I'll give you the example of our directors. When they're hired by the NFB to direct a production, they are hired as contract workers. They are hired only for the purpose of fulfilling that task. So the contract, the engagement for that work, is subject to the act, while the contracts that cover all of the directors who do similar work for the National Film Board are negotiated collectively by the directors guild. So it's just to keep in mind that we are not talking about continuous employment and engagement.

Also, by the way, if you will permit me just a quick comment, in our last renewal with the National Film Board, we actually included a provision for TikTok videos. They are really short-form videos that are exhibited on platforms like TikTok. We call them TikTok videos for shorthand, but they could just as well be on YouTube. The NFB recognizes that this is short-form content so it clearly seems to recognize that the artists who are working on content that will be exhibited on those platforms are artists and are subject to the legislation provided that the employer—in this case it is the National Film Board, but if it were the CBC hiring someone at arm's length to do similar work, they would also be subject to it. I just don't want to make it—actually I'm trying to make it less complicated. We don't represent those artists, but in our view, those are creative artists and they certainly should be covered by the same protections that we provide for other artists.

• (1710)

Ms. Marilyn Gladu: Excellent. Thank you.

[*Translation*]

Mr. Lefebvre, you talked about artists and the differences between those who create audio content and those who create videos, films, television programs, and so on. These artists lose their copyright.

What can the federal government do to correct that?

Mr. Éric Lefebvre: Quite simply, it could repeal section 17 of the Copyright Act. This provision ensures that a performer's rights related to a performance can no longer be invoked when the performance is integrated into a film, video or television program.

Furthermore, Canada is not yet a signatory to the Beijing Treaty on Audiovisual Performances, which deals specifically with the performances of performers that are integrated into audiovisual works. This international treaty was negotiated a few years ago. It might be a good idea for Canada to adhere to it and, by doing so, to

ensure that the Copyright Act is consistent with this international convention. That would give performers a number of rights.

The Vice-Chair (Mr. John Nater): Thank you very much.

[*English*]

Mr. Bittle, the floor is yours for the final round of questioning, for five minutes.

Mr. Chris Bittle (St. Catharines, Lib.): Thank you very much, Mr. Chair.

Mr. Benzie, we're dealing with organizations under the Status of the Artist Act, and they're transparent organizations. Like these organizations that we're dealing with, was there an election for your position to be representing digital first creators?

Mr. Scott Benzie: No, there wasn't an election to my position. Our organization is generally about three months old, and we're working through all of that now. We're new here.

Mr. Chris Bittle: Okay.

Mr. Scott Benzie: I just didn't realize that I had to register as a lobbyist.

Mr. Chris Bittle: Will your members be allowed to vote on positions that the organization takes?

Mr. Scott Benzie: When we formalize the board, yes. That paperwork is currently sitting with PR departments of different organizations.

We don't have functional members. We're not making people pay to join our organization.

Mr. Chris Bittle: Okay. That's fair.

Mr. Scott Benzie: We're really just providing information as best we can back to the creators themselves because, like I said, they don't have a lobby group.

Mr. Chris Bittle: As an advocate for them, have you advocated for better compensation for digital first creators?

Mr. Scott Benzie: Yes.

Mr. Chris Bittle: I don't see that on your websites or on your Twitter account.

Have you advocated for more funding for production for digital first creators?

Mr. Scott Benzie: Yes, many times.

Mr. Chris Bittle: I don't see that on your website either, or on your Twitter account.

Mr. Scott Benzie: Do I have a chance to explain it?

Mr. Chris Bittle: I'll keep going.

Have you advocated for better training and development for online creators?

Mr. Scott Benzie: Yes. We run workshops all the time. In fact, we did a program called "Road to Freedom", where we went into indigenous communities and trained young indigenous voices on how to be digital creators. We left behind gear, information and infrastructure for them to continue to be Canadian storytellers. We run workshops every year for digital first creators. We have another organization called "Buffer Festival", which is an arts festival.

Digital First Canada didn't exist because it didn't need to until Bill C-10.

Mr. Chris Bittle: From some your comments, I guess I'm concerned that your organization is more of an anti-Bill C-10, anti-Bill C-11, organization than a pro-creator artist organization.

My concern is that these platforms have incredible unchecked power over creators. These are some of the largest companies in the world, and in looking at your website and your Twitter account, both for you personally and for your organization, they are absent anything except for C-10.

My question is whether everything is hunky-dory with these major corporations and no changes are required, because that's what's coming through loud and clear from your silence on social media and on the Internet.

• (1715)

Mr. Scott Benzie: No, absolutely not, and if you would like to have a separate hearing on all of our issues with the platforms, I'm happy to have it. Right now, we seem to be aligned on an issue, which is crazy. I'm normally arguing with platforms on behalf of digital first creators and have been for 10 years. I'm happy to have that conversation with you. Any time you want to give me call or send me an email, we'll have a meeting.

Mr. Chris Bittle: Well, I'm happy to have that meeting. It's been fairly combative between you and me the last few days or so.

This is a purely volunteer organization, your part in this...? You're not receiving any funding from tech companies in regard to this organization...?

Mr. Scott Benzie: Is it called "volunteer" if you're actually sinking your own money into the organization?

Mr. Chris Bittle: You tell me.

Mr. Scott Benzie: I don't know...I'm kind of paying to run the organization.

Buffer Festival started 10 years ago out of the Canadian Film Centre. We started a not-for-profit called the "Buffer Foundation" to train indigenous youth on reservations and teach them how to become storytellers. Coming out of that, COVID hit, and then Bill C-10 hit, and we realized that there needed to be an organization to speak for digital first creators because they were about to get railroaded, so we built Digital First Canada—

Mr. Chris Bittle: That's very good—

Mr. Scott Benzie: —as a creator-led organization—

Mr. Chris Bittle: —and it's incredible work for only three months in having done that, but again, where is all this advocacy that you're talking about? I can't find online any the work you're doing, the criticisms you have about the inequity that exists.

Even in speaking with Mr. Michael and Ms. Roy, there were significant differences in the compensation models they were experiencing, and you seem silent. Again, it just seems to be an anti-Bill C-11 platform that you're coming here on.

Mr. Scott Benzie: Right now, this piece of legislation will have a dramatic effect on almost every creator who earns a living online,

so yes, we are absolutely laser-focused on Bill C-11. It is a problem.

By the way, I also have a day job. This is something that I'm doing for passion, and something I believe in, which is why I'm doing it. I don't have lawyers. We don't have lobby groups or associations or paying members. We're just trying to speak up for a bunch of entrepreneurs who have earned their money online and don't want to be regulated by the government.

Mr. Chris Bittle: Thank you so much.

The Vice-Chair (Mr. John Nater): Thank you, Mr. Bittle.

That does concludes our round of questioning. I want to thank all of our witnesses.

[*Translation*]

I'd like to thank the witnesses who were with us today. It was a good meeting.

[*English*]

You're now free to go on with the rest of your day. Enjoy the rest of your day, and thank you for your time. You can now disconnect.

Committee members, could you stay on the line and stay in the room? I'm not going to suspend and we're not going to go in camera, if that's okay with everyone on the committee. We'll stay in public to do a quick couple of items of committee business. We'll just pause. We won't suspend.

Okay. I think we're back to committee members only.

We did leave our meeting on Monday without a decision on hearing from certain tax experts at this committee. There were some recommendations made by the Library of Parliament; it is up to the committee if we invite additional witnesses specifically on the tax side of things. I would look for direction from the committee as to what the preference is.

Ms. Gladu, I see your hand raised.

Ms. Marilyn Gladu: I think we've heard that there's an issue, so we should get some advice from those in the know, and perhaps a variety of opinions, as there's usually a diversity of thought on these things. I certainly think that would be fine.

The Vice-Chair (Mr. John Nater): It's Mr. Waugh and then Mr. Champoux.

Mr. Kevin Waugh: Definitely the Canada Revenue Agency should be invited. It would be first and foremost out of all the guests that should be invited. Maybe also the Canada Industrial Relations Board, the CIRB, should be as well. We should have those two. If we could get those next week, it would be great.

While the chair—

Mr. Martin Champoux: There are three minutes left.

Mr. Kevin Waugh: We have been advocating for years as you know, but today the Saskatchewan budget boosted the grant program. We're back in the film and television industry in my province of Saskatchewan.

Some hon. members: Hear, hear!

Mr. Kevin Waugh: They gave them \$8 million, so come to Saskatchewan and make movies, please.

The Vice-Chair (Mr. John Nater): I know Kevin's been talking about that in almost every meeting we've had over the last six months.

I will just say that the CIRB is already invited, so they will be attending.

Monsieur Champoux.

[*Translation*]

Mr. Martin Champoux: I agree with my colleague Mr. Waugh. I think it would indeed be very appropriate for us to hear from tax experts who are specialized in the field of culture and who are used to working in this sector, which we all know is not like any other.

I know that this may be a bit last minute, but we have suggested names of Quebec tax experts who work with Quebec artists. We have talked a lot about tax measures for artists in Quebec. I think it might be appropriate for us to hear from experts from Quebec, who could guide us in our thinking about what we could then apply to the Status of the Artist Act of Canada.

• (1720)

[*English*]

The Vice-Chair (Mr. John Nater): Are there any other comments? Ms. Fry did send me an email, and that was her comment, that we should hear from someone from Quebec who has the expertise in that side of things.

The recommendation has been made by Monsieur Champoux and Mr. Waugh that representatives from the CRA and a representative of the Quebec cultural taxation industry be invited. Is that...?

Ms. Thomas, I missed your hand.

Mrs. Rachael Thomas: Thank you, Chair.

Maybe, Chair, you could help me understand why we would hear from Quebec tax experts.

The Vice-Chair (Mr. John Nater): Sure, Ms. Thomas.

I would just say that I believe the original motion did include a comment about tax measures, and, specifically related to Quebec, they have an income-averaging program through their taxation system, which doesn't apply at the federal level. It's fairly unique to the Quebec experience, so I think that would be why, in this case, it's specific to Quebec. If Mr. Champoux agrees, that's my interpretation of the motion.

Mrs. Rachael Thomas: I have another question, Chair.

The Vice-Chair (Mr. John Nater): Yes, go ahead.

Mrs. Rachael Thomas: I'm just wondering if we've agreed to four meetings for this study whether we are still on track to complete it within four meetings or we are looking to expand that.

The Vice-Chair (Mr. John Nater): I would ask the clerk. I believe we would still do it within four meetings.

The Clerk of the Committee (Ms. Aimée Belmore): It's entirely at your discretion. I currently have the Canada Revenue Agency and two individuals proposed by Monsieur Champoux. If it's the will of the committee—not to steal your thunder, Mr. Chair—we're anticipating the CIRB and the Canada Council for the Arts on April 4, along with the department, which means that we will be having a meeting with two panels. Currently you've proposed three organizations. If you like, I could try to have the tax experts on the same day as the department if they're available that day. That would leave six witness positions open for Wednesday, March 30.

I do have more than six people on the witness list. I have about 10, which means that now I could most likely still fill the meeting, even if I have some refusals. If the committee likes that idea, then I can certainly pursue that.

Mrs. Rachael Thomas: Chair, with this conversation we're having today about these witnesses, does that mean we're knocking other witnesses off? I have a number of witnesses who haven't yet made it to this committee, as perhaps do others around the table.

The Vice-Chair (Mr. John Nater): I think, if I'm correctly interpreting what the clerk is saying, we have about 10 witnesses remaining and about six spots. That would probably take up the full six spots, assuming that there are always a number of witnesses who are unable to make it and who decline the invitation. I think we wouldn't be not inviting anyone who's been proposed.

Would that be correct, Madam Clerk? We'll just wait a second for confirmation there.

The Clerk: Yes, there are some witnesses on the list who will not end up getting an invitation, but as far as the witness names submitted by your party are concerned, I've contacted everyone.

The Vice-Chair (Mr. John Nater): If there's a consensus from the committee, we'll go ahead with that suggestion then, in terms of the names that have been proposed.

Some hon. members: Agreed.

The Vice-Chair: I see a consensus.

The clerk would also like to make a quick comment about committee travel.

No? It says right here that the clerk has a brief announcement about committee travel.

A voice: Don't go anywhere.

The Vice-Chair: There's no announcement about committee travel. We're not going anywhere, ladies and gentlemen. We're staying here. Do not leave.

As there is no further business, and if there's nothing further, this meeting is adjourned.

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