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• (1630)

[*Translation*]

The Chair (Hon. Hedy Fry (Vancouver Centre, Lib.)): I call the meeting to order.

Good afternoon.

Welcome to meeting number 27 of the House of Commons Standing Committee on Canadian Heritage.

I would like to acknowledge that this meeting is taking place on the unceded traditional territory of the Algonquin Anishinabe people.

[*English*]

Pursuant to the order of reference on Thursday, May 12, the committee is meeting to study Bill C-11, an act to amend the Broadcasting Act and to make related and consequential amendments to other acts.

Today's meeting is taking place in a hybrid format pursuant to the House order of November 25, 2021. Members are attending in person and on Zoom.

As per the directive of the Board of Internal Economy, those who are in the room must wear a mask. I would like to add that you may speak with a mask on—the clerk does so all the time.

I would like to make a few comments for the benefit of the witnesses and members.

Please wait until I recognize you by name before speaking. For those on Zoom, if you look at the bottom of your screen, you can see the microphone icon. Click on it to activate your mike, and please mute yourself when you're not speaking. You have a choice at the bottom of your screen for interpretation. There is a little globe, and if you press it you can get interpretation in the language of your choice. For those in the room, you know that you can use the earpiece on the desired channel.

Do not take any photographs of this meeting, please.

Everything you do must be directed through the chair.

I want to welcome the witnesses. Thank you very much for taking the time to come to this meeting today.

We have Justin Tomchuk, a producer who is appearing as an individual. We have Carol Ann Pilon, executive director of Alliance des producteurs francophones du Canada; Kevin Desjardins, presi-

dent, Canadian Association of Broadcasters; and Wyatt Sharpe, host of The Wyatt Sharpe Show.

Just for the sake of the witnesses, each organization has five minutes to present. I will give you a 30-second sign so that you know you should be wrapping up. You will have time during the question and answer session to finish your thoughts, if you didn't get to finish them in the five minutes.

We will begin with Justin Tomchuk for five minutes, please.

Mr. Justin Tomchuk (Producer, As an Individual): Thank you, Madam Chair.

My name is Justin Tomchuk. I'm a filmmaker, musician and entrepreneur based in Montreal. Along with my fiancée, I run two YouTube channels with sizable followings.

We produce what is known as user-generated content. Since our productions derive revenue “directly and indirectly”, as described in proposed paragraph 4.2(2)(a) of Bill C-11, it's clear that we would fall under the umbrella of the proposed regulations.

The first YouTube channel we operate covers how Canadian products are manufactured. The first company that we featured was a new business in Montreal that makes handmade candy. All videos that we made with them have gone viral, with their most popular one achieving 30 million views. From that, their company has made a ton of international sales and became well known online to the point that American tourists were crossing the border just so they could visit their shop in person.

We've since featured a guitar maker in Montreal whose video is approaching 10 million views; a cutting board company in Nova Scotia that reported a huge spike in online sales; and a maple syrup farm near Ottawa that received a wholesale order from as far as Kuwait. Some of our videos were shot entirely in French and still received millions of views from a mostly American audience.

All these videos were shot out of our own pocket, qualifying for no available arts funding, and despite that, they accomplished all of this economic activity. We never received any government funding whatsoever, because we don't qualify for it. Either our productions are deemed too small and we'd lose the intellectual property of our content, such as with the NFB, or we disqualify from arts funding because our productions are commercial in nature. In fact, because our business pays tax, we contribute funding to these programs that exclude us.

The second YouTube channel that we operate is a series of animated shows, and the majority of revenue is derived from merchandise sales such as clothing, posters, toys, vinyl records, etc., products that I source myself, some of which are from Canadian manufacturing companies. These products are exports and bring revenue into Canada and into manufacturing jobs.

Our channels have highlighted Canadian products for the world to see and purchase. Unfortunately, Bill C-11 would make that more difficult and potentially destroy our visibility internationally.

Bill C-11 implies vague changes to these platforms to prioritize Canadian content to Canadians, but it would in turn deprioritize Canadian content to an international audience. The social media platforms cannot allow Canadian content to enjoy heightened exposure to Canadians without detracting exposure internationally, as it creates an uneven playing field on the platform. Less Canadian content would be shown globally as a result.

Second, the recommendation algorithms consider whether a viewer stays to watch the content and for how long. Forcing Canadians to watch CanCon content through recommendations will result in lower audience retention, as the recommendations would no longer be based on their interests. This further deranks a video's standing and damages its visibility. Thus, this bill would hurt the exact content it is trying to promote.

Ninety-seven per cent of our viewers are international. Bill C-11 would make Canadian content a mirror instead of a window. It would stifle independent productions, result in more piracy, breed resentment among consumers and make it more difficult to attract an international audience to purchase Canadian products.

Proposed subparagraph 4.2(2)(a) needs to be removed from Bill C-11. Bill C-11 needs to make the distinction between paywalled premium distributors such as Netflix and user-generated social media platforms such as YouTube. The bill should be scrapped entirely, as it makes any online undertaking available in Canada, regardless of size, burdened with the obligations of the CRTC, which would reduce access of international content to Canadians. If this bill comes to pass, other countries may see it as precedent to adopt similar regressive laws, resulting in less Canadian content being shown internationally, effectively destroying any homegrown media and making it harder for even legacy media, not just digital creators like myself, to have access to emerging, premium, international distributors.

A solution to the problem Bill C-11 is trying to fix is to make streaming platforms give consumers the ability to filter content by region so that Canadian content can be shown when it's sought and not by force. If we are concerned with how these social media companies are impacting us as Canadians, we should legislate transparency into how the algorithms recommend content before we enforce changes to them and damage an entire thriving online industry.

Thank you.

• (1635)

The Chair: Thank you very much. You did have a few seconds left.

I'm going to the second witness, the Alliance des producteurs francophones du Canada and Carol Ann Pilon.

Ms. Pilon, you have five minutes, please.

[*Translation*]

Ms. Carol Ann Pilon (Executive Director, Alliance des producteurs francophones du Canada): Thank you, Madam Chair.

Good afternoon.

Thank you for the opportunity to contribute to the process leading to the necessary passage of Bill C-11.

My name is Carol Ann Pilon. I am the executive director of the Alliance des producteurs francophones du Canada, or APFC, an organization that brings together independent French-speaking producers in Canada's official language minority communities.

For more than 20 years, the APFC has been working to help the French-language screen industry thrive and gain exposure in Canada and abroad. Our mission is to showcase the outstanding content our members produce, and advocate for its cultural and economic significance by engaging with policy-makers to ensure the expression of diverse francophone voices across the country.

On February 2, the APFC welcomed the historic scope of Bill C-11 and its impact on Canada's audiovisual ecosystem. The APFC was especially pleased to see the return of the requirement to formally consider official language minority communities, which will apply to the entire broadcasting system going forward.

The pressure on the audiovisual sector is growing, as is the inequity. Foreign production is on the rise, more and more people are unsubscribing from traditional services, online consumption has skyrocketed since the pandemic, and the companies benefiting from that growth still don't have to make a significant contribution to Canadian expression or the objectives of Canada's broadcasting policy.

If the goal is to establish a system that is truly inclusive, fair and diverse, the government must move swiftly to regulate any company carrying out broadcasting activities, in whole or in part, in Canada. That includes social media and telecommunications companies.

The APFC is a member of the Coalition for the Diversity of Cultural Expressions, whose representatives the committee heard from last week. We agree with the measures the coalition is recommending to make Bill C-11 a better piece of legislation.

One of those recommendations is to bring back the terminology used in Bill C-10. In particular, the expression "official language minority communities" should be reinstated in Bill C-11, which instead refers to "English and French linguistic minority communities in Canada".

There is absolutely no denying the minority context of French in North America, but in recognizing that fact in Bill C-11, the government has created ambiguity about the meaning of the expression “French linguistic minority communities”. It could be interpreted to include francophones in Quebec, who obviously make up the majority in that province, and the provisions in question would then apply accordingly.

Keep in mind that Canada's broadcasting system is based on two language markets, English and French. The possibility of francophones in Quebec being considered a linguistic minority community could undermine the recognition and legitimacy of the two language markets.

Not only would that be unacceptable, but it would also represent a detrimental step backward for the rights of minority francophone communities and Canada's entire francophone population.

The way to avoid all ambiguity is simple. Bring back the term “official language minority communities”, and add a definition making it clear that the term refers to English-speaking communities in Quebec and French-speaking communities outside Quebec.

Similarly, we want the term used in Bill C-10 “original programs in French” to replace the term currently used in Bill C-11 “original French language programs”. This change would ensure that original content dubbed into French or containing French subtitles was not confused with original content that was originally produced in French.

The APFC also supports the amendments proposed by the Association québécoise de la production médiatique and the Canadian Media Producers Association. The amendments are aimed at ensuring that Canada's independent producers are able to negotiate fair and equitable commercial agreements for the content they develop and produce. Most of the independent producers the APFC represents are small and medium-sized businesses. If left to their own devices, they would have no leverage in dealing with the major broadcasting groups and foreign online companies, the broadcasting gatekeepers that make billions of dollars in profits every year. It is paramount that the CRTC step in to offset and regulate such a glaring imbalance to give Canadian companies the ability to own their own content and grow over the long term.

The modernization of the Broadcasting Act has been a long time coming, and the bill can still be passed at third reading before the House of Commons rises. Let's make sure the bill is grounded in reality.

Thank you.

I would be pleased to answer any questions you have.

• (1640)

[English]

The Chair: Thank you.

I didn't mean to cut you off. You did have a couple more seconds left. Thank you very much, Ms. Pilon.

We go now to the Canadian Association of Broadcasters.

Monsieur Desjardins, please go ahead for five minutes.

[Translation]

Mr. Kevin Desjardins (President, Canadian Association of Broadcasters): Thank you, Madam Chair.

Members of the committee, thank you for the opportunity to speak to you today about this important bill.

The Canadian Association of Broadcasters, or CAB, is the national voice of Canada's private broadcasters, representing more than 800 members around the country, including the vast majority of private radio and television stations and specialty services.

[English]

The Broadcasting Act is fundamental to the way that broadcasters are regulated in Canada, and as you've certainly heard, it's well out of date.

I know you've heard from many parties on this bill and its predecessors, and you know the essentials: That technological change has vastly transformed the way that Canadians receive and consume audio and visual content, and Canadian broadcasting policy has failed to keep pace with this change.

Unregulated foreign players have had a decade to enter the Canadian marketplace without any hindrance or oversight, and Canadian broadcasters compete directly with them for subscribers, the rights to content, advertisers and audiences. Moreover, Canadian broadcasters must pay hundreds of millions of dollars in part II fees annually, which do nothing to sustain or develop the Canadian broadcasting system, while foreign players pay none.

Canadian broadcasters deal with a substantial regulatory burden. Simply put, Canadian broadcasters play by the old rules and unregulated foreign platforms play by their own rules.

This is why this legislation is so important. Canadian broadcasting companies must plan several years ahead to determine how to invest in Canadian content and talent. Faced with long production cycles and increasing costs, modern media businesses cannot afford to make split-second decisions. That is why Canadian broadcasters are desperate for regulatory clarity and certainty. They need to know the rules they and their foreign competitors will be operating under to plan their businesses, and they need to know that the rules will be fair and equitable.

This is why we welcome the introduction of Bill C-11.

Bill C-11 was introduced to level the playing field. It acknowledges the presence of foreign digital platforms and would require them to contribute to Canada's broadcasting policy objectives. For Canadian broadcasters who are asked to carry the entire burden of supporting the audiovisual creative sectors, it's well past time for a system that is fair, equitable and flexible.

Canadian broadcasters are willing to compete, but they cannot do so in a system that allows increasingly dominant players to take as much as they want and only give back as much as they like.

We have often heard that this legislation was introduced to ensure we continue to tell Canadian stories, and for most Canadians, the most important stories they see and hear every day come from our newsrooms. Maintaining vital, independent and professional newsrooms in communities across the country is a fundamental commitment of Canada's broadcasters. However, to be clear, this is a commitment that has seen them lose tens of millions of dollars over the past decade. It is unsustainable without urgent policy reforms.

In an era of misinformation, it is critical that we continue to support newsrooms that reflect Canadian communities. We know that digital streamers don't have the interest or the wherewithal to do this.

It has always been the case that the entertainment programming that draws the largest audiences in Canada helps to sustain the news and information programming. Allowing foreign streamers to continue to skim all of the financial benefit from access to the Canadian market without giving anything back will ultimately reduce the number of Canadian voices being heard—fewer Canadian artists, and critically, fewer Canadian journalists.

While we fully support the passage of Bill C-11, we have three very focused amendments that we feel are essential to ensuring the bill does not entrench an inequitable, two-tiered system between regulated broadcasters and currently unregulated streaming platforms.

This includes amendments to clause 3, where we have asked for foreign streamers to contribute to a production fund where their spending can be monitored; to clause 5, where we are seeking to ensure that there is not a two-tiered system of regulatory obligations, but a fair and equitable approach to Canadian entities and their larger foreign competitors; and to clause 11, to resolve the inequity of part II fees.

It is vital that we get this legislation right. It is vital that we pass it, so we can move forward as an industry and usher in a broadcasting system that reflects today's realities.

Thank you. I look forward to any questions you may have.

• (1645)

The Chair: Thank you very much, Mr. Desjardins.

We'll now have Mr. Wyatt Sharpe, for five minutes, please.

Mr. Wyatt Sharpe (Host, The Wyatt Sharpe Show): Thank you for having me here today.

My name is Wyatt Sharpe. I'm a 13-year-old non-partisan journalist and host of the Wyatt Sharpe Show.

I've previously had the opportunity to speak to many people including the Prime Minister here in Canada, the leader of Canada's NDP, the leader of the official opposition, Canadian premiers, the former prime minister of Finland, Ukrainian MPs and several other people.

Again thank you very much for the invitation to join you here today. I greatly appreciate it.

To start off, I'll just say that as a journalist, I believe it's my role to not provide opinions. I'm here in my capacity as a non-partisan journalist.

Just to get this out of the way quickly before accepting the opportunity to appear today, I spoke with other non-partisan journalists and they provided their advice.

I've grown my show via YouTube. I've interviewed numerous people. I've had columns published in my local newspaper and here in my small town and community. I've written articles for the Toronto Star and loonipolitics.ca .

Obviously, Bill C-11 will affect YouTube and various other social media channels.

I look forward to providing a non-partisan aspect of this legislation today. I look forward to speaking with you all and answering any questions that you might have.

The Chair: Is that your presentation, Mr. Sharpe? You know you have more time.

Mr. Wyatt Sharpe: Yes. Thank you.

The Chair: Thank you very much.

Now we will go to the question and answer part of the program. I just want to let everyone know that the first round is a six-minute round. Each member of Parliament will have six minutes, but that includes the government's questions as well as the answers, so please, everyone try to be as succinct as you possibly can.

We now begin with the Conservatives. I do not know who is the first person up for the Conservatives.

Can you let me know, please?

Mr. John Nater (Perth—Wellington, CPC): Thank you, Madam Chair.

The Chair: John, you have six minutes.

Mr. John Nater: I'll try to be as brief as Mr. Sharpe, but I'm not sure I'll be able to match that.

I did you want to start with Wyatt and say it's nice to have him here. It's nice to have us, as politicians, asking him questions for a change since he's been asking so many of our colleagues questions over his time. It's typically impolite to ask about people's age, but Wyatt did tell us he's 13.

I was wondering, Wyatt, if you could tell us how old you were when you started your journalism career.

Mr. Wyatt Sharpe: I often get asked this question. I guess there are multiple answers. I started my show around January 2021. At the time, I had just turned 12 or I was 11 and just about to turn 12.

It's been great watching it grow over the past almost two years.

Mr. John Nater: That's great. I'm not sure what I was doing when I was 11 or 12, but I'm certain it wasn't journalism. I think that's impressive.

You just mentioned watching your program and your enterprise grow over these last two years.

Can you tell us how that happened? What tools did you use? What did you do to grow your show from nothing to what you have today, having interviewed literally some of the most powerful decision-makers in our country? How did that come to fruition over these last couple of years?

• (1650)

Mr. Wyatt Sharpe: I'd say it was probably in multiple ways. One of them would be the obvious way of YouTube and the way that YouTube operates. It appears on people's "recommended" pages, but also through other social media channels, like Twitter, for example.

Then people hear about me if I call into, say, a press conference. Oftentimes, generally, I'll get messages from people saying they found my show by hearing me ask a question at a press conference. Definitely there different ways.

Again, I think a lot of people find out about by it word of mouth. Also, people find it through the way that YouTube recommends it to various people.

Mr. John Nater: You mentioned Twitter, for example. I notice that your Twitter following is more than triple that of mine and I've been in politics for nearly 7 years, so I think that shows a lot about how you've been able to achieve that.

I want to look at some of the challenges you may have faced over the last couple of years.

Have you found challenges as a 13-year old journalist breaking through, whether it is getting on to the speaker's list at the press conferences you mentioned or competing sometimes with journalists who've been around for 40 years in some cases?

What are some of the challenges you've encountered to breaking through in the journalism world?

Mr. Wyatt Sharpe: To start out, for the most part, everyone has been very gracious with their time through interviewing, press conferences or whatever the case may be.

One of the most challenging things is actually my age and many aspects of it. I don't have a driver's licence, so it's a little bit hard to get from point A to point B, if I'm going to cover a campaign event or something of that sort.

In terms of press conferences, I would say that for the most part I get taken just as seriously as any other journalist would, which is obviously good for me. Also, I'm just thankful to everyone who takes the time to speak with me on my show.

Mr. John Nater: Thank you, Wyatt. I appreciate it.

I'm going to move to Mr. Tomchuk.

One of the things you were talking about in your commentary was that a lot of your content is viewed internationally. You also mentioned how some of your merchandise, some of the products that you promote through your productions, are international. How important is it for you that you have that global reach, and how have the digital platforms helped you meet that global demand, that global market, using these technologies?

Mr. Justin Tomchuk: Thank you for the question.

It's extremely important for us. Most of our merchandise sales go to the United States, with some sales ending up in the EU. I'd say that probably less than 10% of our merchandise sales are to Canadians. In my opinion, that is because there are more people in the United States. There's a bigger audience down there. Basically, our viewers just happen to live in the United States primarily, and the EU and other parts of the world. We really do rely on that global audience. Without them, we probably wouldn't have been able to continue the production the way we have in the past five years.

Mr. John Nater: You mentioned as well the concept of direct and indirect revenue and how that would specifically challenge your business. When we're looking at this piece of legislation, would you support eliminating that clause altogether so that all user-generated content, such as what you have produced, would be excluded from this bill?

Mr. Justin Tomchuk: Yes, that would be something I would like to see removed from the bill. Currently as it stands, any form of content that derives any form of revenue—that could be indirect as well—would be subject to the regulations of the bill, from what I understand.

Mr. John Nater: Thank you. I appreciate that.

I'm going to turn to the room now briefly and to Mr. Desjardins.

You talked a little bit about part II licence fees and, effectively, their amounting to a tax on traditional broadcasters, on members of, obviously, your association.

Leaving aside Bill C-11 for a second and looking at those class II licence fees and the impact they have, obviously you would support eliminating those fees, as has been suggested in the past. What type of financial impact would it have on your membership if we were simply to take those off members of your association?

• (1655)

Mr. Kevin Desjardins: The main thing you would see is that you would have an amount of money that could be reinvested within those organizations themselves. In some ways, a taxation dollar—I'm not sure if it's the first or last dollar out—could be retained within the broadcasting companies and could allow them to retain staff. It would allow them to retain journalists in house. Journalism can be very expensive to produce, and I think that within the broadcasting companies, that would be a key place where they would be able to continue to retain staff.

The Chair: Thank you, Mr. Desjardins.

Thank you, John.

Now I will go to the Liberals and to Tim Louis for six minutes.

Go ahead, please, Tim.

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

Thank you to all of our panellists. I really appreciate your being here and your expertise.

I'm sitting right next to you, Mr. Desjardins. Maybe I can continue talking to the Canadian Association of Broadcasters.

I want to ask you about the size and scope of the Canadian Association of Broadcasters, how much content you're making, how much you're already contributing to production funds across Canada, and just about the size and scope of where you are as an organization.

Mr. Kevin Desjardins: I would make the distinction and say not “production funds” but rather “production” itself. There is that distinction.

In terms of how much is being put into production, it's just under \$2 billion per year. That doesn't include news, which, between TV, radio and specialty, is somewhere in the range of about \$622 million per year.

In terms of who is investing the most in Canadian content and telling Canadian stories, I think that for some time it has been private broadcasters in Canada.

Mr. Tim Louis: One thing you mentioned in your opening statement was that entertainment programming is what's sustaining news programming. That's something I think we have not heard enough about, how not doing anything to update the Broadcasting Act would hurt not only our cultural sovereignty and our stories but also our news. Can you elaborate on that, on how the entertainment helps support the news ecosystem?

Mr. Kevin Desjardins: Yes. I think that on the one side you have big challenges for the advertising dollar for broadcasters, as the advertising market now is about 50% made up of digital platforms. On the other side, many of the regulatory obligations that have been there for years remain in place. If you think about where the squeeze happens in-between that vise, it's on the internal productions, and those internal productions are generally the newsrooms within the broadcasting companies themselves. That's a squeeze.

The other thing is again in terms of programming rights. As large global players are no longer licensing their programs through Canadian broadcasters and are circumventing and going directly to the consumer, what that does, especially if that trend were to continue, is that it would eliminate some of those valuable entertainment properties that can help to bring in the funding that helps to go out and support news. Something like *Survivor* is not Canadian content, but its success in Canada helps to sustain something like Global News.

Mr. Tim Louis: Fantastic.

Now, some are taking the approach that legacy broadcasters have seen their time and they're done. We still have the spoken word, right? Writing is not going anywhere. Television was supposed to take out the movie industry, and that didn't happen. Can you tell me about your relevance moving forward and your vision of what the future of Canadian broadcasting is going to be?

Mr. Kevin Desjardins: Yes, that's certainly something that I hear at times. Especially, too, people will make comments along the lines of, “Nobody listens to the radio anymore.” Well, we have numbers saying that about 70% of Canadians in the run of a week are listening to the radio in some way, shape or form. They can do it in all sorts of different ways now. When it comes to television, we'll hear about cord-cutters, but still there are approximately 70% of people who are still subscribing to some sort of cable or satellite service. There are still millions of people who are watching Canadian programs, who are listening to Canadian radio each and every day and who are getting the news and the information on what's happening in their community.

We can certainly see a future where we're in some ways sharing the broadcasting ecosystem with other players—with foreign players—but what's really important for us is just that certainly we move beyond where we are right now, where there are no rules on those folks, and we move to a place where there are fair and equitable rules between us.

• (1700)

Mr. Tim Louis: In other words, you don't mind sharing the system. You just want to share the responsibility and share that...?

Mr. Kevin Desjardins: Yes, for sure, and I think it's the responsibility for helping to prop up and support Canadian content generation, whether it's music or television, or film as well.

Mr. Tim Louis: Another thing we've heard is that sometimes they would say that our legacy organizations are here just to protect their own jobs, but can you explain that these are jobs for Canadians in our community and how you're working to be more nimble in this digital age in growing your own industry?

Mr. Kevin Desjardins: I think of what happened with radio within the context of a global pandemic. Radio advertising got hit really hard, because a lot of its advertisers are local. At the same time, it really stepped up to provide the information that people needed.

That's not necessarily the newscast at the top and bottom of the hour. Oftentimes, it's even just the on-air crews who are sharing and saying that "this is a global pandemic but here's what's happening in your backyard and here's what you need to know". I believe there are more radio stations than there are newspapers in Canada at this point. I apologize if I've messed that up, but certainly I know that we have about 600 radio stations where—

The Chair: Thank you very much, Mr. Desjardins.

We now go to the Bloc Québécois and Martin Champoux for six minutes, please.

[*Translation*]

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

Mr. Desjardins, I'd like you to describe for us the repercussions that the arrival of the digital giants has had on the conventional broadcasting sector. Talk, if you would, about their gradual entry into the broadcasting space and the fact that they have been able to profit without having to adhere to a regulatory framework.

Can you give us some actual examples of the effects on the broadcasting sector?

Mr. Kevin Desjardins: The biggest impact has been felt in advertising.

As I said, about 50% of the advertising market in Canada is held by foreign platforms, Google, Facebook and the like. That has had serious effects, including devaluing the advertising on the market. It has also driven up the prices of program rights, whether for dramas, comedies or sporting events.

Mr. Martin Champoux: You have a harder time selling advertising, and you have to sell it for less in order to compete. In concrete terms, that means radio and television broadcasters have less revenue, if we zero in on the issue. I imagine that the provision of services has also been affected, including news coverage.

What have the repercussions been on regional news coverage and the jobs of journalists working in the newsrooms of smaller stations?

Mr. Kevin Desjardins: Throughout the decade when foreign platforms were able to enter the Canadian market completely unfettered, we did not see spending on news go up, but we didn't see it go down down a whole lot either. However, the costs of news and information programming definitely increased.

During the pandemic, broadcasters were under tremendous pressure, but they kept up their investments in news programming. As I said, the level of spending stayed the same; it didn't go up.

● (1705)

Mr. Martin Champoux: Mr. Desjardins, I want to turn to the amendment you are proposing to subclause 3(4) of the bill, which would amend paragraph 3(1)(f) of the Broadcasting Act. According to the bill, as it's currently worded, "each Canadian broadcasting undertaking shall employ and make maximum use...of Canadian creative and other human resources".

You are recommending removing that part and keeping just the part that requires those undertakings to contribute in a significant way to the creation and production of Canadian programming.

The cultural sector is calling for the opposite, in other words, specifying the requirement to make maximum use of creative and other human resources.

How do we balance what you are proposing with what the cultural sector is calling for?

Mr. Kevin Desjardins: I appreciate that balancing the two requests isn't easy, but our recommendation is consistent with establishing rules that are fair and equitable for Canadian and foreign companies.

In our view, the provision could create two sets of rules, one for foreign companies and another for Canadian companies.

We are also calling for transparency when it comes to how foreign companies spend their programming investments. They shouldn't be able to claim that their Christmas movie in Vermont is a Canadian production because it was filmed in Dieppe, New Brunswick.

Mr. Martin Champoux: I agree with you.

I have one last question for you about paragraph 3(1)(f) of the Broadcasting Act.

You said you were worried about an approach that would create a two-tiered system between conventional broadcasters and online companies.

Say we were able to pass a robust and well-designed amendment to ensure that the same set of rules applied and that online companies were under the same obligation to employ, and make maximum use of, Canadian creative and other human resources. Would you be satisfied?

Mr. Kevin Desjardins: I would have to see how the amendment was worded before I could say for sure.

It's a complex issue, but we are open to considering such an amendment.

Mr. Martin Champoux: That's great.

Thank you, Mr. Desjardins.

That's it for me, Madam Chair.

[*English*]

The Chair: Thank you very much, Monsieur Desjardins.

I go now to the New Democratic Party and Peter Julian for six minutes.

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

Thanks to all our witnesses for their important testimony.

I'm going to follow up with you, Mr. Desjardins.

You've talked about 10 years of unregulated foreign players. Can you tell us a bit about employment in the broadcasting industry over that 10 years?

Mr. Kevin Desjardins: Yes. I don't want to get too specific in terms of the numbers. I can follow up with the committee to give some more specific numbers.

I would say that, again, it's not growing, and I think that in radio, especially over the last few years as their advertising numbers have been hit particularly hard, it's been going down.

Employment numbers, in aggregate, I would say have been going down in the broadcasting sector over that time. Again, it's that challenge that there is money that has to go out the door to independent producers, and there is advertising money that's not coming in, and the squeeze comes internally with the stations and the services themselves.

• (1710)

Mr. Peter Julian: Okay, so there has been a negative impact, there's no doubt.

Mr. Kevin Desjardins: Yes.

Mr. Peter Julian: If you had your crystal ball and you looked 10 years in the future, if Bill C-11 were adopted—if we just set it aside—what do you see as the impact of continued unregulated foreign companies basically doing whatever they want in Canada, and that very uneven playing field that so many witnesses have spoken to?

Mr. Kevin Desjardins: Well, I may well be looking for a job myself if that were the case.

I would certainly see it as having a profound impact on the sector. Especially given the fact that there are rules on Canadian broadcasters, I would think that if you had \$100 million to invest in broadcasting, or to invest in anything, why would you invest it in Canadian broadcasting within that context where there was absolute certainty that you were better off to do it with a foreign player, and come in from outside of Canada that way, and not have any rules and be able to, again, operate as you want and not contribute?

I think it would be a profound challenge for our folks just in terms of all of those key pieces—in terms of generating investment, continuing to find audiences, and being able to find the programming rights. It would be a huge challenge.

Mr. Peter Julian: Okay, so it really is a matter of putting in place a level playing field.

Mr. Champoux asked you a little bit earlier about the provisions in the bill right now that continue to maintain some unequal approaches. What broadcasters have to do to maintain Canadian employment would be different from this version of the bill, when we talk about foreign online platforms.

Do you not feel that's an important component of proposed paragraph 3(1)(f), namely, that aspect of the bill that basically says that they still don't have to have the same obligations as Canadian broadcasters?

Do you feel, from a creative standpoint, from the standpoint of a level playing field and also maintaining local news sources, that it's

important that the level playing field include the obligations around Canadian employment?

Mr. Kevin Desjardins: I think for us what really stands out in in proposed paragraph 3(1)(f) is that there that there are basically two sets of rules: One is “maximum use” and the other is “greatest practicable use”. For us, that really just stands out.

Ultimately, what we want here is this. Canadian broadcasters are based in their communities and are not going to attempt to not have Canadians working for them. That's not the point of this. The point is to make sure that we have the same rules, and to make sure there is a reason for these foreign broadcasting entities and foreign streamers to work with Canadians. I think that would be a piece where, rather than simply deciding how much they want to spend and how they want to spend it and how they define CanCon and how they define who is Canadian, they would work with the Canadian system.

Mr. Peter Julian: Again, with the question of a level playing field, as some of our witnesses have suggested, there's the issue of ensuring that the online streamers, even if they don't operate under a licence, are subject to the same provisions of the CRTC around issues like changing ownership and control, for example.

Do you feel that's appropriate as an amendment as well? For the level playing field, what is an obligation for the broadcasting industry also applies to online streaming companies.

Mr. Kevin Desjardins: Yes. That's a difficult one for me to answer.

I think it does draw out the fact that when you look at the ownership restrictions on Canadian companies, it really brings into stark relief the fact that we might think of some of the companies as large. When you look at the streaming platforms, they have an access to massive amounts of global capital. Certainly, if we don't adjust these rules, they are going to be able to come in and overwhelm the Canadian system with that financial might.

The Chair: Thank you, Mr. Desjardins.

Now we go to a second round. This is a five-minute round. I begin with the Conservatives and Mr. Waugh.

You have five minutes.

• (1715)

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

Mr. Desjardins, what do you think of Wyatt Sharpe in today's broadcasting?

Mr. Kevin Desjardins: As someone who was a political nerd right back to my days when I was around his age, I think I have a certain amount of envy and a great deal of respect for what Wyatt has done.

I have been fortunate to be able to catch Wyatt a few times being interviewed by some of our Canadian broadcasters. I know I saw him being interviewed by Sid Seixeiro, which I guess is a great privilege for anyone in Canada at this point.

I had a good laugh when Wyatt talked about his driver's license because as someone with a bachelor of journalism degree who didn't get his driver's license until his 30s, I can tell you, Wyatt, get your driver's license when you're 16 and certainly before you get a bachelor of journalism degree. It will open a world of opportunities for you.

Mr. Kevin Waugh: I'm just going to go through the numbers.

Wyatt, how many followers or subscribers do you have for any of your platforms on Facebook, Instagram or Twitter? Give us some numbers.

Mr. Wyatt Sharpe: The primary channels I operate on are YouTube and Twitter. YouTube is currently at 3.35 thousand and Twitter is 10,000. I have an Instagram account as well. I believe the figure for that is around 500, but that's more of a personal account.

Mr. Kevin Waugh: It's pretty impressive. It really is.

I'm going to give the rest of my time to Rachael.

I just want to point out one thing on production. Disney spends \$4 billion in production in this country. Canadian producers here spend, as you said, \$2 billion. The problem is that none of it is in prime time from 7 o'clock to 10 o'clock at night. There's *The Big Bang Theory* and then I look at Global and there's *SNL*, *NCIS*, *The Late Show*, *The Young and the Restless* and *Survivor*. None of it is Canadian talent.

I used to work at Bell. They always went to L.A. and spent millions of dollars on American an program, came back and had a big celebration. Not once, from 7 o'clock to 10 o'clock did we have Canadian programming. That is still the problem today in this country. When you look at the reruns that Bell and Global have, every night it's *Big Bang*—three and four times on prime time when people are home and who may watch TV.

We will get you later. I'm going to give it to Rachael now because I'm running out of time.

Mr. Kevin Desjardins: If I can just respond to that, there are certainly.... There is *Transplant*, which is a very popular prime time show. I think it is the most popular Canadian show at the moment. *Canada's Got Talent* has been playing in prime time throughout this year. *The Curse of Oak Island* is certainly one.

There are always shows that are playing in prime time. I will follow up and I will send you a list of them. Certainly, there are—

Mr. Kevin Waugh: There are a handful.

Anyway, I have to give it to Rachael.

Go ahead.

Mrs. Rachael Thomas (Lethbridge, CPC): Thank you, Chair, and thank you, Kevin.

I am bringing a motion forward to the floor. I'm moving that during this time.

The motion reads as follows, and I'm happy to provide this in both French and English today:

Given that the Chair of the CRTC, Ian Scott, testified at this Committee on May 24, 2022 that Bill C-11 as currently drafted allows for the regulation of user content; and given that the Bill C-11 Charter Statement tabled in the House of Com-

mons on April 1, 2022 states online user content would not be subject to broadcasting regulations under Bill C-11 as currently drafted;

The Committee:

1) Ask the Minister of Justice to provide a revised Charter Statement on Bill C-11 as soon as possible.

2) Invite the Minister of Justice and the Minister of Canadian Heritage accompanied by relevant department officials to appear before the committee as soon as possible to discuss the revised Charter Statement.

Chair, I would be happy to pass this motion out so that my colleagues can read it for themselves, but I do not cede the floor. I have further comments to make.

Would you like me to hand out the motion at this time, or should I just continue to talk?

The Chair: You may finish the five-minute time slot for the Conservatives in this round. I think you have about 35 seconds left.

• (1720)

Mrs. Rachael Thomas: Madam Chair, I would perhaps encourage you to consult with the clerk as to how to handle a motion once it's been moved.

The Chair: You could stop speaking, but right now we are listening to witnesses.

Clerk, would you like to talk about how we deal with this motion?

The Clerk of the Committee (Ms. Aimée Belmore): Madam Chair, can we suspend for a moment so I can see the text of the motion, please? I haven't seen the text.

The Chair: I think the text is referring to Bill C-11, so it's on topic.

We would like to know if this motion should be debated and dealt with now or we should continue with the witnesses who are waiting here and came specifically to speak to this issue.

The Clerk: Madam Chair, I would really appreciate if we suspended for a moment.

The Chair: All right then, let's suspend, please.

• (1720)

(Pause)

• (1730)

The Chair: I hope, by now, that all members of the committee have the motion. I have it, and I rule that this motion is admissible.

Therefore, Mrs. Thomas, would you like to speak to the motion now?

Mrs. Rachael Thomas: I would, Madam Chair. Thank you.

The Chair: Please begin.

Mrs. Thomas, with consideration for the witnesses, should I allow them to stay or ask them to leave?

Mrs. Rachael Thomas: Madam Chair, the witnesses have stayed well past the time they were asked to be with us, so if you feel it's most appropriate to give them the freedom to go, that's your prerogative as chair, of course.

The Chair: Thank you.

As you well know, we have a hard 6:30 end to this particular meeting and the CRTC is waiting to join us.

Thank you very much, witnesses, for kindly coming here today and giving your time. I'm afraid that we will no longer need you to bear witness, because the time has ended for this particular hour-long session. Thank you again for giving us your time.

Mr. Peter Julian: I have a point of order, Madam Chair.

The Chair: Yes, Mr. Julian.

Mr. Peter Julian: I would like to ask Mrs. Thomas to table her motion. I think it's worthy of some consideration, but given that we have the CRTC coming—

• (1735)

Mrs. Rachael Thomas: I have a point of order.

Mr. Peter Julian: —and given that we have—

Mrs. Rachael Thomas: I have a point of order.

The Chair: A point of order is already on the table and the member is speaking to that point of order.

Mr. Peter Julian: Thank you, Madam Chair.

Mrs. Rachael Thomas: Madam Chair, this is not a point of order.

Mr. Peter Julian: Madam Chair, it would seem to me reasonable, as you recognized me on the point of order—

Mrs. Rachael Thomas: This is not a point of order.

Mr. Peter Julian: Mrs. Thomas can be reasonable and allow the witnesses to complete their testimony. We can clarify the CRTC's comments with them. I think they have been mis-characterized. I would ask her simply to table it until after the CRTC comes to this committee.

The Chair: Mr. Julian, that is now a bit of debate. I think it is in order for the motion to be on the floor and for me to ask the witnesses to leave, because the time for this particular session has finished. We can then let Mrs. Thomas read her motion and we will proceed.

Thank you very much again, witnesses. You may leave. I am so very sorry. I apologize.

Now, Mr. Julian brings up a point and, in some ways, it is a sort of point of order, in that Mr. Julian is speaking to the orders of the day that we have to see and listen to the CRTC right now.

I will give you back the floor to make that point. Go ahead.

Mr. Peter Julian: Madam Chair, we have the CRTC coming. I think this may well be an important motion to discuss, but to not give an opportunity for clarification to the chair of the CRTC strikes me as weird, quite frankly, and unprofessional. What Mr. Scott said at the meeting held on May 18 was as follows: "As constructed, there is a provision that would allow us to do it as required".

I would like to quickly respond to the general tenor of those comments, and to Mrs. Thomas. That's all true today. We could do any of the things Mrs. Thomas spoke about today under the Broadcasting Act. In other words, those provisions currently exist, putting aside Bill C-11. It seems to me that clarifying those comments is valid. It seems to me that the motion, of course, is in order, as you've mentioned, Madam Chair, but to cut off the CRTC from testifying is bizarre. It's simply inappropriate.

I would ask Mrs. Thomas, through you, Madam Chair, to simply table consideration of the motion, which she has the right to do, until after we've heard from the CRTC and enabled the chair to clarify his comments.

The Chair: Ms. Thomas, you've been asked to perform a courtesy.

Mrs. Rachael Thomas: Madam Chair, what is it that you're asking me?

The Chair: Mr. Julian asked you a question. He asked you to consider postponing what you have to say until we've heard some of the answers to the questions you've asked the CRTC. I'm asking you what your response is to Mr. Julian's request.

Mrs. Rachael Thomas: I'm sorry. I thought he was moving a point of order.

The Chair: He did, and in it he was speaking to the order of the day, which is that the CRTC will now appear. That is the order of the day, so in many ways it was a point of order.

He's clarifying whether or not we should get the order of the day going, which is to hear from the CRTC.

He's asking you if you would allow that to happen.

Mrs. Rachael Thomas: Madam Chair, I just want to make sure that we're on the same page here.

I'm familiar with the orders of the day when we're speaking to the House of Commons and the procedures that take place there. What I have in front of me is a notice of meeting, and I believe it was indicated that the time that we would like to hear from the CRTC started about 10 minutes ago—no, we're supposed to be done, aren't we?

According to the orders of the day, I think this committee is supposed to be done.

The Chair: The committee does not actually finish right now. There are two hours to this committee. We've just finished the first hour of witnesses, and we're going into the second hour of witnesses, and you interrupted that order by bringing forward your admissible motion.

• (1740)

Mrs. Rachael Thomas: Chair, I take exception to the disdain in your voice. As a member of this committee—

The Chair: Excuse me. I'm sorry. I think we're all trying to be very reasonable and we're all trying to be very courteous and polite to each other. I don't know how you decide what I mean when I speak. I am trying to be very careful about following procedure. I really do not like that sort of innuendo, Ms. Thomas. It goes on too much in this committee.

Thank you.

I'm awaiting your answer.

Mrs. Rachael Thomas: I'm sorry, Chair. I heard a question from Mr. Julian, but it is my understanding that he does not have the ability to ask me a question. You, as Chair, have responsibility to oversee this meeting.

The Chair: Mr. Julian said "through the chair".

Mrs. Rachael Thomas: He asked you the question.

The Chair: The chair posed the question that Mr. Julian asked to you.

Mrs. Rachael Thomas: You are asking me if I am willing to table this motion for another time?

The Chair: I'm not asking you that.

I'm asking you whether we should proceed to listening to the CRTC, who are due to start this meeting with us. It's now past the time for them to meeting with us. I am just asking you if you're prepared to listen to the CRTC.

If you are not, then I guess we will have to dismiss the CRTC and continue with your motion.

Mrs. Rachael Thomas: Madam Chair, I have every intent of speaking to the motion that I have moved.

Mr. Peter Julian: I have a point of order.

The Chair: Yes? I don't know who's raising the point of order.

Please identify yourself.

Mr. Peter Julian: It's Mr. Julian, Madam Chair.

We have witnesses here who need to be answering questions, and it is strange beyond belief that the Conservatives, Ms. Thomas, would actually stop them from testifying. We have questions. I think they're valid questions that Ms. Thomas has raised. We have the transcripts from the last meeting.

Why would we stop them from actually testifying and clarifying the remarks of the chair of the CRTC? I ask, through you, Madam Chair, again that Ms. Thomas do the parliamentary thing, which is actually to allow the CRTC to testify.

She can table her motion, not until a later date, but until right after their testimony. I am certainly prepared to have that discussion. What I find unbelievable is that we would stop the CRTC from testifying so we can ask them those questions that Ms. Thomas has quite rightfully raised. Her motion stops them from testifying and clarifying their remarks.

I would ask again, through you, Madam Chair, that Ms. Thomas simply table until after the CRTC presentation, and I'm quite prepared to come back to consideration of her motion. But I believe—and I think other members feel the same way—that we need to hear from the CRTC.

The Chair: Ms. Thomas, the floor is yours.

Mrs. Rachael Thomas: Chair, I'm sorry; it is inappropriate for questions to be asked directly to me, so I'm assuming you're asking this question.

The Chair: Yes, I am.

Mrs. Rachael Thomas: I have moved a motion and I wish to speak to it.

The Chair: Well, begin.

Mrs. Rachael Thomas: Thank you.

My colleagues now have in front of them the wording of that motion. It states:

Given that the Chair of the CRTC, Ian Scott, testified at this committee on May 24, 2022 that Bill C-11 as currently drafted allows for the regulation of user content; and given that the Bill C-11 Charter Statement tabled in the House of Commons on April 1, 2022 states online user content would not be subject to broadcasting regulation under Bill C-11 as currently drafted;

The Committee:

1) Ask the Minister of Justice to provide a revised Charter Statement on Bill C-11 as soon as possible.

2) Invite the Minister of Justice and the Minister of Canadian Heritage accompanied by relevant departmental officials to appear before the Committee as soon as possible to discuss the revised Charter Statement.

The reason for moving this motion, of course, is explained within the motion itself, which is that we have a charter statement in front of us that seems to be contradicted by the words of the CRTC commissioner himself. That is very concerning to me as a member of Parliament and a member of this committee and someone who is accountable to Canadians in how legislation like this is debated and—

● (1745)

Mr. Peter Julian: I have a point of order.

The Chair: Please state your name. I cannot see the full floor.

Mr. Peter Julian: It's Peter Julian.

Thank you very much, Madam Chair.

Ms. Thomas is making comments about the statements made by the CRTC while the CRTC is sitting outside this conference room.

I would implore you, Madame Chair, through you to Ms. Thomas, to allow the CRTC to come in so that they can answer the questions, rather than have her making statements about statements they may have made without their being able to clarify them.

The Chair: Mr. Julian, I am ruling that yours is not a point of order and in fact is debate. If you wish to raise your hand after Ms. Thomas has finished, you may begin to debate her motion.

Ms. Thomas, continue.

Mrs. Rachael Thomas: Thank you, Madam Chair.

As I was saying, I've moved this motion asking for a new charter statement. You will see that it's a really reasonable motion. I'm saying that this be done as soon as possible. I'm saying that we're going ask the justice minister to do that, and that we invite the Minister of Justice and the Minister of Canadian Heritage, accompanied by relevant departmental officials. We're going to have them appear before this committee, again, as soon as possible, in order to discuss that revised charter statement. All of those things seem appropriate and in order.

What I was saying before Mr. Julian interrupted me was that the point of this motion is that we have a charter statement in front of us that says that user-generated content is not captured by Bill C-11, but we have the chair of the CRTC, who, on May 18, 2022, said that it is captured by this piece of legislation, so the two are not congruent. In order to clarify that in a legal framework, we do require a new charter statement.

The committee will recall that we came to a similar predicament with Bill C-10. We were debating that piece of legislation in the spring of 2021. This is, of course, the former Bill C-11, the predecessor to the current bills. We were debating that piece of legislation in the spring of 2021. What happened was that the members of the Liberal Party who were on this committee at the time made amendments to that bill, and they took out a section that protected individuals who use online platforms to post their content. Having taken out that clause, it significantly changed the piece of legislation, and because it significantly changed the piece of legislation, a new charter statement was then required.

There was a motion moved at that time that is very similar to the motion I've presented today. The committee members at that time were very reasonable and agreed to it, so a new charter statement was, in fact, drafted and considered by the committee.

Similarly, we find ourselves in a situation where information is not fully aligning, so we need clarification. Now I—

Mr. Peter Julian: I have a point of order.

The Chair: Mr. Julian, is that you again? I'm having to recognize you by voice.

Mr. Peter Julian: Yes, it is.

The Chair: Well, okay, just give your—

• (1750)

Mr. Peter Julian: Ms. Thomas is seeking clarification. The CRTC officials are waiting outside. If Ms. Thomas would set aside her motion, we could get clarification from the CRTC.

The Chair: Mr. Julian, that is not a point of order; I'm sorry.

Ms. Thomas, continue.

Mrs. Rachael Thomas: Thank you, Madam Chair.

As I was saying that because of this discrepancy that exists between what Mr. Scott testified on May 24, 2022, and what the charter statement says, I am asking that this committee members consider the motion that is before them, which of course would ask for a revised charter statement with regard to Bill C-11, and that it be granted to this committee as soon as possible.

Of course, I am also asking that we hear from the Minister of Justice and the Minister of Canadian Heritage, along with any officials they feel might be necessary.

Now, let me jump into my proof of point here as to why this motion is so important—not the motion itself, but what it's calling for.

The action that the motion is insisting we take is so important because we have two different authoritative sources with two very different interpretations of this legislation and of the impact that it is going to have on Canadians, and Canadians deserve clarity.

Those individuals who exist as digital first creators, for example, here in Canada, deserve to know: Are they as individuals generating content captured by this bill or are they in fact exempt? They deserve that clarity. That is what I'm asking for today.

I'll take you to the transcript from committee in May with Mr. Scott. At that committee, I said this:

Bill C-11 does, in fact, leave user-generated content open to being regulated by the CRTC. I recognize that there have been arguments against this. However, Dr. Michael Geist has said, "The indisputable reality is that the net result of those provisions is that user generated content is covered by the bill."

Jeanette Patell from YouTube Canada has said, per The Canadian Press, "the draft law's wording gives the broadcast regulator"—in other words, you—

—that is, meaning those in the room at the time—

—scope to oversee everyday videos posted for other users to watch."

Scott Benzie, from Digital First Canada, has said, per the National Post, "while the government says the legislation will not cover digital first creators, 'the bill clearly captures them.'"

Madam Chair, my point was this at that committee: I was raising attention or raising the alarm bells and showing that we had Dr. Michael Geist, Jeanette Patell, and Scott Benzie all saying that the user-generated content of digital first creators would in fact be captured by this bill.

Now, we have since heard from many other witnesses at this committee that this is in fact their understanding of this legislation as well. Mr. Ian Scott believes otherwise—or, sorry, he agrees, actually. Sorry, he does agree. The minister is the one who is trying to argue otherwise.

When I posed that question, then, to Mr. Scott, at that point in time, back in May at this committee, he said:

As constructed, there is a provision that would allow us to do it as required, but if I could just quickly respond to the general tenor of those comments, that's all true today. We could do any of those things today under the Broadcasting Act.

It's very interesting. He's affirming that user-generated content is in fact captured by this piece of legislation, and that the CRTC can in fact put so-called provisions in place that would apply to those who generate online content as individuals.

After Ian Scott responded, I said the following:

My question for you, then, is this. Isn't the point to modernize it? Why would we keep that so broad by keeping proposed section 4.2 in the current bill? Why wouldn't we remove that?

Mr. Scott responded by saying:

With respect, it's not our place to make recommendations about the definitions in the legislation. What I would answer is that there should be a higher degree of trust in relation to the commission's future actions. It's demonstrated, as I said, by 50 years of broadcast regulation. We have never interfered in individual content.

• (1755)

Madam Chair, what I find interesting about Mr. Scott's statement on that day are a couple of things. One, he is, in fact, affirming that yes, user-generated content is caught within the scope of Bill C-11 and that the CRTC can, in fact, regulate individuals who are posting information online.

In so many words he goes on to say that Canadians just need to trust us. That's the problem; they just need to trust us. We shouldn't worry about putting it in a legislative document. We shouldn't worry about making sure that the provisions are concrete and drafted in legislation. Canadians should just trust us.

My thought and the thought of many of those who I am standing for here today, is why should we just trust them? Isn't this the point of putting legislation in place and going through this process? After all, we are at this committee because we are discussing Bill C-11, and we are currently hearing from witnesses. From there we will go into discussing the piece of legislation clause by clause.

Throughout this journey, it is our responsibility as legislators to understand this bill to the greatest extent possible. It is our responsibility to make sure that it is for the common good and that it will serve Canadians well. When the language is purposely left vague, which is what Mr. Scott is pointing to there, that should be alarming for everyone. No matter what your political colour is, no matter your political stripe, that should be alarming.

Those at this table should wish to have very black and white legislation to the greatest extent possible. It should not be left up to the CRTC to determine to what extent it wants to function within the realm of this legislation, apply it or not apply it. That should be clearly directed by this legislation.

Innovation takes place most readily in environments where regulatory schemes are known, where investors and creatives can have confidence in legislators and in the process followed. By leaving Bill C-11 grey in this area and by allowing the words of Mr. Scott, which are contrary to the words of the minister, Mr. Rodriguez, to just hang there, we are then, in fact, reinforcing this lack of safety and security that investors and creatives are so looking for.

It's not just about them; it is also about every single Canadian who ever posts something on YouTube, TikTok, Twitter or any other platform of their choice. Canadians deserve to know. Will their individual content be captured by this bill or will it not be? Right now, the minister says no, but Mr. Scott says yes. At the end of the day, Mr. Scott is going to be the one put in charge of making sure that Bill C-11 is put into practice. My interpretation is that certainly those individual creators—again, I would say any Canadian—who has posted or plans to post online has great cause for concern with regard to this legislation and the way that it could impact them. As we heard from Mr. Scott, they are, in fact, captured by Bill C-11.

• (1800)

However, I would like an opportunity to hear from the justice minister with regard to his thoughts on Bill C-11 and whether it captures user-generated content. The way we would pursue that is by seeking out a charter statement. That charter statement would then be put together. It is an official document that would outline whether Bill C-11 is in fact compliant with the charter and whether

it does in fact capture user-generated content, which is, in other words, the material that individual Canadians post online.

It would allow us, as a committee, to move forward in the direction that we need to. In other words, either we accept the bill as it is or we propose amendments that would help to strengthen it and allow for certainty among individual Canadians and especially among digital-first creators.

Again, I would present to this committee that this is a reasonable request, based on a few things.

First, it's similar to a request that was put forward after changes were made last spring to Bill C-10, the predecessor to this bill.

Second, it is always in the best interest of legislators to have the greatest degree of clarity as possible, so that they are making good decisions on behalf of Canadians.

Third, we have heard from many witnesses at this committee since Ian Scott spoke and they, too, have raised this concern that user-generated content is in fact captured.

I'm not just talking about individuals with opinions, I'm talking about individuals with legal backgrounds. I'm talking about people like Peter Menzies, who is a former CRTC commissioner. I'm talking about Dr. Michael Geist, who is an expert in this subject area and a professor and a lawyer. I'm talking about individuals from the Internet Society, who have decades of experience with this material and who have far more letters behind their names than I do.

Having that testimony on the record and having this discrepancy between what is in the charter statement and what Mr. Ian Scott, the chair of the CRTC, has said, does require clarity. The best way to get that is by asking for that.

Some people might be saying that they didn't see the charter statement. That's okay. It's no problem. I'll familiarize you with it.

We do have access to it. It is online. This was tabled in the House of Commons on April 1, 2022. I would encourage my fellow colleagues at this table to read it. The purpose of the charter statement is as follows:

Section 4.2 of the Department of Justice Act requires the Minister of Justice to prepare a Charter Statement for every government bill to help inform public and Parliamentary debate on government bills. One of the Minister of Justice's most important responsibilities is to examine legislation for inconsistency with the Canadian Charter of Rights and Freedoms ["the Charter"].

The point of this statement is to look for any inconsistencies or incongruence. It is, in fact, the Minister of Justice's responsibility to make sure that has been done.

I would argue it's his responsibility to make sure that has been done, not just when the original legislation is tabled, but if any changes are made to that legislation through the process or if any authoritative voices would challenge that charter statement, particularly in this case, when you have the chair of the CRTC, who will be implementing Bill C-11. If he is unclear or misunderstanding the intent—

• (1805)

Mr. Peter Julian: I have a point of order.

The Chair: Mr. Julian.

Mr. Peter Julian: The chair of the CRTC is waiting right outside this room and could answer all of those questions if Mrs. Thomas, instead of blocking and vandalizing this committee meeting, would actually just ask the questions of the chair of the CRTC.

Through you, Madam Chair, I would ask Mrs. Thomas to do the right thing. She knows it's the right thing to do. She knows having the CRTC answer questions is what we should be doing as a parliamentary committee.

I would ask, through you, Madam Chair, that she table consideration of this motion rather than vandalize the CRTC's appearance, so that we can ask those questions and get the answers from the CRTC.

The Chair: Continue, Ms. Thomas.

Mrs. Rachael Thomas: Thank you, Madam Chair.

It's interesting to me that my colleague raises this question of right and wrong. He is saying to you, as chair... I believe he was saying through you, perhaps to me, that I know what is right.

It's interesting to me, because what I know to be right is to defend Canadians. What I know to be right is to insist on truth. What I know to be right is to fight for justice, which means that we should be pursuing clarity with regard to Bill C-11 and insisting on a revised charter statement, so that we can in fact make sure that user-generated content is kept out of the scope of this bill and that it is clarified to the nth degree by the justice minister.

That is what I know to be right, in case Mr. Julian cares to understand my moral compass and what I am contending.

With regard to Bill C-11 and the charter statement that has been put in front of us, as of April 1, 2022.... I've lost my train of thought, so I'll just start from the beginning with regard to the explanatory note.

It states, "Section 4.2 of the Department of Justice Act requires the Minister of Justice to prepare a Charter Statement for every government bill to help inform public and Parliamentary debate on government bills." In other words, this statement exists to inform the conversation that takes place here. If the charter statement is in fact misinterpreted or not clear, then it is actually not informing us correctly, but rather misinforming us in terms of how we move forward on Bill C-11.

This explanatory note goes on to state, "One of the Minister of Justice's most important responsibilities is to examine legislation for inconsistency with the Canadian Charter of Rights and Freedoms ["the Charter"]. By tabling a Charter Statement, the Minister is sharing...".

I'm sorry, Madam Chair, but there are a number of members here in the room who are speaking, and it's a bit distracting.

I'll just let you speak to that.

The Chair: I am not hearing members speaking, but could members keep their voices low, please, so that it does not distract Ms. Thomas.

Mrs. Rachael Thomas: Thank you.

Given that for the Minister of Justice it is one of his most important responsibilities to examine legislation and then to provide us with this charter statement, and given that the testimony provided by Mr. Scott is incongruent with what the minister is claiming, then I would say that it is very important that we gain a better understanding as to what is going on here.

Again, I would remind the committee, through you, Chair, that it is not just us, not just this committee, being informed, though that is very important, because ultimately we do have the responsibility to wade through this legislation and understand it at a very detailed level. Also, again, it is for the sake of Canadians and making sure that they have access to accurate information.

It is also to make sure that they are having Bill C-11 applied to them in the way that the minister intends. If he intends to capture user-generated content, then this bill needs to very clearly say that. I see where it does, but others would say that's more of a grey area, so let's just clarify that. If in fact Bill C-11 isn't meant to capture user-generated content, just say that as well, but regardless, this bill requires a great degree of clarity. The charter statement can help bring that clarity:

A Statement identifies Charter rights and freedoms that may potentially be engaged by a bill and provides a brief explanation of the nature of any engagement, in light of the measures being proposed.

A Charter statement also identifies potential justifications for any limits a bill may impose on Charter rights and freedoms. Section 1 of the Charter provides that rights and freedoms may be subject to reasonable limits if those limits are prescribed by law and demonstrably justified in a free and democratic society. This means that Parliament may enact laws that limit Charter rights and freedoms. The Charter will be violated only where a limit is not demonstrably justifiable in a free and democratic society.

In other words, if Bill C-11 does in fact capture user-generated content, then it can be argued that it is in breach of section 2(b) of the charter, which is on the right that Canadians have to freely express themselves. In what we now call the "new public square", which would be online, Canadians should be protected to be able to share their opinions, their thoughts and their beliefs without being regulated by the CRTC.

You can see the dilemma, Chair. If user-generated content—the content that individuals post online—is captured by this bill, then it would be in breach of section 2(b) of the charter. If that's the case, then, this note does say that Parliament must show that it is "demonstrably justifiable". That is what this says. However, again, if user-generated content is not captured by this bill, if we want to make it very clear that it's not—I should say if the minister wants to make it very clear—then there are some adjustments to this piece of legislation that are needed in order to make that absolute and in order to then protect people's individual rights and freedoms as written under the charter and, in particular, in section 2(b).

Here in this explanatory note, the justice minister goes on to write that:

A Charter Statement is intended to provide legal information to the public and Parliament on a bill's potential effects on rights and freedoms that are neither trivial nor too speculative. It is not intended to be a comprehensive overview of all conceivable Charter considerations. Additional considerations relevant to the constitutionality of a bill may also arise in the course of Parliamentary study and amendment of a bill. A Statement is not a legal opinion on the constitutionality of a bill.

● (1810)

In other words, this charter statement can be adapted, which is exactly what we are asking for—we being my Conservative colleagues and I—and of course, we're hoping that we can gain the support of those around this committee table. We hope that they too want as much clarity as possible when it comes to Bill C-11, and to what extent it captures online material and regulates it.

Now, I recognize that my Liberal colleagues across the way may not be amenable to this because, right now, the minister is putting forward this narrative that user-generated content is—according to him—left out of this bill, but that is not what Mr. Scott says. Again, he is the one who is responsible for making sure that Bill C-11 is enacted, and if he is interpreting this bill—

● (1815)

Mr. Peter Julian: I have a point of order.

The Chair: Mr. Julian.

Mr. Peter Julian: Mr. Scott is waiting outside of this room. Why don't we ask Mr. Scott?

Why doesn't Ms. Thomas adjourn the debate on her motion so that we can actually hear from Mr. Scott? She's making a lot of statements about Mr. Scott. He's waiting outside of the room, and so are the CRTC witnesses.

I would ask through you, Madame Chair, that Ms. Thomas adjourn the debate on her motion so that we can actually hear from the CRTC and from Mr. Scott.

The Chair: Are you moving that we adjourn the debate, Mr....

Mr. Peter Julian: Certainly.

The Chair: I don't know. I'm not quite clear on what you're saying.

Mr. Peter Julian: Yes, I move that we adjourn the debate.

Mrs. Rachael Thomas: Madam Speaker, I have a point of order.

The Chair: Ms. Thomas, the motion to adjourn debate is not debatable, and it's not amendable.

Mrs. Rachael Thomas: It's also not moveable on a point of order. Please check with the clerk.

The Chair: It is true that it's not moveable on a point of order, but I think it's in line because we....

I just need to inform everyone in this room that we must actually leave this room at 6:30 because, according to the rules, the interpreters must have a 30-minute recess before the start of the next scheduled meeting which will be at seven o'clock.

Continue, Ms. Thomas.

Mrs. Rachael Thomas: Thank you, Chair.

The Chair: Mr. Julian, you cannot move a motion on a point of order. You know that, don't you?

Mr. Peter Julian: I received that kind invitation from you, Madam Chair, so I didn't want to miss the opportunity.

The Chair: Yes, Mr. Julian.

Continue, Ms. Thomas, but I will have to inform you that we must leave this room at 6:30 to allow for those rules to take place. They're parliamentary rules.

Mrs. Rachael Thomas: Thank you, Madam Chair.

To provide further clarity on what I'm speaking about right now, where there is a discrepancy between what the minister is saying and what Mr. Scott is saying, and to clarify why I find this so troubling, I'll read an excerpt from question period yesterday.

I got up in the House of Commons and I asked the Minister of Canadian Heritage to clarify for me whether or not user-generated content is in fact captured. Here's what I said, verbatim:

Mr. Speaker, we find ourselves in a bit of a dilemma here, because the heritage minister keeps telling Canadians that user-generated content, such as YouTube videos, is out, but Mr. Scott, the chair—

I'm sorry, Madam Chair. There are a few people who are talking in the room right now, which is quite distracting. Again, I would just ask that perhaps you could bring that order.

● (1820)

The Chair: We'll go to the room, please. Can somebody turn off that mike?

Will everyone in the room please keep your voices low so that you do not disturb Ms. Thomas?

Thank you.

Continue, Ms. Thomas.

Mrs. Rachael Thomas: Thank you, Chair.

In QP yesterday, I asked the following question:

Mr. Speaker, we find ourselves in a bit of a dilemma here, because the heritage minister keeps telling Canadians that user-generated content, such as YouTube videos, is out, but Mr. Scott, the chair of the CRTC, has said that actually user-generated content is in. Both of these men cannot be correct, so I would ask the minister to please tell the truth.

It's one or the other. It can't be both.

The minister is then invited to respond. Either he can say, "Ms. Thomas, I've been telling the truth the entire time, this is still the way it is, user-generated content is out," or he can say, "Through you, Mr. Speaker, to the honourable member, upon further reflection and analysis, I've had an opportunity to look at this bill more closely"—perhaps even with Mr. Scott himself—"and I've come to the conclusion that, yes, actually, it is captured." He had a choice in that moment to answer my question. I was simply asking him to tell the truth and I would accept it for what it was.

His response is enlightening, though, because instead of actually just telling me what is going on here, he avoided the question altogether. Here's how Mr. Rodriguez responded. He said:

Mr. Speaker, I do not think it is very parliamentary, but I will still, out of respect for our democracy, answer the question.

It's interesting that when you ask for clarity the minister doesn't think that's parliamentary.

He goes on to say:

I am quite surprised—

I'm sorry, Madam Chair. There's a member across the way shouting at me, so perhaps you could put Mr. Bittle in his place.

The Chair: I will ask you, Mr. Bittle, to please lower your voice. Thank you very much.

Continue, Ms. Thomas.

Mr. Chris Bittle (St. Catharines, Lib.): I'll keep it a little quieter.

Mrs. Rachael Thomas: I'm sorry, Madam Chair. Mr. Bittle right now just said that he will keep his heckles to a minimum. However, he is indicating that he will still continue, and I find that very inappropriate. I would invite you to address that as he continues to heckle me from across the way.

The Chair: Continue, please, Ms. Thomas. I have already spoken to Mr. Bittle about keeping his voice down.

Thank you.

Mrs. Rachael Thomas: Madam Chair, with all due respect, it is your responsibility to keep this committee room in order, and right now it is out of order because Mr. Bittle is choosing to function in a dysfunctional manner.

I would invite you to address that, please.

The Chair: Mr. Bittle, will you please keep your voice down?

Thank you.

Continue, Ms. Thomas.

Mrs. Rachael Thomas: Thank you, Chair.

Mr. Rodriguez responded to me then by saying—

I'm sorry, Madam Chair. Mr. Bittle is again heckling me from across the way. Perhaps you could address that again. I'm not sure if he understands your request.

The Chair: Mr. Bittle, could you please keep your voice down?

Thank you very much.

Mr. Chris Bittle: Absolutely: quiet like a church mouse.

The Chair: I'm afraid we're coming very close to the time when we are required to allow the interpretation staff to have 30 minutes of recess.

Continue, Ms. Thomas.

Ms. Thomas, I would like you, as you're speaking to the issue of order, to be very careful how you characterize the minister's response to your question about not telling “the truth”. That is sort of crossing a little close to the line.

Thank you.

Go ahead.

Mrs. Rachael Thomas: Madam Chair, thank you for that added commentary. I do believe that the Speaker in the House yesterday was responsible for addressing that if he felt there was a need that it be addressed. I was simply quoting from the blues. Would you wish that I don't quote directly from the blues? Is that what you're advising me to do, Madam Chair?

The Chair: I am advising you that if you're going to quote something, then you may want to say, “this is a quote” and “open quotation” and “close quotation.” When you don't do that, it comes off as being your opinion.

Thank you.

• (1825)

Mrs. Rachael Thomas: Madam Chair, I would encourage you to go back and reflect upon the words that I spoke. I did say “quote”. It was clarified.

The Chair: Continue please, Ms. Thomas.

Mrs. Rachael Thomas: Thank you.

[Translation]

Mr. Martin Champoux: I have a point of order, Madam Chair.

It's 6:25 p.m. I may not be the swiftest, but it seems to me that we aren't going to have time to hear from the CRTC officials. They are ready and waiting.

I was wondering whether the committee members could find it in their heart to show some magnanimity and generosity, and let the officials in the room take their leave so they can go about their business, as we continue listening with keen interest to Ms. Thomas as she speaks to her motion.

It's a reasonable proposal. I'll leave it up to you, Madam Chair.

[English]

The Chair: Thank you very much.

I would ask the clerk to let the CRTC know that the time is ending. You may want to decide if they return for another session.

Thank you.

Mr. Peter Julian: I have a point of order, Madam Chair.

For the record, this is absolutely disgraceful that as a parliamentary committee, we were not able, because of Ms. Thomas' sabotage, to actually ask the CRTC questions to clarify their remarks. I find it deplorable that the Conservatives are wasting these resources rather than actually seeking answers from the CRTC. I think there are a lot of legitimate questions that need to be asked, and what Ms. Thomas has done is sabotage this committee's ability to actually ask those questions. It's unbelievable to me.

The Chair: Thank you, Mr. Julian.

Ms. Thomas, please continue. I think we're coming close to the time that we must stop this meeting. It is now 6:26. We must stop at 6:30.

Mrs. Rachael Thomas: Thank you, Madam Chair.

To bring further clarity to the request that I am putting before this committee with regard to the revised charter statement that is being asked for, it is because there is a discrepancy between what the Minister of Canadian Heritage is saying and what the CRTC chair, Mr. Ian Scott, is saying concerning whether or not Bill C-11 captures user-generated content.

To illustrate this further, I did ask the Minister of Canadian Heritage a very important question in the House of Commons yesterday, and I gave him the opportunity to clarify one way or the other. The first question that I asked the heritage minister in the House of Commons during question period yesterday was, and I quote:

Mr. Speaker, we find ourselves in a bit of a dilemma here, because the heritage minister keeps telling Canadians that user-generated content, such as YouTube videos, is out, but Mr. Scott, the chair of the CRTC, has said that actually user-generated content is in. Both of these men cannot be correct, so I would ask the minister to please tell the truth.

The Minister of Canadian Heritage then responded by saying this:

Mr. Speaker, I do not think it is very parliamentary, but I will still, out of respect for our democracy, answer the question. I am quite surprised that the Conservatives quote the CRTC, because they keep attacking the CRTC like they keep attacking the CBC. Actually, there is no institution they do not attack. Now it is also the Bank of Canada, for some of them. The thing is that this is simply to ask streamers to contribute to our culture. That is it—

The members of this committee will observe that the minister did not answer my question. Instead, it was talked around, which baffles me because it really is a very simple question, and I believe it can be clarified very easily. The minister simply needs to communicate whether his intent is in fact to capture—

• (1830)

[*Translation*]

Mr. Martin Champoux: I have a point of order, Madam Chair.

With only the purest of good intentions, I want to let Ms. Thomas know that it is now half-past six and that, if she wants us to vote on her motion, the time is now or never. I assume that she would like the committee to vote on her motion, and now is the time to do so because we have to vacate the room.

[*English*]

The Chair: We will have to leave the room on time. It is now 18:30, which gives us one more minute.

Mr. Champoux, are you suggesting that this debate be now adjourned? I did not have clarity on that.

[*Translation*]

Mr. Martin Champoux: Yes, that's right, Madam Chair.

[*English*]

Mrs. Rachael Thomas: Madam Chair, I have a point of order.

A motion of that nature cannot be moved during a point of order.

The Chair: Mr. Champoux, did you begin by saying this is a point of order or did you just begin by saying that we need to end the meeting, which I am about to say.

I am about to say that we need to end this meeting in accordance with the rules that allow for interpreters to have a 30-minute break before the next meeting, which begins at 7 p.m.

As a result of that, I am asking Mr. Champoux if he is now moving a motion to adjourn debate.

[*Translation*]

Mr. Martin Champoux: Yes, Madam Chair, I move that the meeting be adjourned.

[*English*]

Mrs. Rachael Thomas: I have a point of order.

The Chair: Thank you.

Mrs. Rachael Thomas: Madam Chair.

The Chair: I'm sorry, that is not a debatable or amendable motion. We must end this meeting right now, so I will actually—

Mrs. Rachael Thomas: Madam Chair, you cannot accept a motion of this nature from the member.

The Chair: I'm sorry. There is an actual motion made by Mr. Champoux. We also have to leave the room. I don't know if you actually heard that.

Mrs. Rachael Thomas: Madam Chair, would you just entertain me for one moment, please?

The Chair: No, I'm speaking, Mrs. Thomas.

We have listened to you speak. Will you do me the courtesy of allowing me to finish my sentence?

What I am saying is that we must, regardless, leave this room so that the interpreters can have 30 minutes of recess, according to the parliamentary rules.

Now when I said that, Mr. Champoux asked that the debate be now adjourned. That is not debatable and it is not amendable, so as far as I am concerned, there is someone opposing that.

Are you opposing this motion, Mrs. Thomas, which is duly placed?

Mrs. Rachael Thomas: Madam Chair, with all due respect, it's not. You cannot move a motion to adjourn the committee when it is on a point of order.

Madam Chair, if you wish to adjourn, you are welcome to do that, but Mr. Champoux cannot move that motion.

The Chair: Mrs. Thomas, you continue to—

Mrs. Rachael Thomas: Madam Chair, all I would—

The Chair: Mrs. Thomas, allow me to finish speaking. You are uncourteous.

I said we have to leave. Mr. Champoux did not make his motion on a point of order. I spoke and I said we have to leave. Mr. Champoux then moved a motion to adjourn debate.

Please, if you are challenging the chair, please do so appropriately and don't try these tactics.

Mrs. Rachael Thomas: Madam Chair, could you please help me understand? What would the best way be to address the matter I see at hand?

The Chair: I think on the matter that you see at hand, there have been suggestions made, in goodwill, by many members of this committee, that you ask Mr. Scott to discuss his statement once more and then clarify it.

• (1835)

Mrs. Rachael Thomas: Madam Chair, that is—

The Chair: Ms. Thomas, you seem to have a lot of trouble when someone is speaking and cut them off. I am speaking. You asked me a question, and I am trying to answer it.

Now, are you suggesting—?

Mr. Peter Julian: Challenge the chair.

The Chair: You asked me what you should do, and I am suggesting that you could ask Mr. Scott, whom you have quoted during this whole issue. You quoted him. It might be nice to ask him if he would clarify.

The minister is appearing before this committee, and the minister will obviously then clarify if you ask him that question. I don't understand the problem here.

There are two options open to you—and, by the way, I don't want to debate it.

This debate is now adjourned and we are leaving the meeting.

Thank you very much.

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