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Chair

Ms. Marlene Catterall

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•(0905)

[English]

The Chair (Ms. Marlene Catterall (Ottawa West—Nepean, Lib.)): I'm calling to order this meeting of the Standing Committee on Canadian Heritage, and our subject today is the CRTC.

Mr. Dalfen, would you like to begin?

And happy new year to everybody before we start.

Mr. Charles Dalfen (Chairperson, Canadian Radio-television and Telecommunications Commission): Thank you, Madam Chair, and good morning, members of the committee and staff.

[Translation]

My name is Charles Dalfen, and I am chairman of the Canadian Radio-television and Telecommunications Commission. With me today is Andrée Wylie, Vice-Chairman, Broadcasting, and Mike O'Sullivan, Executive Director, Broadcasting. A number of other senior staff from the commission are here today as well.

We are pleased to be with you in response to your request for an overview of the CRTC's mandate and activities. You have also asked us to elaborate on some recent issues, such as the distribution of non-Canadian third-language television services in Canada, on which we issued a public notice in December.

[English]

In addition to my oral presentation, which you have copies of, we have provided you with a background document entitled "CRTC Overview", which sets out our mandate, structure, governance, and operations.

Let me begin with the basics. The CRTC is an independent public authority. We are responsible for regulating and supervising Canadian broadcasting and telecommunications. Our governing statutes are the CRTC Act, the Broadcasting Act, and the Telecommunications Act. We report to Parliament through the Minister of Canadian Heritage.

Our functions under the Broadcasting Act are set out in the overview you have. They include licensing of broadcasting undertakings, reviewing changes of ownership or control, developing regulatory policies to meet the objectives of our legislation, resolving disputes and complaints, monitoring compliance and industry performance, and deciding on the distribution of foreign broadcasting services in Canada.

We regulate over 2,000 licensees who, taken together, offer some 657 TV services and 1,155 radio services. In addition to this, we

regulate 78 telecom carriers. There are a further 2,028 cable TV, satellite, and wireless broadcasting distribution undertakings, of which some 90% are eligible for exemption from regulation. Last year we processed 853 broadcasting and 790 telecommunications applications. We issued 445 orders and 729 decisions. We had 11 public hearings and responded to 55,386 requests for information and complaints.

[Translation]

As an administrative tribunal, we are subject to the rules of natural justice, which must be incorporated into our decision-making processes in order to ensure access, transparency and openness to input from the public.

Our budget for the current fiscal year is \$43.7 million. This amount is covered by fees that we levy on broadcasting and telecommunications companies. We have a staff of 418, based in Gatineau, Quebec, and in regional offices around the country.

[English]

In fulfilling our mandate we are called upon to walk a fine line. Our governing legislation requires us to pursue a large number of policy objectives that are set out in the Broadcasting Act. It is not uncommon for these objectives to conflict with one another. Our job is to deliver decisions that strike the best possible balance among them.

[Translation]

We must also try to weigh in the balance the competing interests of our stakeholders—industry players as well as consumers of broadcasting and telecommunications products and services—while always remaining mindful of the broader Canadian public interest.

[English]

We recognize that we work in an area where the stakes are high. Canada is unique among industrialized countries in the degree to which its broadcasting and telecommunications legislation explicitly emphasizes the social, economic, cultural, and political importance of these two industries. Section 3 of the Broadcasting Act declares that our broadcasting system is “essential to the maintenance and enhancement of national identity and cultural sovereignty”. Section 7 of the Telecommunications Act contains a similar statement about the role of telecommunications in maintaining Canada's identity and sovereignty. These are compelling statements, and they give us all the more reason to be prudent and painstaking in our work.

Today the focus is on broadcasting. Sections 3 and 5 of the Broadcasting Act, which are reproduced in the overview, set out a rich and complex array of objectives that define our legislative mandate. First and foremost among them is the promotion of Canadian content. Supporting the production, broadcast, and distribution of Canadian programming is the cornerstone of broadcasting policy as laid out in the act. This is the legislative expression of the long-standing view in Canada that broadcasting plays a critical role in creating and sustaining our collective sense of who we are and what we stand for.

Perhaps the fullest expression is found in subparagraph 3(1)(d)(ii), which says that the Canadian broadcasting system should

encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming and by offering information and analysis concerning Canada and other countries from a Canadian point of view,

• (0910)

[Translation]

Other sections require each element of the broadcasting system to contribute to the creation and presentation of Canadian programming; require broadcasting undertakings to make “predominant use” of Canadian creative resources; and require broadcasting distribution undertakings to give priority of carriage to Canadian programming. Section 5(2)(e) directs us to regulate the broadcasting system in a way that “facilitates the provision of Canadian programs to Canadians.”

Although the Broadcasting Act was first adopted in 1968 and substantially revised in 1991—in both instances, with near unanimous support from all political parties—there is a longer history of regulation of Canadian content based on preceding legislation. Content regulations were first imposed on over-the-air television in 1961, when television broadcasters were required to devote 45 per cent of their programming to Canadian content. The current rule is 60 per cent overall and 50 per cent in the evening for private broadcasters.

Canadian content rules are also relevant to cable companies, which were initially brought under the commission's jurisdiction in the 1968 act. A majority of the services delivered to subscribers by cable and direct-to-home undertakings must be Canadian, and they must also carry most licensed Canadian channels. As well, they must contribute 5 per cent of their broadcast revenues to support Canadian

programming and community expression, with the bulk of this contribution going to the Canadian Television Fund.

[English]

In radio the first content regulations, requiring that 30% of all popular music played on radio stations be Canadian, were introduced in 1972. Before the rules were in place, incidentally, the Canadian content on radio was 3%. The current requirement is 35%. This has allowed a Canadian music industry to establish itself and has launched the careers of many artists and musicians who are now international stars or indeed superstars.

One of the most significant ways in which the commission fulfills the Canadian content objectives of the act is through measures aimed at promoting the production and viewership of Canadian television drama. We attach particular significance to this because viewing Canadian drama on television is one of the most important outlets Canadians have for participating collectively in our national culture. As well, promoting made-in-Canada drama helps to ensure we have a domestic industry that is capable of producing first-rate television programs and that provides employment for Canadian writers, directors, artists, and technicians on a sustainable basis.

When it comes to French language Canadian drama, domestic productions do very well, attracting roughly half of all viewers of drama on French language services. But the story is different when it comes to English language drama. There, American programming predominates while homegrown productions currently attract only 11% of Canadians watching drama on English language television.

Over the years, the commission has implemented a variety of measures aimed at stimulating the production of high-quality Canadian drama. In November of last year we took another step and announced incentives for broadcasters of English language drama. In a nutshell, the incentives allow broadcasters to sell extra minutes of advertising time over and above what is normally permitted if they broadcast more original hours, if they attract larger audiences, or if they commit more expenditures to Canadian drama.

[Translation]

Last week, we also adopted similar measures with regard to French-language drama programming to ensure that it remains a major part of peak-time viewing.

Our approach to Canadian television drama is linked not only to the Broadcasting Act's objectives related to Canadian content, but also to Parliament's direction that the broadcasting system reflect Canada's linguistic duality.

The act acknowledges that “English and French-language broadcasting, while sharing common aspects, operate under different conditions and may have different requirements.” And it requires that “a range of broadcasting services in English and in French shall be extended to all Canadians as resources become available.” As well, the act requires that CBC programming reflect the “particular needs and circumstances of English and French linguistic communities” and that it be “of equivalent quality in English and in French.”

Recent steps taken by the commission to support these objectives of the act related to linguistic duality include: establishing a policy for the distribution of official language broadcasting services in a minority language environment; requiring satellite distribution undertakings to distribute at least five CBC channels in both official languages; giving effect to the CBC's extended coverage plan of La Chaîne culturelle (now Espace musique) and CBC Radio Two; encouraging cable companies to offer community channels in both official languages; and preparing an annual action plan for the CRTC's implementation of section 41 of the Official Languages Act.

• (0915)

[English]

Beyond supporting linguistic duality, the act also contains provisions requiring the broadcasting system to respect and reflect the 200 or more cultures, languages, and ethnic traditions that today constitute Canadian society. Subparagraph 3(1)(d)(iii) states that the Canadian broadcasting system should

serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of aboriginal peoples within that society.

We take two broad approaches to fulfilling this objective. We license many services that target ethnic and aboriginal communities, and we require broadcasters to reflect Canada's diverse reality on Canadian television screens.

Under our licensing approach, Canada's ethnic broadcasting landscape has expanded considerably. There are now four ethnic, over-the-air television stations and 17 radio stations, all of which devote a significant portion of their schedules to programming and languages other than English or French—so-called third-language programming. There are also five general interest, third-language specialty analog services, and there are 21 ethnic digital services that have been launched, as have several specialty audio services. There are also 30 ethnic digital services that have received authorization but have not yet commenced operation. On top of these Canadian third-language services, 19 non-Canadian third-language services have been authorized for distribution in Canada, and six of them are currently available to subscribers.

The commission also licenses aboriginal services. Aboriginal Peoples Television Network, APTN, launched in 1999, is the only national indigenous television network in the world. We require that it be carried by all television distribution systems across Canada. As well, there are over 215 native radio stations across the country, in rural areas, small towns, and on reserves. We have also licensed AVR, a radio network, and licences in the major Canadian centres. Most of these native radio stations are exempt from the regular

licensing process to encourage the rollout of as many services as possible.

[Translation]

The second arm of our approach to diversity involves requirements that broadcasters must fulfil. The commission now requires broadcasters to improve the reflection of Canadian diversity in all types of programming. They must also report annually on their accomplishments in this regard.

At the request of the CRTC, the Canadian Association of Broadcasters created a taskforce which undertook research on diversity on Canadian television and proposed industry-wide approaches for improving the presence and portrayal of Canadian diversity on television. The taskforce submitted its final report to us last year, and we will issue our response soon.

I would also point out that the commission recently expanded its diversity initiatives to include the improved reflection and portrayal of persons with disabilities. The Canadian Association of Broadcasters filed an action plan with us in August, and we look forward to their report, in July, on its implementation.

All this being said, it remains true that much more has to be done in order to bring all Canadians into the broadcasting system, on both sides of the camera and the microphone.

• (0920)

[English]

I spoke a moment ago about the importance of third-language television programming to achieve diversity in our broadcasting system. Not surprisingly, requests for non-Canadian third-language services have accelerated in line with the growing diversity of Canada's population. We therefore decided to launch a public review of this issue. We received 152 comments from distributors, broadcasters, representatives of third-language communities, and other members of the public.

After weighing the evidence, we announced in December a more open approach to requests for non-Canadian third-language services that are of a general interest nature. As a general principle, these requests will be approved subject to distribution requirements aimed at minimizing any possible negative impact on Canadian third-language services. We believe this new approach will respond to demands for greater diversity in programming and ensure better service to third-language ethnic communities, while at the same time offering needed protection to long-established Canadian-owned and -operated third-language services.

Another public interest that has been highlighted recently concerns our regulations prohibiting broadcasts containing abusive comments that are contrary to the objectives of diversity and equal rights enshrined not only in section 3 of the Broadcasting Act, but also in the Canadian Charter of Rights and Freedoms. As you probably recall, last summer we issued decisions related to both television and radio that generated considerable controversy. Those decisions required us to balance freedom of expression with other objectives of the act in applying a regulation prohibiting abusive commentary that violates the rights of individuals or groups by exposing them to hatred or contempt on the basis of race, sex, or other attributes. I would note that this particular regulation was adopted in its original form nearly seventy years ago. Similar rules are in place in many other countries.

I can't think of clearer examples of the fine line that we must walk at the commission as we attempt to balance competing claims and competing social values. On the one hand, Canadians care deeply about freedom of expression, but they care equally about nurturing respect and civility and sustaining a society in which equal rights and tolerance predominate. There is no magic formula in cases such as these. At the end of the day, we have to make a judgment about the best way to further the multiple objectives Parliament has set for us and to pursue the public interest.

Because our decisions are often difficult ones and because it's important for us to get them right, we need to be deliberate in the way we gather and weigh evidence. To do it fairly takes time. I raise this because if there is one area in which our broadcasting industry stakeholders tell us consistently that they want us to improve our performance, it has to do with the speed at which we deliver our decisions in public notices. We understand their concerns. No one who operates a business in a regulated environment relishes the uncertainty that goes with waiting for the regulator to make up its mind. We are therefore placing a special emphasis on finding ways to streamline our internal procedures in order to accelerate our decision-making. That effort has already begun to pay off, but more is still required and we will continue to pick up the pace.

[*Translation*]

Madam Chairman and members of the committee, this concludes my formal remarks. My colleagues and I would be pleased to answer any questions that you may have.

[*English*]

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

May I ask who is ready to begin the questioning?

Mr. Schellenberger.

Mr. Gary Schellenberger (Perth—Wellington, CPC): Thank you very much for coming today. I appreciate it very much.

One thing has bothered me just a little, wee bit. In June 2003, the Standing Committee on Canadian Heritage tabled an 872-page report on our cultural sovereignty. In that, there were 97 recommendations made, 30 of which pertained to the CRTC. I think this committee received a reply back from the minister and the ministry of some three pages in English and three pages in French. My question is, how many lines did the CRTC get in that reply back to this committee? Or were they even advised before the report came

back that there were 30 recommendations? I know that when I go through the recommendations here, there are five pages of recommendations just for the CRTC alone.

That's my main question, in that that's why this committee has re-presented that report, so that we get a more complete response. We felt that after two years' work, with all the people we talked to in order to bring in a report, it was an insult to receive a three-page response. So my question to you is, how many lines did you get out of those three pages?

• (0925)

Mr. Charles Dalfen: First, let me say that I know my colleagues and I at the commission found the report very useful. I thought it was a tremendous snapshot of the Canadian broadcasting system at an important moment in time. There were a lot of recommendations, and there was also a lot of useful information in those recommendations. We use the report as a reference point as well.

As far as the response goes, the way it works, of course, is that this was a report to the government. The Minister of Canadian Heritage coordinated a response and did ask us for comments and input, which we gave to them. I don't know how many lines we got in the actual response, but we did have input into that process and we will continue to work through the ministry in responding back to you. We'd be prepared at any time to appear before you again on the recommendations that pertained to us in light of that response. I think the appropriate way, as we understand it, is to go that route.

Mr. Gary Schellenberger: Thank you.

The Canadian Television Fund is to be recognized by the government as an essential component of the Canadian broadcasting system. In this report, there was a request that there be an increase in stable long-term funding. I know from the CBC that we also realize that there should be stable long-term funding. I think it's imperative that anything that is out there needs stable long-term funding. It must be terrible....

I know what it's like when you're trying to get elected and you don't know whether you're going to have a job or you're not going to have a job. If you know your job could be over in six months' time or two months' time, you're probably thinking more about going on to another job than you are about doing the job you should be doing at that time. So how do you feel about long-term funding, whether it be for the Canadian Television Fund or for the CBC and those types of things?

Mr. Charles Dalfen: As you know, funding is not part of our direct responsibility, but I know my colleagues and I share the view that the more stable funding there is for institutions that produce Canadian programming of value in this country, the better. So as a general principle, we certainly support it.

Mr. Gary Schellenberger: I have one more little thing, and because I know my colleague has to leave early, I don't want to take up all the time.

Recently, CTV Newsnet made an application before the CRTC. I understand that you cannot talk about a specific case that is currently being considered, but I wonder if you could shed some light onto the process in general terms. A station is granted a licence under certain parameters. As time passes on, circumstances change and they require a new mandate from the CRTC in order to meet changing market demands. I wonder if you could explain this process and what the commission takes into consideration while reviewing a case.

Mr. Charles Dalfen: That's an interesting question. As I said—and as you've seen in the interview—the power given to us by Parliament is to issue and amend licences. Where rate issues are concerned or mandate issues are concerned, this often amounts to an amendment to the original terms of the licence. Applications are filed, and that was done in the case of Newsnet. Interventions are received—I gather a large number of interventions have been received in this proceeding—and we go on to look at them in the context of the broadcasting system at the time. In light of the objectives in the act, we will then try to come up with a decision that balances the pertinent considerations.

• (0930)

Mr. Gary Schellenberger: Thank you.

[Translation]

The Chair: Mr. Kotto.

Mr. Maka Kotto (Saint-Lambert, BQ): Thank you for being here. I will try to be brief, because we do not have much time. I have a couple of practical questions, in order to better understand your role with regard to two issues: CKAC and CHOI-FM, that is, if we have enough time to go into both of them. I will ask simple questions and I would like to receive brief answers.

In the case of CKAC, was it an independent source or Astral and Corus who were afraid of financial losses at CKAC and in other stations owned by the Radiomédia network?

Mr. Charles Dalfen: To finance CKAC's operations?

Mr. Maka Kotto: No. It's been said that CKAC suffered financial losses. Where did that information come from?

Mr. Charles Dalfen: Every year, we collect all relevant information on the radio business in Quebec and elsewhere in the country. For the last several years, AM stations in Quebec had been losing money. AM stations incurred financial losses, and the situation deteriorated over several years.

Mr. Maka Kotto: Is it possible to have access to that information?

Mr. Charles Dalfen: Absolutely. It is posted on our website, and I can provide you with information on that subject.

Mr. Maka Kotto: Has the CRTC been able to identify and pinpoint the financial losses due to the situation the stations found themselves in after the Competition Bureau forced Astral to sell them? Has the CRTC been able to identify and pinpoint the losses exclusively due to the decline of AM radio in general, as you have just said?

Mr. Charles Dalfen: I don't know whether an analysis would be able to help us distinguish between these two elements. Indeed, in order to protect the privacy of radio broadcasters, each station's

figures remain confidential. The figures for AM and FM radio are grouped by province. Based on that we can reach conclusions. However, it is difficult to explain why there were losses. We do know that the situation was very unstable and that AM radio was losing ground.

Mr. Maka Kotto: When you say that the figures are confidential, does that mean that you yourself do not have access to them?

Mr. Charles Dalfen: We have access to those figures, but they remain confidential and are not made public. This was the agreement reached between Statistics Canada and the CRTC several years ago.

Mr. Maka Kotto: Do members of Parliament have access to those numbers?

Mr. Charles Dalfen: I don't think so. Only regulatory organizations and Statistics Canada can see the figures.

Mr. Maka Kotto: In making its decision, did the CRTC take into account how it would affect francophone listeners in Montreal, as opposed to anglophone listeners, who will gain access to a greater diversity of independent news sources?

Mr. Charles Dalfen: Of course, we took that into account when we made our decision. As I've just said, we try to balance all the interests in order to make the best decision possible in a given situation.

Mr. Maka Kotto: How can the CRTC, in its wisdom, advocate closing CKAC's newsroom while simultaneously recognizing the importance of maintaining the independence and uniqueness of private radio news stations in Quebec? How would you respond to that?

Mr. Charles Dalfen: I realize that CKAC had a long and proud tradition, and it was a difficult decision. We receive many applications at the same time and we have to use our judgment. However, I can assure you that throughout Quebec the number of news sources will increase once the decision is implemented. Before including Astral and Corus, there were 65 sources in Quebec. But if the transaction goes ahead, there will be 70.

• (0935)

Mr. Maka Kotto: Are you sure?

Mr. Charles Dalfen: We were presented with evidence to that effect. Stakeholders had the opportunity to make representations. In any case, this was our conclusion based on the transcripts and minutes of meetings with regard to this matter.

Mr. Maka Kotto: As regards the concentration, standardization and uniformization of information, in its decision, did the CRTC not have the wisdom to impose more limits?

Mr. Charles Dalfen: The issue of concentration was raised. However, if you break it down market by market, you will see that in many cases, there will be less media concentration because of Corus' arrival on to the market. For instance, in Sherbrooke and Trois-Rivières, there will be increased competition and a greater diversity of voices. In other markets, the situation will not change. If a radio station has been sold by Corus to Astral or vice versa, the status quo will remain. In my opinion, the fact that Corus will become a player in Quebec's AM radio market will only add more diversity.

Mr. Maka Kotto: Are you sure?

Mr. Charles Dalfen: We have the cost percentages, but the revenue percentage is based on that analysis. We draw that kind of conclusion.

[*English*]

The Chair: Mr. Angus.

Mr. Charlie Angus (Timmins—James Bay, NDP): Thank you. I have many questions.

It's a real honour to have you with us today.

I'd like to begin by asking a question about the issue of media concentration. We talk about diversity of voices and its importance, but it seems to me we're overlooking the number one fact of 21st century media, which is the bringing together of radio and the integration between media—television and print in certain urban markets. I think this has profound implications for Canadian discourse and particularly for political dialogue. I haven't seen any real efforts made yet to address this issue. I'd like to know what your regulatory framework is for looking particularly at the concentration of media that's taking place.

Mr. Charles Dalfen: It's an important point, and I think a review of the decisions of the commission since its inception would show a continued concern with that issue. We all have to be vigilant in a democracy to ensure that there are a diversity of sources of information. That's fundamental. The tools vary, though. We don't regulate the print media, nor should we. Freedom of the press has a long history, and I think regulation of that medium is not something Canadians desire.

But we are looking at the other side of it. Typically, this comes up when there are merger or acquisition transactions that are filed on approval. It's always front and centre in the analysis we do, as you can see by looking at the decisions. Sometimes decisions are taken—for example, acquisitions of newspapers or newspaper groups—after licences have been granted, after transactions have been approved. They don't require our permission. We find ourselves in situations where it has occurred. At the next licence renewal we review the entire situation. At times we have turned down applications. In the past few years I can think of a number—and I can give you examples if you like—where media concentration in a given market caused us to decide on balance the decision should not be approved.

I would add, though, that I was at the commission in the late seventies, and if I do a snap of 1980 versus now, I have to say that even with all the concentration we've had, there were a lot fewer sources of information, on television certainly, and probably in television and print combined, than there are now, when you include all the new players in the game. In those days there were the CBC and CTV. Global was a fledgling network in those days. That was all you really had on English language TV. Then you had the three-plus-one American networks. That was basically all you had.

Today if you look at the dial you have dozens of choices, Canadian and foreign, but focusing on the Canadian, you have many more players in the game now than you had in those days. The channel is now with us. We now have the CHUM news services. So you get a large number...and while you always have to remain vigilant—and case by case we do—I think it's fair to say that we

have much more diversity of view now than we had, say, 25 years ago.

• (0940)

Mr. Charlie Angus: I guess my concern is that if, for example, a newspaper chain that may be in Vancouver has four or five of the major newspapers, all basically with the same voice, and they're in TV, do you consider their newspaper basis in a market when you look at their television acquisitions?

Mr. Charles Dalfen: The answer, in short, is yes. Whenever there is a change-of-control transaction before us, we look at their entire role in the media of the province. As I say, I can refer you to certain recent decisions if you would like me to demonstrate that.

Mr. Charlie Angus: I've been looking at the LaPierre report, *A Charter for the Cultural Citizen Online*. Have you read that?

Mr. Charles Dalfen: I haven't seen that, no.

Mr. Charlie Angus: LaPierre is looking at a long-term, 21st century plan for the development of digital culture online. He says in his report that so far the heritage minister has been fairly lukewarm to the idea, and he says the CRTC hasn't taken a lead.

My question is, if we are looking to advance the development of online Canadian culture in the 21st century, does the CRTC have a role to play in this, and how would it exercise this role?

Mr. Charles Dalfen: That's a very good question. In 1999 we issued a report on new media, which essentially focused on the Internet. Our authority, as I said before, comes from the Broadcasting Act and the Telecommunications Act. If it isn't in those categories, then the question is, do we have a role to play? It's a big question mark. We did determine in that new media policy that there are activities on the Internet that fall within the scope of broadcasting. However, because of the fledgling nature of new media and in order not to chill out investment, development, and creativity on it, we exempted it from regulation until it had an impact, say, on Canadian viewing and on competition with existing broadcasters, and that's where the situation rests at the present time. So we don't have direct access to the Internet. We get at it, if at all, through the broadcasting path. We have so far felt that laissez-faire is for the moment the best way to let it develop.

Mr. Charlie Angus: I find that to be very encouraging.

• (0945)

The Chair: Thank you.

Ms. Bulte.

Hon. Sarmite Bulte (Parkdale—High Park, Lib.): Welcome, Mr. Dalfen and Mr. O'Sullivan.

Mr. Dalfen, you talked about drama being a very important part of Canadian content. Certainly drama is something the Lincoln committee looked at. The problem is it's very expensive to produce, and it also competes with the U.S. content. But a lot of people blame the CRTC for the reduction in drama—I know this was before your time—due to the 1999 decision on the widening of priority programming.

I understand that you've recently announced, as you noted, the increase in advertising revenue that would be allowed.

There is still concern in the arts community about the lack of Canadian content on television, especially in the case of the private broadcasters. When you look at how much Canadian content is actually put on, you see that it's quite small. How are we going to ensure that is increased?

One of the concerns that has been brought to my attention since Trina McQueen's report came out and you came out with your recommendation on the increased advertising revenue is that this policy won't be reviewed for a while. In fact, what will happen is the major private broadcasters will have their renewals come up in between the time the policy has been announced and the review has been announced. What are we going to do in the interim to ensure private broadcasters do take Canadian content seriously? How do we find the money? How do we work to ensure that Canadian content is increased? This is one thing we looked at. I think it's crucial that somehow we gain the momentum to make that happen again.

Mr. Charles Dalfen: You have been a long-standing supporter of Canadian drama. I know that very well.

Let me draw a distinction between Canadian content on the one hand and Canadian drama on the other. In Canadian content the rules are what they are: 50% prime time, 60% over the whole day. Most broadcasters comply with those requirements. When we look at our financial summaries, we see that as a percentage of their total expenses and revenues, they remain pretty constant. In fact, in 2004, Canadian programming as a percentage of total revenues went up from 57.5% to over 60%. So on Canadian content per se, all programming, I think the situation is pretty stable, and there's no evidence of a decline.

In Canadian drama, the approach we've taken is incentives. The reason for that is that for 25 years at least there have been regulations of various sorts governing hours and expenditures, and the viewing by Canadians of Canadian drama remained very low notwithstanding all of those. The programming is out there, and we want Canadians to watch that programming. How can we get productions that are done not just to comply with regulations, which might attract the lowest amount of investment, but ones that can actually work with the energy the broadcasters are working with—namely, economic incentives—and see whether by working together in the general direction they're going we can get better results than we now get?

That incentives package has now been launched. We have received a number of applications from broadcasters to come on board. In fact, we're processing one. We'll probably put out some decisions on those this week. Hopefully, that will be part of the way toward the solution. We can always review our past policies. As you say, broadcasters will come up for licence renewal. This isn't

something that I think the commission is going to take its focus off, because we think it is the most vital form of programming for both cultural and economic reasons in this country.

Hon. Sarmite Bulte: So then again, how do you deal with the criticism that, oh, the commission just did this to allow the private broadcasters to have their licence renewals from the time you announced the policy to when it's reviewed? When the licence renewals come up, how do you respond to that criticism?

Mr. Charles Dalfen: Certainly, there was no intent of that kind. I think in the public notice we did say we would review this. We're not required to only review the broadcasters' performance at licence renewal, and we will bring this forward if it doesn't pay off. We're hopeful, though, from the take-up so far that it will pay off.

It's another approach and it's a unique approach to not set regulatory standards but rather to actually provide incentives. I think there is no limit on when and how we examine this issue going forward, including reviewing the policy if that should prove to be the appropriate thing.

But it is important. It's a shift toward saying these are all private sector industries—leaving aside the CBC, which I think is increasingly committed to drama—but these are businesses in the private broadcast sector, and we want those businesses to succeed through Canadian drama.

We have, of course, the great example of *Corner Gas*, which is now attracting almost two million viewers a week and ranks in the top ten programs watched, so there are encouraging signs that various parts of the private broadcasting industry are moving in that direction. To us, that is a success, to have that kind of small, regional Canadian drama—one by and unmistakably about people in Saskatchewan in this case—done by a regional production house. That basically scores on all the CRTC bases, and it's something we want to encourage CTV and other broadcasters to do more of.

The Chair: Thank you.

Ms. Oda.

Ms. Bev Oda (Durham, CPC): Thank you, Madam Chair.

Welcome.

I feel a little perplexed here. I don't know which side of the table I really enjoy the most. I think I've been fortunate to have experienced both sides in many forums.

I just have two areas primarily I'd like to look at. I was looking at the part III estimates, and I noted that you indicated today your budget is \$43.7 million for this year and that you have experienced no permanent budget increases in the recent past. I also note that in your projections there's a decrease in your planned revenues for 2005-06. Is that a reflection of a request by government to review your expenditures and find a decrease in your operating costs? Also, what kind of increase in order to fulfill your current mandate would you require?

• (0950)

Mr. Charles Dalfen: My understanding—and I can get you more information on this if you like—is that we are at \$43.7 million going forward. Our planned spending for the period through 2007 is at the \$43.7 million level and doesn't.... I'm looking at the estimates on page 38.

Ms. Bev Oda: I'm looking at page 33.

Mr. Charles Dalfen: I don't have a page 33.

Some hon. members: Oh, oh!

Mr. Charles Dalfen: I have a blank page. Maybe they haven't told us something.

Ms. Bev Oda: A fundamental question for me, though, is this: is the government providing the financial resources you need to operate efficiently, not only efficiently but also in response to more complex matters as we go forward? With no increase you're really seeing decreases.

Mr. Charles Dalfen: Well, it hasn't been the problem so far, and I've been here three years.

We were not part of the vote-cutting exercise, by the way. It happened in the past, a few years ago, I think. The hat was passed twice through all the cultural agencies, but we were not required to throw any coins into it either time because our budget is small enough and also because we're vote netted. If we're cut, it means the regulated industries pay less because they pay our entire budget, so we haven't been affected.

Going forward, there is a telemarketing bill that's now in the House on the telecommunications side, and that may require more resources going forward. But I'd say that by and large we're working with the resources we have and we think we can do the job with those resources. But if opportunities present themselves or if needs present themselves, we'll be at the front of the line seeking more.

Ms. Bev Oda: I'm continuing on resources. You're maybe developing a new role, a new function in the telemarketing area. Would you agree that this is a totally new function, a new role for the commission, and that it doesn't fold into some kind of ongoing activity?

Mr. Charles Dalfen: Well, it's practically totally new the way it's being set up. We have had under the Telecommunications Act the privacy provision and we have in place tariffs governing telemarketing, as you know, but that has certainly not called on that many resources up to now. It's a little uncertain as to how it will work with a national do not call list, but one thing is, if you have such a list, you want the system to work so when people get their names on it and there's an offence, the telemarketer will basically be caught and penalized.

That may well require resources. Of course, we've alerted the Department of Industry, and they're well aware of it and they're sympathetic to the possibility we may need more resources. The idea is currently to outsource a great deal of it, and that's what we hope to do so the demand on our resources won't be that great, but I think there will be a need for more.

You're right; it is almost a totally new activity.

Ms. Bev Oda: Thank you.

My next question is on radio, concerning your process and your plans regarding the review of radio. You've held a hearing on subscription radio services. There is an appeal from Quebec courts that has had some kind of effect or influence on the proceedings, and you've announced a radio review but it has been postponed. Can you just take us through your process on your going forward in the review of radio and the considerations with respect to how radio will develop?

• (0955)

Mr. Charles Dalfen: Thank you.

The commercial radio policy of 1998 indicated that there'd be a roughly five-year review period. As the time approached for that review and we were about to launch it, we got these applications for subscription radio—satellite radio and terrestrial radio—and we thought it was better to have that proceeding to see what would get factored into the system by way of subscription radio, if anything, and then have the review. So the review will follow.

I should add, by the way, that as a result of the commercial radio policy, the radio industry in Canada has been doing very well. In our annual monitoring report, which I know a number of you have seen, you see the results for radio, where profit before interest and taxes has risen from the 15% range in 1999 up to over 19% in 2003. So the radio industry in Canada is healthy, and I think the policy has been effective in that regard. Nevertheless, there are issues that are there to be reviewed.

Ms. Bev Oda: Madam Chair, could I just ask another? Just one little yes or no.

The Chair: If Mr. Brown agrees that you can have a couple of his minutes on the next round, that's fine. I know you have to leave.

Ms. Bev Oda: Did I just understand that the subscription radio decision will be held back until the overall review of radio takes place?

Mr. Charles Dalfen: It's the reverse. We expect to issue the subscription radio decision in the second quarter of this year, and very likely in the fall, after that's been factored into the system, we will announce the commercial radio review.

Ms. Bev Oda: Thank you.

The Chair: Thank you.

Next, Mr. Lemay.

[*Translation*]

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): Madam Chair, Happy New Year. Happy New Year, Mr. Dalfen. I will be sharing my time with Mr. Kotto. I'm only going to ask one question.

You weren't around in 1971 when I argued the first case before the CRTC for the only francophone campus radio station, CKRL-FM, at Laval University. I was a young law student at the time and I didn't understand the whole system.

I'm from the Abitibi-Temiscamingue region. How are you going to balance protecting small communities through small radio stations like Radio-Nord Communication and large groups like Corus and Astral, especially with what's happening with things like satellite radio? How can we reassure our constituents in smaller regions about what the CRTC is planning?

Mr. Charles Dalfen: That's always a tough question. The same thing occurs all across the country, with both radio and TV. At the public hearing on satellite transmission, we heard from representatives of independent community stations who were looking for ways to protect themselves. We try to protect those stations as much as possible, but that also requires the energy of the people running those stations, which are funded through donations and need the help of the community. There's no simple answer to that question. We try to strike a balance, to do what we can to help out on all levels, one decision after another. The legislation requires us, locally, regionally and nationally, to strike a balance between private, public and community interests, and to maintain a healthy diversity. We do our best to make sure that that in fact happens.

Mrs. Andrée Wylie (Vice-Chairperson, Broadcasting, Canadian Radio-Television and Telecommunications Commission): You probably know that Radio-Nord now has a station in Montreal. Its representatives appeared before us recently. They want to set up another station in the Gatineau area. They've been getting a bit bigger lately.

Mr. Maka Kotto: I'm going to ask you a bunch of questions all at once.

I'd like to know why the CRTC didn't require Corus to include the CKAC newsroom in its new news facility in Montreal, Corus-Nouvelles.

• (1000)

Mr. Charles Dalfen: We haven't regulated radio programming formats in years. That means that a radio station can change its approach without our permission.

Mr. Maka Kotto: I asked that question for a reason. If the CRTC had intervened in that manner, would that not have been a way for it, in all of its wisdom, to protect that plurality and diversity of information?

Mr. Charles Dalfen: Perhaps I'm mistaken, but I don't recall any case where we required a certain number of jobs to be maintained, in the news area, for example, or in any other category. In our opinion, that would constitute interference in a radio broadcaster's business. We regulate programming hours and we have required more local programming in the regions. However, we don't go so far as to require job retention. We don't do that.

Mr. Maka Kotto: When it made its decision, did the CRTC realize that it was dismantling a jewel in Quebec's radio heritage? That would be like turning the CBC into a travel, tourism and adventure channel. It created a situation that drove that radio station to work in a whole different area than the one it had always worked in in the past.

Mr. Charles Dalfen: Are you talking about CKAC's mandate?

Mr. Maka Kotto: That's right.

Mr. Charles Dalfen: We were well aware...

Mr. Maka Kotto: Do you realize that it's the oldest private francophone radio station in the world?

Mr. Charles Dalfen: I believe that was mentioned in the decision. It was quite clear. Corus chose a certain strategy, according to which the news would be mainly presented on another radio station in Montreal, and CKAC would specialize in sports and health. I believe we were quite aware of that, but we had concerns about the AM radio situation and stations that were governed by a trust agreement for three years.

The Chair: Mr. Kotto, you're out of time.

[English]

Mr. Simms.

Mr. Scott Simms (Bonavista—Gander—Grand Falls—Windsor, Lib.): Welcome, Mr. Dalfen. Before I got this job I was a broadcaster for 15 years, so I want to thank you for granting me three hours of your time.

I want to go back to something a couple of people said here. Mr. Schellenberger talked about the Newsnet issue earlier. I just want to pull back a bit from that issue in a broader context and say it seems to me that a lot of the regulations that are there are meant to, I guess, create a level playing field, or are in the guise of being a helping hand. But what we have now, with the addition of these foreign signals, is a shackle to many of them. There doesn't seem to be a lot of room to manoeuvre to compete against this international market.

I can't see how, without barring the foreign signals, we could get into the situation of micromanagement. As you said earlier about micromanagement, you don't want to get into it in the newsroom situation, but it seems like that's where we're going. A recent example is the channel in the States that was country and is now all about men—Spike TV, I think it's called. I don't feel a Canadian channel has the flexibility to change gears like that, to completely change format. I mean, that's a 180-degree switch.

Don't you feel that right now there are too many shackles on our Canadian broadcasters in light of foreign signals?

Mr. Charles Dalfen: I don't, but I hear what you're saying. Without getting into the Newsnet case that's before us, I will say that often you have things occur in the sequence they occur. So you had CBC Newsworld licensed originally, I forget what year, and then CTV presented the Newsnet application, which went for the wheel; it was going to be the headline sports service. So in order to not unduly compete with the Newsworld service, it accepted a certain number of restrictions, which, in the competitive process, it volunteered for. That was the situation.

As you say, things evolve. You get additional services. Recently, new news services have come into the mix, including Fox and MSNBC. Obviously, that's caused CTV Newsnet to re-examine their situation and say, well, maybe we do need more flexibility. That's the case before us, and we'll have to weigh it and balance it. The CBC's point of view may be somewhat different in that proceeding. I haven't at this point read their intervention.

But it plays out in that way, as new developments occur. I hope we're not shackling our Canadian broadcasters unduly and causing them to be at a competitive disadvantage. We certainly would not want that as an outcome.

•(1005)

Mr. Scott Simms: I guess it's a question of time. I understand the constraints you're under; it's hard to catch up on many occasions.

One of the things you said earlier was that this was an issue that you were dealing with "at" the time. To me, maybe we should be more proactive in the sense that we should handle these issues "before" the time. You read about platforms and about how our information is delivered. It's information and entertainment. Now I go to my television set and I watch TV for entertainment. I go to the computer and I get information. But soon we're going to be doing all that from one platform.

We don't have regulation in the Internet world and we do have regulation in the broadcasting world. In the light of combining technologies, where do you see all of this going? Is it less regulation? Is it more regulation?

Mr. Charles Dalfen: I think there has to be an inevitable movement towards less regulation overall. I think that's part of what the act envisages, that regulation not be burdensome, that it be as light-handed as possible. Certainly that's what we try to achieve. We don't always succeed, but it's certainly the goal we're going at.

On your point about the Internet, as I mentioned in a previous answer, it's a good question: when will the Internet be competitive with broadcasting such that it will become unfair to regulate one and not the other? In 1999 we said we're not there yet, and I don't think we're there yet. You mentioned "soon", and you may be right. It's very hard to gauge it. And you certainly don't want to pre-regulate, because we think that would only chill creativity and chill developments that might otherwise be allowed to flourish.

Again, it's the old balancing act. You don't want it to get out of hand, but you want to allow the Internet to develop in the ways that it can best develop, in the interests of Canadian entrepreneurship and creativity. There's no easy answer on the right time to wade in, but we do know, in an organization like ours, which is so applications-driven, that the moment a broadcaster feels there's something afoot, they will put in an application. I think Newsnet is a good example. As they saw new services coming on board, they put in an application and said "Hey, wait a minute, things now have changed for us, so we'd like you to take a look at this." It's now before us.

That's the way we work. Regulatory lag is always a risk in this business, that you're behind the eight ball with technological developments, but there isn't much choice. You have to go through your due process. Ultimately, our credibility turns on the openness, transparency, and public nature of our processes. People have to have a chance to comment. That takes a bit of time to do, and it's case by case, mostly.

Mr. Scott Simms: Do I have any time left?

The Chair: You're just over your time. I can come back to you on the next round, if you don't mind. It won't be long.

Mr. Brown.

Mr. Gord Brown (Leeds—Grenville, CPC): Thank you, Madam Chair.

Mr. Dalfen, I'm delighted to see you here today.

I have many questions. I could probably go on for an hour, but I'll fire them off pretty quickly.

First of all, I'm delighted to see that you're going to come forward with a decision on satellite subscription radio. A lot of Canadians subscribe to the U.S. services and listen to them while driving around in their cars. Of course, we know how they get it. I'm really happy to see that coming forward, because if we don't do that, people will directly subscribe to the U.S. services. If you do not choose a Canadian provider, then there will be no opportunity for Canadian content.

Also, you mentioned a laissez-faire approach to the Internet. With the proliferation of broadband services and now more broadcasting on the Internet, how would you regulate the Internet if you decided to go that route?

I'll let you answer those and then I'll go to my other questions.

•(1010)

Mr. Charles Dalfen: May I ask you a question on the Canadians who are listening to satellite services in their cars? One of the things that is very hard to get at but is very important, both in regard to TV dishes and radio, is the actual number. Numbers are, of course, put out there. It's always interesting to see what estimates one has on that. We have on our record anecdotal evidence to the effect that you've just mentioned. I don't expect that you have any sense of the number of incidents of that.

Mr. Gord Brown: No, but I am familiar with people who are driving around with those services in their cars. However, I am not one of them.

Some hon. members: Oh, oh!

Mr. Charles Dalfen: This was a factor in the proceedings. It's on the public record. A number of people raised this issue about the so-called grey market in that regard. So yes, we are going to put the decision out. As I say, it'll be out in the second quarter.

What was your other question?

Mr. Gord Brown: You talked about a laissez-faire approach in terms of the Internet. How would you regulate that if you decided to do so?

Mr. Charles Dalfen: That's a very good question. There are differing views. Technologically, it's a lot more difficult than it is to regulate terrestrial and even satellite signals that operate in Canada. This can operate internationally. As you probably know, there have been court cases in the United States. They provided court decisions that applied in their jurisdiction and stopped the activity. You would have to examine the exact nature of the service. From the point of view of Canadian programming, it would seem unlikely that the source of that programming would be offshore somewhere. You'd have thought that it would be linked back to Canada. In the case of foreign programming, that would be quite different. You would have to see what the technological capabilities are at the time of effectively regulating it.

There are those who say you can never regulate the Internet. There are those who say you can do it via website addresses, domain names, and so forth. We haven't gotten into those details because we aren't at the point where it's becoming today's issue.

Technology, as I say, continues to develop. People speak of increasing convergence, where one box would be the source of all your information and entertainment. There are couch potatoes who want TV entertainment and there are people who sit at their computers. That appears to be where most people are. Is that where the next generation is? Is that where the kids are going? There's evidence indicating that isn't the case. They're far more technologically adept. Convergence may happen sooner than we think. But at this stage we don't see in our monitoring report massive evidence of that kind of shifting.

Mr. Gord Brown: With a son who has just turned four, I've become a consumer of children's programs much more than I ever anticipated.

In addition to Canadian drama, we've seen a decrease in Canadian content on the part of the conventional broadcasters. How will you address this?

Mr. Charles Dalfen: A decrease in what?

Mr. Gord Brown: We've seen a decrease in children's programming on the part of conventional broadcasters.

Mr. Charles Dalfen: That's a good point. I hadn't been aware that there was a decrease in children's programming.

Mr. Gord Brown: Of course, it has become much more available through some of the satellite services.

Mr. Charles Dalfen: I'll give you a full answer in writing—I'm just not familiar with it—but I'm informed that there has been more of a shift from conventional to specialties in children's programming and that the absolute numbers don't appear to have decreased. If you're interested, I can certainly give you a score card on what we see at the current time.

Through you, Madam Chair, if you like, I'll provide that.

• (1015)

The Chair: Please make it available to the whole committee.

Mr. Brown, your time is up.

Mr. Khan.

Mr. Wajid Khan (Mississauga—Streetsville, Lib.): Good morning. My question is more basic and relates to the issuance of licences. What are the criteria for awarding licences, especially to specialty channels? Is it financial capability, production capability? And how do you ensure quality programming?

What has prompted this question is that there are companies out there with eight to ten licences, but they do not have the capacity to produce beyond one or two, or whatever they have produced is very, very substandard. How do they end up getting all these licences?

Mr. Charles Dalfen: There are, as you probably know, category 2 digital specialty services. When the commission issued its policy on this in 2000, there was to be an acknowledgment of a more open market for these—as distinct from the history, where you had conventional market-by-market licensing initially, and then UHF,

and then VHF, and then specialty services originally on the analog dial.

Now the analog dial is pretty full, so as more and more service applications came in and there appeared to be entrepreneurs willing to offer these kinds of services, the commission set up this category 2. It essentially requires only that you not be competitive in your genre with existing specialty services that are either analog or category 1 digital specialty services, which have higher Canadian content requirements. So it isn't very difficult for you to get an authorization as a category 2 service. They're fairly routine, as long as you're Canadian owned and operated and you are clearly not competing with an existing genre that has a higher status than you. You can get those licences.

So for category 2 licences, if that's what you're referring to, the same criteria do not apply.

Mr. Wajid Khan: The problem is that while they can't produce any programming, they are now a big gorilla sitting at the gates, not allowing overseas programming to come in—they have to go through these guys, who do not have the capacity to produce themselves.

Mr. Charles Dalfen: In our revised policy we have basically said that won't occur—that unlaunched category 2 services that aren't in business will not be examined for competitiveness by these new services.

General entry services, as I said, will come in without the competitiveness test at all. The only requirement would be that there be a buy-through of existing analog long-standing services, such as Telelatino and Fairchild. There are five of them, operating in six languages, that have long-standing presence in the system—Canadian content requirements, and so on. To get one of these new services, you must be a subscriber, and frankly, you very likely are a subscriber—if you are going to watch RAI, the Italian service, you're likely watching Telelatino, because you're Italian-speaking and you want to get that. So the buy-through will help preserve the situation of the existing long-standing services and at the same time add diversity to the system.

Mr. Wajid Khan: What happens to a company producing four programmings with no desire or intent or capacity to produce the rest of the languages? How do we rectify it? Do they lose their licence, or is it granted to somebody else, or...?

Mr. Charles Dalfen: You mean...?

Mr. Wajid Khan: Let me give you a specific example if that helps. I shouldn't be using names, but there is a Toronto-based company, Asian Television Network. They have about ten language licences and they're not able to produce anything under most of them. They're using four and they're also very substandard.

Mr. Charles Dalfen: I won't comment on the particular case, but I brought along a list of those services currently in operation in third languages. In the specialty area there are Italian, Spanish, German, Chinese, Portuguese, Polish, Arabic, Tagalog, Ukrainian, Punjabi, Vietnamese, Persian, Korean, Urdu, Greek, Russian, Hindi, and Tamil services that are already launched.

The ones that aren't launched are given a timeframe in which to launch and will not be able to block other third language services. The change in the policy is that if you're an unlaunched category 2 service, you will not be taken into consideration in deciding whether a foreign service competes with you. This is in order to free it up and not allow them to simply do a blocking action against a foreign service.

• (1020)

Mr. Wajid Khan: Thank you very much.

The Chair: Mr. Angus.

Mr. Charlie Angus: Thank you very much.

I would like to go back a moment to the long, hot summer of the CRTC and ask this. During the CHOI controversy one of the big issues that came out in the media discussion and then in phone-in shows I was listening to was the question of whether the CRTC had the necessary variety of tools to bring about compliance and whether the situation with CHOI, which was about yanking a licence, was a response that was appropriate since we did not have other mechanisms in place such as fines or a gradation of actions in dealing with that licence. Could you comment on that?

Mr. Charles Dalfen: Mr. Angus, you'll understand that because this is a matter before the courts, I have to be extremely circumspect in any comments I offer on this particular case.

Mr. Charlie Angus: I'm just interested in the applicability of tools you have before you and whether or not you would recommend that we, the heritage committee or Parliament, develop a wider range of tools. That's my question.

Mr. Charles Dalfen: We can put CHOI aside because the commission felt that in the CHOI case it had applied the tools it had and that the tools were appropriate, and our decision is what it is.

I'll turn the page to your other question. We've said publicly and I think the heritage committee, the Lincoln committee that has been referred to today, also said they thought the CRTC should have the power to issue fines in a number of cases so it could nip developments in the bud before it had to use other measures. We support that, and if we were brought before you to discuss the committee's reports, that would be one of the recommendations we would underline. We think it would help give us in our arsenal a technique that would be very useful to us.

Mr. Charlie Angus: In terms of the Al Jazeera decision, which was widely reported in the media, the decision to impose that delay on them made it effectively impossible for them to appear in Canada. Was that applied to any other station that applied for a licence?

Mr. Charles Dalfen: In the case of Al Jazeera we approved the service for addition to the eligible satellite list, but in view of the comments we set out in the appendix, the three and a half pages that are there for you to read, we felt there needed to be a degree of responsibility taken for abusive comment on that channel. They're not regulated in Canada by us, yet every Canadian broadcaster is under a constraint to not allow abusive comment that holds individuals or groups in hatred or contempt, and we felt the only appropriate way was to require any distributor that wished to distribute this service to itself accept responsibility for that.

This was the first time that technique was used; there had been no previous records like the record of Al Jazeera that would have justified it.

Mr. Charlie Angus: I'd like to go back now just so it's very clear on the record. We're talking about regulation, non-regulation, and laissez-faire in terms of the Internet. Clearly, satellite radio and Internet radio are the direction the next generation is probably going in. I know my daughters cancelled our TV cable. They don't watch it; they live on the Internet.

Have you looked at possibilities for licensing that aren't invasive? We'd have to use a lot of heavy-duty technological intervention within the home to even begin to regulate this. Within your policy planning, have you developed a framework protocol to discuss this? Are you looking at these issues in terms of intervention and regulations?

• (1025)

Mr. Charles Dalfen: We are eventually going to review the new media policy that came out in 1999, but I think it would be an exaggeration to say we're at as advanced a level as what you are speaking of. It's very difficult to know exactly how developments are going to proceed. Satellite radio is now before us. The Internet? You're absolutely right; the younger people seem to be deriving a lot of their entertainment from the Internet.

On the issue of rights, as you probably know, record companies are developing ways such as offering lower prices for individual record cuts to ensure that intellectual property is not stolen on the Internet. Both business and technological solutions are going to come into the mix, I think, at the time we try to come to grips with it. Indeed, we do have to come to grips with it. But we certainly are not there yet, and given the pressing issues that are before us, I think it's fair to say we're not yet at that level of advanced planning you're speaking of.

But as I say, when that policy is reviewed—and I can't give you a time for that at this stage, given the other matters before us—that may well be an area of discussion.

Mr. Charlie Angus: Thank you.

The Chair: Mr. Schellenberger.

Mr. Gary Schellenberger: Thank you.

Again I go back to some of the recommendations that were made in the report. The reason for my asking this concerns the relevance of this committee report since it was put out in 2003. Recommendation 18.1 is:

The Committee recommends that the Department of Canadian Heritage, in consultation with the Standing Committee on Canadian Heritage, develop criteria and guidelines by 30 June 2004, governing the nomination of CRTC commissioners as well as members to the Board of Directors of the CBC.

I know there's another recommendation in here down the list that says the commissioners will go from 13 to nine. I see seven. I know there are some vacancies, so is that particular recommendation part of the way you operate now?

Mr. Charles Dalfen: Well, as you know, we don't appoint our colleagues. I certainly support the idea of nine. We're currently at seven, as you point out. It is the governor in council who makes the appointments. I think it's a good idea to develop criteria for nominations to the commission and to have a regularized process where qualifications can be set out and so forth. We'd certainly support that.

Mr. Gary Schellenberger: So I can specify that this report hasn't been adhered to by the ministry at this particular time, and we go from there.

Another one I have is on smart regulations. What process is being undertaken right now to respond to the recommendations regarding smart regulations? Is it for more transparency, increased time limits, better accountability, and more looking forward and not being limited only to today's environment?

Mr. Charles Dalfen: Those are very pertinent to us, and we take them very seriously. I mentioned streamlining in my opening remarks, and we're certainly focusing on that. Given the importance of technology to our business, we must always be looking ahead. It's hard to come up with answers. I think it was Samuel Goldwyn who said the future is the toughest thing to predict. It is, and so are technological developments. But we're mindful of those. In the overview we put forward, you can see the number of provisions in our act that allow for appeals to the courts, the cabinet, or the House to ask for directions on general and specific matters. We certainly support that. Transparency is how we operate. We do have open, public processes in everything we do.

As I mentioned earlier, the one thing that in our view can stand improving, and we will improve, is timeliness. I hope the next time I appear before you I will have some good concrete results on that.

• (1030)

Mr. Gary Schellenberger: Another one of the recommendations is:

The Committee recommends that the Department of Finance and the Treasury Board, in conjunction with the Department of Canadian Heritage and the CRTC, study the rationale and fairness of Part II licence fees that are currently charged to broadcasters and distributors with a view to their elimination if found to be discriminatory. The results of this study should be reported to Parliament within one year of the tabling of this report.

We tabled that report back in June. Will something like that come forward within the year?

Mr. Charles Dalfen: I'd like to make two quick points. One is that this is the minister's coordinating responsibility. We have had meetings with the ministry on this. I'm not privy to the timing. The other point is that it is in court. The broadcasters have launched a suit on the point.

Mr. Gary Schellenberger: Thank you, sir.

The Chair: Thank you.

Mr. Simms.

Mr. Scott Simms: I want to ask a question about [*Inaudible—Editor*], whether it be via satellite or conventional cable. There are a lot of regulations in place now that a lot of people don't quite understand from a consumer's point of view. For example, I want this one channel, but I have to buy five others just to get that one. You said earlier that you see less regulation happening. When it comes to

basic cable [*Inaudible—Editor*], do you think you micromanage too much on this one? You're probably going to say no, but I'd like to hear why you say no.

Mr. Charles Dalfen: It's a debatable point. I mentioned in my opening remarks that of the some 2,000 BDUs, as we call them, broadcasting distribution undertakings, 90% of them are either exempt or eligible for exemption because they're what we call class 2 or 3 systems. They're small, and they're eligible to be exempt. That is evidence, if you like, of trying to lighten the regulatory load, because of the size of the systems and the complexity of dealing with all our regulations. If you have below 6,000 subscribers, which is the rough cut-off, your life is considerably simplified. You don't have to apply for licences every time. You can operate in an exempt environment providing you satisfy certain conditions of carriage on an ongoing basis. You don't come up before us and you don't need to file the same number of reports and applications. That obtains in the case of roughly 90% of the BDUs in the country. It doesn't necessarily reflect the number of subscribers because the biggest ones have the largest number of subscribers. If you're a small system now, your regulatory burden has been considerably lightened.

Mrs. Andrée Wylie: Mr. Simms, other than restricting the ability of BDUs to offer only foreign services, tiering and packaging are business decisions of the BDUs. What they can do is have a tier that has more foreign than Canadian or all foreign. But the manner in which they sell to you the number of services or tiers is their business decision. That is not regulated, other than for the caveat I just mentioned.

Mr. Scott Simms: But in light of the foreign distributors—the once grey market, now black market distributors of satellite signals—they have obviously found a little niche in the country, and they continue to do so. How do we address the fact that they go from tier 1 and tier 2 to absolute freedom in choice with the exception of the local programming?

• (1035)

Mr. Charles Dalfen: You are talking about who is having that freedom?

Mr. Scott Simms: I'm talking about the Canadian consumer. They can go out and get these signals. I know it's black market, but there is obviously still a great demand, given what the RCMP are going through. They just can't keep up.

Mr. Charles Dalfen: I spoke with Mr. Brown about the satellite radio grey market. We're finding that with the black market in satellites, at least from the evidence of the cable systems in the country, inroads are being made. This is due in part to the fact that American services like DirecTV are taking tremendous remedial action technically to try to zap services that don't comply with their intellectual property. In other words, with people who are stealing their service, whether in Canada or the U.S., they're using technical measures, as is Bell ExpressVu, the satellite service here. They are prosecuting. In the United States, as you have probably read, there are serious fines of millions of dollars and jail sentences for people who are in this business. We aren't there yet in Canada, but there is a coalition on satellite theft that is working hard on this problem.

It's a blight. The Supreme Court unanimously ruled that this kind of activity is illegal. It saps dollars from the broadcasting system. It affects Canadian jobs. It's theft.

The coalition has put out ads trying to convey to Canadians that it's theft. It's a hard thing to convey to some people. They say, somehow if I can get it, it's not so bad; it's not like real stealing. But the truth is that it is.

I think inroads are being made to curb the problem, and more inroads will continue to have to be made in that regard.

Mr. Scott Simms: I agree, but if I can just add a comment, I think what we need to do is have a little bit more flexibility for that individual BDU to be able to compete, as opposed to emphasizing the zap method of cutting someone off who shouldn't be there.

Mr. Charles Dalfen: There is no question that the array of programming the BDUs should be able to offer should be as wide as possible, again consistent with having a Canadian broadcasting system. This is always the balance one has to draw.

Incidentally, when you go through the programs and you say what program can't you get somewhere on Canadian television, there are very few, if any, programs that you can name that aren't carried by someone. You may not get it in the form that it's presented on HBO, but you will likely find it somewhere on the array of services.

But at the end of the day, this rule that says we want to balance choice with the need to protect those who are making Canadian programming, which is expensive...we still want to have a broadcasting system. Frankly, the black market, no matter what the rules will be, is theft. As I said, DirecTv isn't concerned about American programming protection. They're concerned about people stealing their property, and so is ExpressVu. They're trying to take the measures they can, and the RCMP is cooperating as best it can.

Court decisions in Canada have not been anywhere as severe, though, on this issue as they have been in the United States so far. We hope that as consciousness is raised across the country, these sentences will start to be more serious to reflect the seriousness of the problem.

Mr. Scott Simms: In light of that, the Quebec court decision certainly has to raise alarm bells for you.

Mr. Charles Dalfen: There is that decision. I gather it's being appealed. It is not a decision we welcome.

Mr. Scott Simms: You don't want to add to that, do you?

Mr. Charles Dalfen: It's under appeal.

Mr. Scott Simms: All right. I'm done.

The Chair: Thank you.

If the committee doesn't mind, I will take a few minutes to ask a question.

I notice that one of your vacancies is your vice-president of telecommunications, and that's an area that I have a particular interest in. I think new technology probably presents a huge risk to your basic mandate to promote Canadian content. Earlier you said that in terms of looking at regulating the Internet, for instance, you weren't there yet. I'm wondering if government shouldn't be. One of

the recommendations of the committee's report was in fact to look at an integration of the various acts under which you regulate.

As I learned just this morning, the commission recently had a briefing from the industry on voice-over Internet protocol and its potential impact on Canadian broadcasting. I just think it's gotten to the point where we can't talk about broadcasting without talking about telecommunications, so I'm interested in knowing your views generally. Is it up to the CRTC, or is it up to government to be taking that step forward? We all know how long it takes and we all know how fast new technology develops. Personally, I think we'd rather be ahead of it than behind it.

•(1040)

Mr. Charles Dalfen: Right. On voice-over IP, this is a proceeding. We put out a preliminary view under the Telecommunications Act. We have had submissions and a public hearing on this, and we'll have our decision out in the second quarter. I think it's probably going to be one of the first decisions anywhere on voice-over IP and how it ought to be regulated in our system.

Naturally, the context of our system is somewhat different from any other system—the U.S., the U.K., Australia, or whatever—so we have to look to the requirements of that system on voice-over IP. That decision, as I said, will be out in the second quarter of this year, earlier rather than later, I hope.

On combining the legislation, I guess we're agnostic on the point. I think we can work with what we have quite comfortably. Comprehensive legislation is being sought in some jurisdictions. It has been adopted in the U.K. Provided it's the right legislation, it would be fine.

One of the very good things done in our legislation, both in the Broadcasting Act and in telecommunications, was the concept of technological neutrality. I've talked to regulators in other jurisdictions in Europe and elsewhere who are sometimes hamstrung by the fact that their regulation was based on a given technology—analogue or digital or circuit switch—whereas Parliament, in its wisdom, in both our acts avoided that and basically said we're not concerned with how messages get delivered, whether it's on copper wire, coaxial cable, satellite, or Internet protocol. So it allows technological change to breathe through the act without having to change the act. Again, that's probably one of the reasons why we don't feel those legislation pressures that I know my colleagues in some of the other jurisdictions I've spoken to do feel.

Again, if one wanted to take a look, as the committee suggested one might want, we'd certainly be happy to participate and give you whatever advice we could on that.

The Chair: I just don't want to see us sitting here a year, two years, or ten years from now saying we should have done something. The victims of us not acting ahead of need are Canadian content and Canadian expression.

If there are any further thoughts on that at some point, I'd be pleased to hear them.

Mr. Charles Dalfen: Again, on the Internet, to get back to that, where you would worry about Canadian content is, I suppose, on programming, radio or television equivalent. The measure, it seems to me, would be the extent to which audiences, children or others, were turning to that and away from television and it was making real inroads. Broadcasters would be saying, look, it isn't fair that we have all these rules and they can basically pick and choose. That would be a valid point, and that would certainly be a time to look at it.

As I said, among the priorities—and we try to get our regulated industries to give us their priorities on an ongoing basis so that it improves our timeliness and it ensures we get to the problems they want us to get to—that hasn't surfaced as an issue that anybody seems to think requires underlining at the moment.

The Chair: Thank you.

Are there other questions from committee members?

Mr. Kotto.

[*Translation*]

Mr. Maka Kotto: Coming back to the Astral-Corus transaction, I'd like to know why the CRTC dropped the licensing conditions on the number of national, local, regional and international news production hours.

• (1045)

Mr. Charles Dalfen: Mr. Kotto, I don't know whether there were any such licensing conditions. There were some licensing conditions on local programming for some of those radio stations. All of those radio stations have to have a certain number of local programming hours, and the number of hours has to go up each year, in three steps. For CKAC, the figures are 60 hours of local programming in 2005-2006, 70 hours in 2006-2007 and 80 hours in 2007 until the licence expires.

In the regions, each radio station has to present 27 hours of local programming in the first year, then 32 hours, and then 37 hours. The current average for those radio stations varies between 36 and 37 hours.

Mr. Maka Kotto: Okay, why didn't the CRTC impose any licensing conditions on Astral radio stations with respect to news production hours?

Mr. Charles Dalfen: With respect to what?

Mr. Maka Kotto: News production hours.

Mr. Charles Dalfen: That wasn't at issue. I don't know whether any representations were made on that point. Astral promised us there would be a new news service. According to paragraph 45 of the decision, the number of news hours is to be comparable to current

programming at radio stations in Rimouski, Drummondville and other cities. There will be the same number of hours. That wasn't included in the licensing conditions, but that is the current situation. When that kind of broadcasting company makes that kind of...

Mr. Maka Kotto: But nothing requires them to.

[*English*]

The Chair: I'm going to bring the questioning to an end, if you don't mind. We only have ten minutes, and I know some people are leaving for other committee meetings. I'm sure, however, that Mr. Dalfen or anybody at the commission would be happy to give you any information on specific situations.

I think we're getting into more specific situations rather than the policy level the committee wants to look at. I just want to make sure we have time to finish up any other business we need to do in preparation for our coming meeting. Is that acceptable to you?

[*Translation*]

Mr. Maka Kotto: If everyone agrees. This is a democracy.

[*English*]

The Chair: One thing that has come up in a few questions generally, both to this and other agencies, is diversity. Perhaps you can provide us with information on that. I know you said you don't micromanage the people you license, but somebody does micromanage the CRTC. I think I would therefore like to see the committee get the information on how the CRTC is doing in diversity, and trends over time.

Mr. Charles Dalfen: I'd be happy to provide you with that information.

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

Ms. Wylie, Mr. O'Sullivan, I appreciate your participation very much, and we'll look forward to some additional responses that you said you would provide. I also get the sense that Mr. Kotto has many more questions, and I know you'll only be too happy to help him out.

Thank you.

• (1050)

Mr. Charles Dalfen: Thank you, Madam Chair, members of the committee.

The Chair: Committee members, on Thursday I believe we have before us the three senior people from CBC, including the two vice-presidents, English and French.

[*Translation*]

Mr. Marc Lemay: Will Mr. Lafrance be there?

[*English*]

The Chair: I'd like to take a bit of time at that meeting as well to discuss the calendar for our review of the film industry and film production in Canada.

Thank you very much.

I adjourn this meeting of the heritage committee.

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