



House of Commons
CANADA

Standing Committee on Canadian Heritage

CHPC • NUMBER 020 • 1st SESSION • 38th PARLIAMENT

EVIDENCE

Thursday, February 24, 2005

—
Chair

Ms. Marlene Catterall

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•(0910)

[English]

The Chair (Ms. Marlene Catterall (Ottawa West—Nepean, Lib.)): I call to order this meeting of the Standing Committee on Canadian Heritage.

We have some motions to deal with today, a final look at our agenda of meetings for the coming couple of months. If everybody's satisfied, we'll go ahead with our witnesses for this morning and then deal with our motions.

Mr. Gord Brown (Leeds—Grenville, CPC): Do you have a copy, Madam Chair?

The Chair: The clerk informs me that we will be distributing updated copies, Mr. Brown.

I am pleased to welcome Jean-François Bernier, director general of film, video, and sound recording for the Department of Canadian Heritage—it sounds awfully technical. I'm looking forward to what you have to say.

[Translation]

Mr. Jean-François Bernier (Director General, Film, Video and Sound Recording, Department of Canadian Heritage): Madam Chairwoman, members of the committee, good morning. I would like to thank you for having invited us to appear before you to discuss the wonderful world of film and television.

The presentation that we will be making this morning focuses on two objectives. A few weeks ago, I made a presentation along with two of my colleagues on the feature film industry in Canada during which we spoke about the policy tool kit available to the industry in Canada. This policy tool kit includes, amongst others, federal government tax incentives, generally offered as tax credits. Today, therefore, I am going to talk about tax credits and provide you with more information on the various ones which are available. Following that, we will endeavour to answer your questions.

[English]

Before I go on, for the record, the Canadian Audio-Visual Certification Office, commonly referred to as CAVCO—you're going to hear a lot about CAVCO hearing private sector witnesses and other industry stakeholders—is an integral part of the Department of Canadian Heritage. It is not something that is at arm's length from the department; it's not something outside the department; it is part of the department.

Essentially, the federal government has two tax credit programs. The ultimate objective of those two programs is to support the

production of Canadian content. The names of the tax credit programs are fairly long. The Canadian film or video production tax credit, commonly referred to as the CPTC, is there to support the production of Canadian content.

The other tax credit program is referred to as the services tax credit program. It is essentially there to attract foreign location shooting in Canada. It's important to have foreign location shooting in Canada because it helps Canada to have an international film and video production infrastructure. By having a lot of activity in Canada, it supports our ultimate objective of having high-quality Canadian-content productions.

The federal government is not the only one on the ice of tax credits. Most provinces have tax credit programs comparable to the federal programs.

If you look at the last bullet on page 4—just to give you an order of magnitude—federal tax credit programs and provincial tax credit programs, on average, represent 22% of a production budget for a Canadian-content production. This is the kind of percentage of a production budget one would be looking at.

Here's a brief history behind the fiscal incentives. The federal government started in 1974 with a capital cost allowance program that was essentially to attract private investments in film and television productions. In 1974, CAVCO, the Canadian Audio-Visual Certification Office, was established to administer the program.

In 1995 that capital cost allowance program was replaced by the current program we have today, a tax credit program. In 1997 the film or video production services tax credit program, the one in place to attract foreign location shooting in Canada, was announced.

[Translation]

You will find information about the Canadian Film or Video Production Tax Credit on page 6. Basically, it is the tax credit program for productions certified as being Canadian. The program aims to foster financial stability and corporate development in Canadian production companies. Canadian-owned and controlled production companies are eligible for this tax credit. Certifying the Canadian content of a production is a further important criteria for obtaining this tax credit.

How is Canadian content determined? That is something you will hear a great deal about throughout the course of your study. Basically, the system is based on the citizenship of the producer and key creative personnel. We have a 10-point system, and to be certified Canadian, a production must score a minimum of 6 out of 10. On page 7, you will find an explanation of how the Canadian content point system works.

● (0915)

[English]

Let's take for example a live action feature film. If the director is Canadian, you get two points; the screenwriter, two points; the lead performer, one point; second lead performer...so you go down the list like this. You have to get a minimum of six points out of ten to be recognized Canadian content, okay? There's a separate system for animation productions, and the detail is on page seven. Essentially you have to have six points out of ten to be certified Canadian content, and 75% of the production costs and post-production services have to be incurred in Canada.

Part of the tool kit, as I also mentioned, are Canada's co-production treaties with foreign countries. The productions certified as official treaty co-productions are also eligible for this Canadian content tax credit program.

[Translation]

The program is jointly administered by the Department of Canadian Heritage, the Certification Office, CAVCO, and the Canada Revenue Office.

What role does the CAVCO play? The CAVCO certifies that a given cinematographic production is Canadian. After having studied a submission, CAVCO determines whether a production can be certified as being Canadian and, if so, estimates eligible production expenses. Next, CAVCO issues a certificate to be included in the corporate tax return filed by the Canadian producer in question. The Canada Revenue Agency interprets and applies the relevant section of the Income Tax Act and its regulations. It also reviews and audits claims and issues refund checks.

[English]

I'm going to let Bob explain this to you. This is very technical and can get very detailed very quickly. What we tried to do on page nine was to give you an example of how this tax credit program works.

Bob, maybe you would explain how it's calculated.

Mr. Robert Soucy (Director, Canadian Audiovisual Certification Office): Certainly.

Hi, everybody.

The Canadian film or video production tax credit is calculated at a rate of 25% of the eligible labour of a production, up to a maximum of 60% of your total production expenses. So if your labour cost goes over 60% of your total production expenses, it's a little atypical. Usually the labour cost is around 50% to 55%; it depends on the genre. But it's capped at 60%. So you get 25% of your total labour cost up to 60% of your budget; and therefore the tax credit overall compared to your total production budget will be capped at around 15%. So the tax credit is 25% of your labour cost—up to 60%—or

25% times 60, which gives you roughly 15% of your total budget expenditures.

As an example, let's take a million-dollar production. The million dollars have to be reduced by the amount of the other forms of government assistance you're going to get. So if Telefilm Canada, for instance, gives you \$200,000 as a direct investment in your production, then that amount will obviously reduce the base on which you will calculate your tax credit. The principle is that you don't obtain a tax credit on amounts already subsidized by the government. So if Telefilm Canada gives you \$200,000, that will net your production cost at \$800,000, and you would take 60% of that amount to arrive at \$480,000. Again, the tax credit will be based on that eligible labour, capped at 60% of your eligible cost of production, for an amount of \$120,000.

Now, the tax credit is going to be the lesser of two amounts, either the \$120,000, as capped, or your real labour—which in this case will be \$450,000 on a million-dollar budget. A rate of 25% will give you \$112,500. You will take the lesser amount to calculate your tax credit.

One thing I'd like to explain is that the tax credit is called a refundable tax credit. That means that during the course of a company's activities during the year, they may or may not incur revenues. If at the end of the year the company has not incurred revenues against which they will owe taxes, the credit will nonetheless be accorded to that company to the tune of the lesser of those amounts. So you can still get 25% of your labour costs in your budget covered by a refund from the government, in this case, the Canada Revenue Agency, based on the amount of labour you've employed during the year. If you have taxes owing as a result of your activities during the year, then your taxes obviously will be reduced accordingly, as it is a tax credit.

● (0920)

Mr. Jean-François Bernier: *Merci*, Bob.

On page 10,

[Translation]

you will find information on the risk management mechanisms which were introduced for the Canadian Film or Video Production Tax Credit. A Canadian content certification audit program was introduced in 2000. CAVCO certifies that a production is Canadian, that the screenwriter, as well as the director, is Canadian. However, there have been cases, including the infamous CINAR case, where front men have been used. In the wake of the CINAR scandal, we introduced an audit program to ensure that the requisite criteria are met before a production is certified as having Canadian content. The Canada Revenue Agency carries out our fiscal audits.

We also have a proposal to modify section 241 of the Income Tax Act. Currently, all information pertaining to tax credits is confidential and protected under section 241. This means that I am not in a position to tell you whether a production has received a tax credit; it is considered to be confidential information and can only be made public by the producer.

Our proposal to amend clause 241 aims to increase transparency and enable the various federal and provincial stakeholders in the industry to share information.

The CINAR affair taught us that, in Quebec, we were unable to share certain information with Telefilm Canada or with SODEQ, because it was considered confidential. This made it difficult for us to carry out investigations. We are therefore proposing an amendment to clause 241 to allow certain information to be shared. This will allow us to inform Canadians that a given production has been certified, or that production X, for example, was awarded 8 out of 10 points, and that the creative personnel included, for example, screenwriter Marc Lemay, director David Smith and producer Jean-François Bernier. If our amendment were accepted, we would be allowed to make this information public.

Let us now briefly consider some statistics. On page 11, we see

• (0925)

[English]

that roughly about 1,000 Canadian-content productions are certified each and every year. But 2003-2004 should be considered an incomplete year, because we're still receiving demand for that particular year. Essentially, everything seems to indicate that we're going to have close to 1,000 productions in 2003-2004.

On page 12,

[Translation]

we find information on the aggregate cost of certified productions. The figures are shown in billions of dollars. As you can see, certified productions stood at \$1.7 billion in 2003-2004 and at \$1.8 billion in 2002-2003. Therefore, when we refer to Canadian content, it is clear that

[English]

almost everything certified as Canadian content goes through the tax credit program.

I've talked about the point system. Page 13 indicates that most of the productions certified are ten-point productions. When you look at nine-pointers and ten-pointers, you get very close to 95% of everything that is certified. Some people are saying, "Well, the six-pointers allow for more American participation". That's true; but over a period of five years, only 0.4% of the certified productions were at the bare minimum of six points.

Page 14 essentially indicates the amount of tax credits that Revenue Canada has established as the cost of this program.

[Translation]

As you can see, it was \$164 million in 2003-2004, and \$175 million in 2002-2003. This tax credit constitutes a major contribution to the production of Canadian content. If you compare it to the Canadian Television Fund, and the amount that Telefilm Canada invests in feature-length films, you will be able to see the relative costs of the various programs.

I would now like us to turn our attention to the other tax credit.

[English]

As I mentioned earlier, this tax credit on page 15 is designed to attract location shooting in Canada, essentially to attract U.S. producers or German producers to come to use Canada as the place of choice to shoot their production.

[Translation]

The objective of the program is to encourage the use of Canadian labour on productions that shoot in Canada. Canadian and foreign-owned companies which have premises and pay taxes in Canada are eligible for this program. The tax credit offered is for 16 per cent of salary costs, compared to the 25 per cent offered under the certified production program.

[English]

Bob, do you want walk us through the example there?

[Translation]

Mr. Robert Soucy: Yes, of course.

In order to be eligible for this program, the feature film project must be worth at least a million dollars. By way of example, let us take a \$20 million production shot in Canada. If the Canadian costs, in other words, the total amount that will be spent in Canada, are \$10 million, the tax credit will be applied to these \$10 million.

In such an example, labour costs would stand at around \$4.5 million, which is the base amount on which the tax credit would be calculated. There may also be a \$1 million provincial tax credit, for example, which would result in a reduction of the base amount on which the tax credit is calculated. This would bring eligible labour costs down to around \$3.5 million. As the rate is set at 16 per cent, in this example, the Canadian company providing services to a foreign company wishing to shoot in Canada would receive a \$560,000 tax credit.

• (0930)

[English]

Mr. Jean-François Bernier: Page 16,

[Translation]

shows you that the number of productions that received a tax credit for production services varies from 236 in 2000-2001 to 96 in 2003-2004.

Robert mentioned that if an American company decided to produce a feature film with a \$20 million budget, it would be able to shoot part of the film in Canada and part in the States, for example. Figure 6 shows Canadian costs versus non-Canadian costs for productions which received a tax credit for production services in Canada.

The costs of this program are illustrated on page 18. Sixty-five million dollars were allocated to this tax credit program in 2003-2004, while \$82 million were allocated the previous year. It is, therefore, another fairly costly program.

Without wishing to get into the details explained in annex A, I would like to point out that we are providing the committee with a provincial breakdown of the various tax credit programs. These are all tax credit programs based on labour costs. As you can see, it varies from one province to the next. Quebec, Ontario and British Columbia have tax credit programs for Quebec, Ontario or British Columbia certified productions. The other provinces do not make the distinction between a Quebec, Ontario, or British Columbia certified production, but, rather, offer a tax credit to any type of production filmed in their province.

Before moving on to questions, I would like to make one last comment. The tax program for certified productions, in other words, those productions with Canadian content, is currently being jointly reviewed by the Department of Canadian Heritage and the Department of Finance. We are, therefore, in the process of reviewing this program, which was first introduced in 1995.

[English]

The time has come to do an evaluation of this program.

Madam Chair, that concludes our presentation.

The Chair: Thank you.

Questions, Madam Oda.

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

Thank you very much for coming this morning.

I have a number of questions. The first two or three require a very short, simple, yes or no answer. There will be more discussion questions as I go along.

Are there in fact two ways that a production might be credited as a Canadian program, one through CAVCO and one by getting a CRTC number?

Mr. Robert Soucy: Yes, there are. CAVCO certifies only certain types, certain genres of productions, whereas the CRTC may accord Canadian-content certification to a number of other types of genres—news, current events, public affairs.

Ms. Bev Oda: So there's no duplication.

Mr. Robert Soucy: There is some duplication, absolutely, because one can obtain a Canadian-content certification through CAVCO for tax credit purposes, but before the tax credit certificate is issued, one may want to go to the CRTC to obtain an earlier number to satisfy the broadcaster.

Ms. Bev Oda: So CAVCO does not recognize CRTC recognition of what is Canadian.

• (0935)

Mr. Robert Soucy: That's right, but the CRTC recognizes CAVCO's number.

Ms. Bev Oda: Thank you.

Could you tell me, regarding the tax credits, particularly the production tax credit, how much is being utilized for television programming versus theatrical or even non-theatrical? How much is it?

Mr. Robert Soucy: The production services, or the...?

Ms. Bev Oda: Yes.

Mr. Robert Soucy: I have no idea.

Ms. Bev Oda: You don't keep track.

Mr. Robert Soucy: No, we only provide a service to Revenue Canada in that regard.

Ms. Bev Oda: Thank you.

If you take advantage of the tax credit program, are you required to give credit to the program on your program?

Mr. Robert Soucy: Yes, we have asked producers to put our credit at the end of the program. That was a request by Minister Copps.

Ms. Bev Oda: Thank you.

At page nine, it shows your calculation of the tax credit. I'm wondering if you can give us a short rationale as to why you would deduct any equity investment by Telefilm before you applied the tax credit, which is on production, on employment.

Mr. Robert Soucy: Correct. The rationale of the Department of Finance is that they don't want to accord a tax credit on an amount that's already subsidized by the government. So if Telefilm Canada, CIDA, or whoever already puts 20% of your budget in the form of a direct investment, the Department of Finance does not want to accord a tax credit on that amount.

Ms. Bev Oda: But the CIDA or other government assistance.... Is the tax credit not a way of supporting the production, and therefore the cost of the production, regardless of whether it's a private investor, a government grant, a deferral by a producer? That's what you want the tax credit to be applied against, so why the deduction? The cost to production is still the same.

Mr. Robert Soucy: Correct. I would note that the provinces adopt a system whereby they don't reduce their tax credit by the amount received from the federals, but the federal government does reduce the amount.

Ms. Bev Oda: Exactly, and that would be part of my point as to why the federal government takes a different approach from even provincial government.

Mr. Jean-François Bernier: Essentially, it's an issue for the Department of Finance. It's fiscal policy that we don't provide tax credits on public money.

Ms. Bev Oda: Okay. I have two other questions.

In regard to the services tax credit, Canadian companies are treated exactly the same as foreign companies. There is no differentiation, whether you're a Canadian company undertaking a service production or a foreign company just doing location shooting.

Mr. Robert Soucy: That's correct. The credit is available both to Canadians who produce non-content productions and foreign entities that shoot in Canada.

Ms. Bev Oda: So in that program there is no advantage to being a Canadian company versus a foreign company?

Mr. Robert Soucy: Under the production services tax credit, there's no advantage.

Ms. Bev Oda: No, under the services.

Mr. Robert Soucy: Yes, that's right, the production services. What is the advantage to being a Canadian company? The advantage is that you can offer your services to a foreign entity to provide—

Ms. Bev Oda: But as far as the tax credit program is concerned and your being a Canadian company, there's no advantage to you as a Canadian company, versus a foreign company?

Mr. Robert Soucy: No, no other advantage.

Ms. Bev Oda: In essence, if I were to look at this, other than creating work, would you say the tax credit programs—and this is the question I would like more discussion on—are an industrial program, an employment program, or a cultural program?

Mr. Robert Soucy: Well, if the question is asked in that respect, we have a mixture of incentives through these tax credit programs. The Canadian content tax credit program is, I would say, an industrial cultural program. It is given in the form of a labour tax credit; therefore it has an industrial quality, but you have to demonstrate a fair amount of Canadian content through the point system.

The production services tax credit is strictly an industrial program. It is made to employ Canadian labour and entice others to come and shoot in Canada. So the Canadian one really has added cultural incentives.

Ms. Bev Oda: So just to differentiate, then, with the services program, which you've identified as an industrial program, is there not an advantage to being a Canadian company taking advantage of the services program because there are ongoing roots in this country, versus an American or foreign company coming and doing location shooting only and leaving the country as soon as the production has gone? There's no inherent reason why they may ever come back to Canada.

Consequently, I would propose there may be some consideration to how we could advantage a Canadian company taking advantage of the services tax credit program, which doesn't seem to be reflected as a Canadian industrial strategy in that particular program.

● (0940)

Mr. Jean-François Bernier: The objective of the production tax credit program is essentially to employ Canadian labour. If you consider who employs that Canadian labour, you're entirely correct in saying you could design a program where if you're a Canadian-owned and controlled production company hiring Canadian labour to work on a non-Canadian-content production, you could have a different credit from what Warner Brothers would have coming to shoot for six months, three months, or three weeks in Canada and hiring. It depends on what glasses you've put on when you're looking at the objective of this program.

Ms. Bev Oda: That's why, Mr. Bernier, I started with trying to get your read on whether these programs were industrial or cultural and, if you set out the objectives, to make sure the programs were focused on those objectives and were going to reach those objectives.

The Chair: Ms. Oda, that's where you started and that's where you finish for the moment.

Ms. Bev Oda: Sorry, I'll come back.

Thank you.

The Chair: Mr. Lemay.

[Translation]

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): I would like you to clarify a few points for me. What is the status of the proposal to amend clause 241 of the Income Tax Act?

Mr. Robert Soucy: If I am not mistaken, the proposal was made in a technical document issued by the Department of Finance in

January 2003, however, no bill on the subject has yet been submitted for first, second or third reading in the House.

Mr. Marc Lemay: Would you consider it to be a good idea for the committee to recommend that this be done, in order to have the amended clause adopted sooner?

Mr. Robert Soucy: Yes, certainly, we have been waiting a long time for this amendment to be carried so that the program becomes more transparent. That being said, at the end of the day, I do not know whether you will be able to speed up the process of amending a technical bill. You would have to decide that for yourselves.

Mr. Jean-François Bernier: The committee can make a proposal.

Mr. Marc Lemay: Alright.

There are two systems. It applies to the other provinces as well, but let's deal with Quebec. At annex A, you have the provincial and territorial tax credit programs. Would it be a mistake to say that it overlaps with the film or video production tax credit?

Mr. Robert Soucy: There is indeed some overlap, but that's what the provinces want. For instance, when the federal government offers a tax credit for Canadian content productions, all provinces try to attract these productions onto their territory. They sweeten the pot by adding their own tax credit. There is overlap, but it is intended. The provinces recognize that productions in their jurisdiction have to receive grants or be funded.

Mr. Jean-François Bernier: I would use the term supplementary support rather than overlap, given the fact that in both cases, it is about financing for the production.

Mr. Marc Lemay: Alright. Plans are well and good, but we know that some production does not only take six months, it could take up to two years. Often, a few years go by between the idea for the script and the viewing of a film. So are these nice deductions cumulative year after year?

● (0945)

Mr. Robert Soucy: The tax credit is granted based on activities or money spent on a production over a given fiscal year. Therefore, the company can claim a credit, and it applies to the fiscal year. However, if production does not wrap up in that year and the company still has eligible labour expenses, it can carry forward these expenses to another year and claim a credit in this other year.

Mr. Marc Lemay: You mentioned the production company's fiscal year. If I take that to its logical conclusion, I can say that a company whose fiscal year ends December 31st can benefit from two government fiscal years.

Mr. Robert Soucy: Exactly. Government year end is March 31st. If a second year production goes beyond March 31st, it does come under another fiscal year for government.

Mr. Marc Lemay: Alright.

Mr. Jean-François Bernier: That is precisely so the same tax credit is not granted three times. If production can be completed in three months, someone may choose to take three years to do so, instead of three months.

Mr. Marc Lemay: If I understood correctly, it is a credit that can be carried forward. For instance, if a production company does not turn a profit in a given year, it can keep its credit. It may choose to keep the credit because it knows there will be many expenses the following year, when the film is produced.

Mr. Robert Soucy: If the company does not have any eligible expenses for production over a given fiscal year, there will not be a tax credit.

Mr. Marc Lemay: But if it does have eligible expenses...

Mr. Robert Soucy: Yes. If it has eligible expenses for a fiscal year, it gets an amount equivalent to those eligible expenses in the form of a credit. If the majority of its expenses for that production came in the following year, it would claim that amount in the following fiscal year.

Mr. Marc Lemay: I have another question, relating to co-producing a film in Canada. What about co-production? Whether it be Franco-Italian-Quebecker or any other?

Mr. Robert Soucy: The Canadian tax credit, topped off by the provincial tax credit would apply to the Canadian share of expenses. Let's take, for example a German-Canadian co-production worth \$10 million. If the German producer is responsible for half of the expenses, that is \$5 million, then the Canadian producer can spend \$5 million in Canada on Canadian expenditures. The credit would apply on the amount of \$5 million spent in Canada.

Mr. Marc Lemay: You're talking about expenditures made in Canada.

Mr. Robert Soucy: That's right.

Mr. Marc Lemay: Thank you.

[English]

The Chair: Mr. Angus.

Mr. Charlie Angus (Timmins—James Bay, NDP): Thank you very much.

I'd like to follow up on one of the questions asked by Monsieur Lemay; I just want to get it clear. If I went before with a budget plan, would I presumably have to have the total cost of production figured out when I applied for the tax credit?

Mr. Robert Soucy: Indeed you would, because we need to estimate the tax credit that may be ultimately payable to you, based on the amount of your budget initially and the amount of assistance you will get from other sources, provincially or from Telefilm or wherever. Then you come to CAVCO once you have locked in your budget.

Mr. Charlie Angus: So then if the production takes place over two fiscal years, do I apply it according to the costs per year or at the end of the production?

Mr. Robert Soucy: No, you apply once with your estimated total cost of production. We will base our estimate on your estimate, in a sense, and issue what's called a part A; it's an advance ruling. When your production is finally completed after one or two years, you can come and obtain a certificate of completion to indicate your

production is finished. But your initial estimate is what you will take to Revenue Canada so they can gauge, first of all, that you have access to a tax credit, and they will accord you any portion of the estimated tax credit in whatever year you spend a corresponding amount of money.

So if you have a production where you have, let's say, \$1 million of eligible expenses you spend in that year, you take our certificate to Revenue Canada and they will accord you your tax credit based on all that spending in one fiscal year. If your spending is based on perhaps two of your fiscal years, then obviously Revenue Canada won't pay you the full amount up front. They'll only accord you a tax credit on what you have spent in that year, but cumulatively over two years you'll get your full tax credit.

● (0950)

Mr. Charlie Angus: I'm looking at the variations of provincial support, because a lot of them seem to be following in a somewhat similar vein, but there are some substantial differences. For example, Alberta is just offering you a 20% grant as opposed to a tax credit, and then there are variations in terms of regional support elsewhere. Does one region have an advantage over another in terms of how they've set up their tax credits?

Mr. Robert Soucy: Certainly some of them pay a whole lot more than others. Manitoba, for instance, will give you a very hefty tax credit on top of ours. Nova Scotia and New Brunswick, for instance, as Jean-François was explaining, mix the types of credits they give you, so it doesn't need to be a fully Canadian content production; it can be more of a production services type of arrangement. But you can still get the full amount of the provincial credit, based on the amount of money you're willing to spend in that province.

The provinces are very competitive in a sense. They're all trying to top each other and offer a good rate so you can come and use their resident labour. It varies. They're all sort of tax credits.... Some are not. Some are rebates; some are grants. But they all play a very vital part in the financing of Canadian content productions. They're very difficult to finance at the best of times.

Mr. Charlie Angus: These are on top of what the federal government is bringing to the table.

Mr. Robert Soucy: That's correct, although, as I mentioned before, the provincial tax credit will reduce or grind down the amount of federal credit you get.

Mr. Charlie Angus: Your total—the net you can apply it to....

I'm looking here at the video production services credit—the number of accredited productions, on page 16. Presumably for 2003-04 we don't have the final numbers.

Mr. Robert Soucy: I would say for 2003-04 that is pretty final. The foreign companies tend to complete their business with us in the year in which they come to shoot in Canada.

There has been a 53% decrease in foreign productions coming to shoot in Canada. That's a result of many things: the SARS scare in Toronto; the high Canadian dollar; and increasingly huge competition from a lot of foreign jurisdictions that have copied the Canadian model, which is a brilliant model. All of those things have taken work away from us.

Mr. Charlie Angus: We've seen a substantial drop from 2000-01. In 2001-02 there was a major drop again, before SARS. Are we looking at a downward slope even in 2003-04? Are we in a crunch here, or have we levelled off?

Mr. Robert Soucy: I think it may go down even a little more; however, I'd like to be careful because the provinces of Ontario, Quebec, and B.C. have just raised their production services tax credit, so there are indications coming out of Hollywood that they may come back to Canada. We're holding our breath.

Mr. Jean-François Bernier: You have to link page 16 and page 17. Page 17 shows there are fewer productions coming to shoot in Canada, but the average production budget is higher. There's roughly a \$280-million difference in the amount spent in Canada, while there's a more important reduction in the number of productions. So there are fewer productions, but higher production budgets. When you look at the profile the CFTPA has commissioned, you will see that fewer television productions are coming here, but higher budget feature films are coming to Canada.

Mr. Charlie Angus: But if I look at page 18, except for 2003-04—and we might not have the final numbers in—we've had a steady rise in the video production service tax credits. It's almost like an opposite chart drop in terms of what's actually being produced here.

• (0955)

Mr. Robert Soucy: It depends on the way one claims one's tax credit with Revenue Canada. That number is an estimate by Revenue Canada of the amount they're going to spend fiscally under the production services tax credit. But the business may not be totally wrapped up with the companies they do their affairs with. So that amount could potentially rise a little.

The Chair: Thank you.

Mr. Silva.

Mr. Mario Silva (Davenport, Lib.): I have a few questions, and I'll see how many of them I can get answered.

I don't have any information on the threshold in terms of the minimum budget to the highest budget that you will be able to qualify for under both the point system and the tax credit.

Mr. Robert Soucy: Would you ask that again, please? I'm not sure I understand.

Mr. Mario Silva: You want to do either an action film or an animation, and you have a proposed budget. What is the minimum budget you look at, and what is the highest amount? What is the average budget as well?

Mr. Robert Soucy: In order to shoot in Canada and for the Canadian service company to obtain a tax credit on providing services to you, for feature films you have to spend a minimum of \$1 million. Anything below \$1 million we don't really want to—

Mr. Mario Silva: There's no maximum.

Mr. Robert Soucy: There's no maximum, obviously. The more work and the more spent in Canada, the better it is.

Mr. Mario Silva: On the animation part...?

Mr. Robert Soucy: There's not a lot of animation done through the production services tax credit program. It's mostly live production.

Mr. Mario Silva: So the minimum is \$1 million.

Mr. Robert Soucy: The minimum for feature films is \$1 million. For episodic television, if your episodes are more than thirty minutes, a \$200,000-per-episode minimum is eligible for the Canadian tax credit. If it's below 30 minutes per episode, there's a minimum of \$100,000 per episode.

Mr. Mario Silva: How did you arrive at your point system? What were the criteria on which you based your point system?

Mr. Robert Soucy: The Canadian content point system was designed over time, cumulatively, from the early 1970s to 1975, perhaps.

Canadian content used to be very simple to demonstrate. You got the production produced in Canada, and therefore you were Canadian content. It could be totally foreign-owned. Eventually it turned into a point system, around 1974, I believe—Ms. Oda can correct me, as she's been with the CRTC for a while and knows all this. Around 1974 we adopted fully a Canadian content point system, based on the key creative elements you employ to produce your production.

Mr. Mario Silva: You have a point system for animation and for live action, but does the episode also fall into live action? Is that where you'd have it in the point system?

Mr. Robert Soucy: The point system is the same for either episodic television or feature films. The only variation, obviously, is for animation productions, because one uses a different type of personnel. In fact, we will have to update our point system over time for animation productions, because everyone is producing now with 2D, 2D Flash, and 3D, which are computer-driven CGI kinds of productions, rather than the one considered under the current animation system. So it needs to be updated over time.

Mr. Mario Silva: Thank you.

The Chair: Mr. Tweed?

Ms. Oda.

Ms. Bev Oda: I would like to follow up on the animation. You pointed out that over time you're going to have to change your animation point system. However, in my recent experience, and certainly in visiting a number of production facilities, I would say that the time is now.

Probably in training in some of the schools we still do the drawing, and so on, but basically I would say it's predominantly more driven by computerized systems and programs. It would concern me that "over time" would mean that we are going to be catching up with the industry, not staying with the industry.

• (1000)

Mr. Robert Soucy: I agree.

In fact, when Macerola looked at the Canadian content issues, I believe a suggestion was made that this needed to be done. The system he proposed is not the one we'll land on ultimately, although at least some elements might be included, in the rethinking of Canadian content, but whenever one tinkers with a system such as Canadian content, which has existed since the early 1970s, you really need to consult heavily with the industry to make sure you're not losing anyone or anything.

Ms. Bev Oda: That's right. So can I just recommend that you might start the process?

With my question, I just want to follow up, because I really want to focus on the purpose of the tax credit system: what objectives are we trying to achieve, and are we achieving those objectives?

I can understand, and we've gone through and looked at the industrial employment aspect of it, but I'm still struggling with the cultural part. Where I see that the cultural part may have a chance of coming through is either ownership or citizenship.

When I look at citizenship, is there an implied philosophical theory here that if you're a Canadian citizen, whatever you may do—if you're a picture editor, a key animator, a design supervisor—whatever is Canadian about you is going to come through in your work? Is that how we're achieving the cultural objective in this program?

Mr. Robert Soucy: I would say that through the tax credit system, which is a tax-driven model, one tries to touch a little bit on that principle that you're espousing. We are getting a tax credit based not on the actual content of the production, but on *le contenant, plutôt que le contenu*—the envelope, the people who create the work.

So in that sense it is industrial, but if they are Canadian citizens, obviously, and meet the point system, then your tax credit will be higher than under the other system. However, we have other instruments in the tool kit that Jean-François has explained, like direct Telefilm investment or—

Ms. Bev Oda: I understand that, Mr. Soucy. I'm trying to discern the cultural objective that's being achieved through the tax credit program. I'm aware of all the other programs within the heritage department, and so on, but I'm still struggling to say that in order to achieve the cultural objectives in the film and television area, the tax credit program.... It's a good program. But I can see the objective of an industrial approach, an employment approach. I'm still struggling with how we are directly achieving a cultural objective through the tax credit program.

Mr. Jean-François Bernier: This is a very good question. You've touched on a very important aspect of the evaluation we are conducting with the Department of Finance in terms of all those objectives of this program.

The Canadian approach was that only Canadians can tell Canadian stories to Canadians. So by having an important part of the creative elements associated with a production, one would infer that it is therefore a Canadian production or a cultural production.

The tax credit program is a blunt instrument. There's no content judgment that this production is better than that one. You have six points out of ten, 75% of your costs are incurred in Canada—you're in.

Ms. Bev Oda: I'm not saying I disagree or agree. I would have a tendency to agree with you, if we have an underlying belief that Canadian citizenship will inherently mean there is going to be Canadian input, a Canadian touch, a Canadian flavour to whatever work you're doing that keeps us out of the content-subjective decision-making as to what is Canadian and what is not Canadian.

We've seen some bad examples and some good examples of people trying to decide what is good Canadian...or what is Canadian. We've been through not only years, but decades of discussion about what makes a program Canadian.

I just want to make sure I confirm what I'm seeing here, that as far as the tax credit program is concerned, there's still a belief that Canadian citizenship alone imbues something into the product that is Canadian.

• (1005)

Mr. Jean-François Bernier: Yes.

Ms. Bev Oda: Thank you.

The Chair: Monsieur Lemay.

[Translation]

Mr. Marc Lemay: I'd like to ask two questions. Firstly, I really like your point system. I'm very much for this system. I don't think I have to tell you about the scandal surrounding CINAR. I don't know what the reaction was in the rest of Canada, but at home in Quebec, it caused quite a scandal. Even today, I wonder if there are other cases similar to that of CINAR lurking. There's no protection under section 241. So it is possible that there might be other CINARs.

Mr. Jean-François Bernier: The CINAR file led us to setting up a risk-management mechanism as described on page 10 of our presentation. A significant auditing program has been in place since 2000. Through this program, the CAVCO does audits. For example, suppose you tell me that Marc Lemay is the director of a given production. Is Marc Lemay Canadian? Did he actually work in the production which received one point for its direction? If there are 1,000 files, we obviously cannot audit all of them. We study about 10 per cent of the files. This isn't done on the back of a paper napkin.

Mr. Marc Lemay: Are there any audits underway at the moment?

Mr. Robert Soucy: Yes, since the program's inception in 2000, audits are done each year. During the first year, Canadian content of 90 productions was checked by the Canada Revenue Agency. Now we do about 60 audits per year. Right now, we are receiving reports for the year 2003-2004.

Mr. Marc Lemay: Since I am such a good lawyer, you are probably anticipating my next question. How does one recoup the money? There must be other CINARs. Have there been other similar cases since 2000?

Mr. Robert Soucy: We have found nothing in the files we audited.

Mr. Jean-François Bernier: No. According to the reports of the Canada Revenue Agency, the CAVCO did a very good job in 99 per cent of the cases.

I would add that in the case of CINAR, which we all agree shook up the industry significantly, the Association des producteurs de films et de télévision du Québec and the CAFTPA have adopted codes of conduct. They also felt affected by the scandal in a terrible manner. The industry itself also tightened the rules.

•(1010)

Mr. Marc Lemay: All right.

Mr. Jean-François Bernier: I would like to add something. There are checks done on the Canadian content of shows and there are tax audits done by the Canada Revenue Agency. If the producer declares that Marc Lemay received \$150,000 to produce a show, does not mean that this sum of money was actually paid out? Have taxes been paid on this amount?

The amendment to Section 241 of the Income Tax Act would specifically allow associations—

[*English*]

the Writers Guild of Canada,

[*Translation*]

such as SARDEC—and screenwriters to check the identity of Jean-François Bernier, screenwriter of a given production. This person can either be a nobody or a very well-known screenwriter within the industry. Control of information would be improved, and in a case such of that of CINAR, it would allow us to check whether or not the name of the screenwriter of a given production is not simply the name of the producer's dog who obviously is not part of any association, nor is he known by anyone.

Mr. Marc Lemay: All right. I have one last question.

I know that you are here this morning to talk to us about tax credits, but in this area, we cannot do much more than what is being done currently. I count the number of productions, I notice that the value of the dollar has risen. Are there other ways to attract foreign productions to Canada? I am not talking about Quebec specifically, because our friends of Ontario and elsewhere will want to... In Canada, are there other possibilities? What can we do that has not already been done?

Mr. Jean-François Bernier: The tax credit system is a simple and efficient system. There may be alternatives. We have not explored them, but we could finance directly, invest the way Telefilm does. There are different models, but the simplest one was a tax

credit program, which is basically an automatic program. There are no subjective choices: money is spent, taxes are paid, labour is used, T4 slips are issued. It's easy.

If we wanted to attract more foreign productions to Canada, we would just have to give a 50 per cent tax credit on labour, and nothing would be filmed in Hollywood, everything would happen here. I am exaggerating, but the greater the tax incentive given for productions to come here... Quebec, Ontario and British Columbia have already increased their tax credits in December and in January, and everything leads us to believe that more productions are going to be filmed next Summer in these provinces.

[*English*]

The Chair: Ms. Bulte.

Hon. Sarmite Bulte (Parkdale—High Park, Lib.): Thank you very much.

Mr. Soucy, welcome.

The certification, the ten out of ten, is that used to access CTF funding as well?

Mr. Robert Soucy: The CTF is predicated on obtaining at least ten points out of ten, or rather ten points out of ten maximum.

Hon. Sarmite Bulte: Is it conditional that they get the capital certification before they access that funding?

Mr. Robert Soucy: Eventually it is, although the CTF does a preliminary evaluation based on our system once they get an application that it will meet the ten-point system ultimately.

Hon. Sarmite Bulte: I'm going to ask if it's a duplication system. Are there two systems? I'm not clear here.

Mr. Robert Soucy: There are two systems that co-exist. However, it's strictly a function of when one claims a tax credit and when one goes to the CTF to ask for money. If you want to get CTF's money, then obviously you're going to have to get in line at one point and get them to evaluate your Canadian content. You may not have come to CAVCO yet is all I'm saying.

Mr. Jean-François Bernier: But one system is the same one. The ten-point system does not differ from the CTF, Telefilm, CAVCO, the CRTC. It's a common grid.

Hon. Sarmite Bulte: They're all the same. It would be like the maple designation was for—

Mr. Jean-François Bernier: Exactly.

Hon. Sarmite Bulte: Let me ask you another question.

Mr. Bernier, you said that you are in the process of reviewing the tax credits in terms of transparency. The Standing Committee on Finance, in its report that it tabled this year, recommended that the Canadian film and video protection tax credit be increased to 30%. The government was criticized today by the Canadian Conference of the Arts because that was not in the budget. What is the status of that recommendation? Are we moving forward on it? If not, why not?

•(1015)

Mr. Jean-François Bernier: I would refer that question to the Department of Finance.

Hon. Sarmite Bulte: Okay, that's a good answer. However, I also know how the Department of Finance works with the Department of Heritage. We usually have the wish list of what we want. Is there any consideration being had? Again, is it a priority, or is it something we're going to have to recommend so that it gets onto the radar screen?

The Chair: Ms. Bulte, as chair, I think I should remind you that is a question for the minister, not for Mr. Bernier.

Mr. Jean-François Bernier: Thank you. I was just about to refer that to my minister.

On the wish list, I was not privy to that list.

Hon. Sarmite Bulte: I find that hard to believe. Anyway, we'll continue.

I know there has been discussion among the industry also of increasing the tax credits to encompass more than just labour costs. Has this been looked at at all?

Mr. Robert Soucy: I know the Canadian Film and Television Production Association has wanted to propose an approach like that to the Department of Finance. Again, it's a question the finance department will have to think hard about, because it's a different model, but yes, a tax credit on the full cost of production is something the industry has wanted for a while.

When the tax credit was simplified in November 2003, the tax credit was raised, in fact. We raised the cap from 48% to 60%. We raised the Canadian content tax credit to 15%. The industry asked as well that the 25% rate be raised another few notches, to 27%, 28%, to give a credit of maybe 17% overall for Canadian content productions. They are still pursuing that approach, I believe, or they would like some increase in the Canadian content tax credit, whichever way you look at it.

Mr. Jean-François Bernier: You're quite right in saying that there are two approaches that could be envisaged here. You could enlarge the base on which the credit is applied over and above the labour, but for a producer, quite frankly, at the end of the day it's how much tax credit you get. By jacking up the rate to 30% or 35%, you could achieve the same net benefit as enlarging the base and applying the current tax credit level to a larger base.

Hon. Sarmite Bulte: It's an option that's available. That's a good point.

Mr. Soucy, you raised the thing about streamlining the tax credit, and I know that's something the industry had asked for when John Manley was Minister of Finance and committed to having done that.

Is the industry happy? Has the streamlining accomplished what the industry wanted?

Mr. Robert Soucy: In November 2003 the Department of Finance, jointly with the Department of Canadian Heritage, announced the modifications. They were greeted with great appreciation by the industry, and effectively, as I've mentioned, the rate was increased. A lot of fiscal impediments were removed, making it easier for producers to sail through the system. We tightened up here and there on getting the credit only to Canadian labour, whereas before it was available for foreign labour as well, but that makes sense in a Canadian content environment. We enlarged the pie in a sense by giving the credit—or financed it rather, as I

don't want to take credit for this—on more of the labour right up to the beginning of the development stage, whereas before the credit only started calculating at the start of principal photography ultimately.

That was very well received by the industry. This year, just a few weeks ago in fact, we released a further consultation document with the industry seeking to provide new guidelines as a result of these modifications in the context of copyright ownership, or ownership issues, frankly—what are acceptable revenues that the law requires us to verify out of certified productions, the acceptable revenues from the exploitation of your production. In other words, the government would like to see producers getting a tax credit but not wasting that tax credit on productions that will never be seen in Canada or that benefit foreign entities who put money into these productions as well.

We require them to demonstrate that they are full owners of their own production and as well will get some net benefit out of these tax-credited productions among other things. There are other control issues that this consultation document addresses.

• (1020)

Mr. Jean-François Bernier: To complete the answer to your question, the industry feels that only one shoe fell on the floor with the simplification announcement. They're expecting the second shoe to fall in terms of jacking up the rate to a 30%, 28% tax credit program.

Hon. Sarmite Bulte: Okay. Just a very quick question, if I could, on the Canadian film or video production tax credit. You say less assistance, for example Telefilm money, would come off the top. What happens to the provincial tax credits?

Mr. Robert Soucy: They're lopped off the top as well. They are considered to be government assistance, and the finance department will not give a tax credit on other forms of government assistance, be it federal or provincial.

Hon. Sarmite Bulte: But then again that's the problem. When speaking to the deputy minister in Ontario...I mean, there's no added value then to the province increasing its tax credits at all if we take it back or claw it back.

Mr. Robert Soucy: But it's not a direct grind. The model of the tax is like a double calculation, in a sense. You can reduce with the grind your total production cost, and that will give you a certain base against which to claim your credit, but your credit will be based on an amount equal to the amount of labour you're going to employ and spend money on as well.

At the end of the day, all I'm trying to say is that if the provinces increase their tax credit, the grind obviously will be a little higher with respect to the federal tax credit, but it won't be a one-for-one relationship. If they raise it by one, ours won't necessarily decrease by one. It will be maybe a quarter of a point.

Hon. Sarmite Bulte: Don't we need to harmonize that somehow? It just seems that they're working against each other.

We're trying to work together in partnership to foster this industry at all levels, including the municipal level in Toronto, as Mr. Silva knows. He was very active there when he was at council. It just seems to me that we need to have some kind of harmonization. I leave that as a moot question.

The Chair: I think it's a very important question as to what we'll be doing in the next few months, quite frankly.

I had a few questions. One is more a comment to the finance department than to officials from the heritage department, because it seems to me we don't have trouble charging tax on tax; we have trouble paying a tax credit on a tax credit. A little bit of double thinking there, I think.

I want to clarify the issue of citizenship. Somebody who has never lived in Canada, if the individual is a Canadian citizen, qualifies as a Canadian producer, director, screenwriter, whatever.

Mr. Robert Soucy: That's correct.

The Chair: And the person never lives in Canada.

Mr. Robert Soucy: The tax credit is based on Canadian citizenship right, not residence.

The Chair: Is that a good idea?

Mr. Robert Soucy: Is that a good idea? Well—

Mr. Jean-François Bernier: There are pros and cons.

Mr. Robert Soucy: At one point when we were thinking of simplifying the credit model, we went so far as to think perhaps it would only be Canadian resident labour. However, producers argued that in many cases they have quite legitimate citizens who are citizens of the world, although Canadian citizens rather, but they have to travel to do their jobs, their business—to go and find ideas, to shoot documentaries outside of Canada, for instance.

So the notion of residency applies very much for provinces and the provincial tax credit, but at the federal level we finally decided that citizenship was sufficient to demonstrate your commitment.

The Chair: Okay. You referred to the consultation document. I trust you would be providing a copy of that to the committee so we can see what you're consulting on, since we're doing the same thing.

Mr. Jean-François Bernier: If I may, Madam Chair, if you have problems sleeping at night, you read that document. It's very technical, but we'll be pleased to share a copy with you.

The Chair: That's why we have very good researchers, to help us through those technicalities. But even more importantly, we would like to know, as you're receiving some feedback on that, the kind of feedback you are getting, as it might be helpful to us.

Mr. Jean-François Bernier: We'll keep the committee informed.

Mr. Robert Soucy: Let me just say that the document is on our website and it's a fully public process, as the CRTC does. We will post all the comments on our website as they come in, and then there'll be two phases. After the first phase you can see the comments from other associations or whoever responds, again, until April 22.

• (1025)

The Chair: I want to—

Ms. Bev Oda: Madam Chair, if I can just interject, I know it would be more convenient, certainly for myself, if it could be provided. I know the committee staff is very good at making sure the distribution happens—

Mr. Jean-François Bernier: It will be provided.

The Chair: I didn't pursue that because Mr. Bernier had already said it would be provided.

I do want for a couple of minutes to pursue what Ms. Oda was asking, because the whole film policy is under review right now. On page 4 there is the outright statement that "Tax credit programs are important tools in the Government of Canada's efforts to ensure the creation of Canadian content."

In one of your short forms you say the CPTC has been in effect for nearly a decade, since 1995, and the PSTC for coming up to eight years. What evidence do we have in fact that these help ensure the creation of Canadian content? And particularly in the context of the overall film policy, do we have any evidence or are we doing any analysis of whether the money that goes into tax credits is more effective, less effective, or just differently effective than direct subsidies such as Telefilm, CTF, independent production funds, and so on?

Mr. Jean-François Bernier: I would say that every Canadian content production that gets money from Telefilm or the CTF gets a tax credit.

On one of the pages here I mentioned that the tax credit programs for Canadian content production—the federal tax credit and the provincial tax credit—represented 22% of an average production budget. If it wasn't for those tax credit programs, you'd be short 22% producing, financing those Canadian content productions.

The Chair: Understood, but is the tax credit system the best way to finance those productions? Given the amount of money, is that the best way to channel it to support film production? I don't know how, but it seems to me if we're going to say these are important tools in the creation of Canadian content, we should be able to say why they are and how they're effective compared to other means of subsidizing.

Mr. Jean-François Bernier: As I mentioned, the Canadian content tax credit program is being evaluated by the department in collaboration with the Department of Finance. So we're going to come up with those answers at the conclusion of the evaluation.

The Chair: Ms. Oda, you had another question?

Ms. Bev Oda: Monsieur Bernier, I know the department is doing a review, and as you know, the committee is doing a review. My experience tells me that there are a number of productions that do not use the CTF, though the majority of the projects I've seen do use the tax credit program. I would make a request that in the review, the information be shared with the committee as to an assessment, an inventory. I don't know if you're the lead person, though I would assume so, as you're director general of the whole area.

Mr. Jean-François Bernier: Yes.

Ms. Bev Oda: It would be an inventory for, say, the last full fiscal year of projects that use tax credit, CTF, Telefilm, the percentage where they overlapped, and which programs they did. Thus we could get an idea, out of the scope of all the productions being done in Canada in one year, of which programs are working together nicely, which ones are being used independently. Because that's one kind of consolidated information package we're having difficulty in trying to get.

• (1030)

Mr. Jean-François Bernier: That information is available. We'll go with the last fiscal year and make those distinctions. We could probably share that with you earlier than the report we're going to be receiving on the feature film fund.

Ms. Bev Oda: That would be helpful.

The Chair: Thank you.

Mr. Smith has indicated he has some questions.

[*Translation*]

Mr. David Smith (Pontiac, Lib.): Thank you, Madam Chair.

Gentlemen, thank you for being here this morning.

One of my concerns is the point system for animation. You said earlier that in terms of production, animation systems have changed since the advent of Flash 2D and 3D animation. As we all know, Quebec is especially renowned for its expertise in this area, expertise that is only going to become stronger in the years to come.

If I understood correctly, you are in the process of reassessing the way points are to be assigned. Is this a project that you intend to realize in the short or medium term? I want to make sure that companies are not penalized because of the current point system.

Mr. Robert Soucy: We are not in about to assess a new point system for animation. We are thinking that it is high time to do so.

Of course, when the time comes, public consultations will be held. Everyone will have the opportunity to specify what would be appropriate for this type of production. One must understand that there are five, six or seven different ways to create digital animation. Obviously, in the end, there must be agreement on the concept that will best represent each one of these types of animation, whether it be 2D, Flash 2D or 3D.

Ultimately, a point system must be adopted. We are thinking about one.

Mr. David Smith: It's a major effort that requires widespread consultations. According to you, how long could it take?

Mr. Robert Soucy: When it comes to changing the point system, we don't want to make any statement for the time being and we are not planning to do so in the near future. Obviously, if it is a question that is asked of us, we will seriously consider it. It also has to do with CRTC, obviously. You have to look at how we could have consultations and then determine what system we would prefer.

Mr. David Smith: Based on your experience, would you say that some companies that specialize in new forms of animation could be penalized under the current point system?

Mr. Robert Soucy: No, I don't believe so. We're constantly working with the provinces, Telefilm Canada and the Canadian

Television Fund. We try to see how we can integrate digital animation within the current system without hurting anyone. All we want, is a system that we can manage, but which includes all forms of digital animation.

Mr. David Smith: That's what I was concerned about. I would not want to see that segment of the industry penalized because there was no time to carry out an analysis, which I respect and understand. If I'm not mistaken, according to you, the industry would not be penalized.

Mr. Robert Soucy: No.

[*English*]

The Chair: Are there any more questions from committee members? No?

[*Translation*]

Mr. Soucy, thank you very much for your testimony.

[*English*]

We will be seeing you again.

Mr. Angus had to leave, so he has asked that his motion not be dealt with until after the one-week break.

Monsieur Lemay.

[*Translation*]

Mr. Marc Lemay: Madam Chair, I'd like it if the committee could decide whether it wants to recommend proceeding to the amendment of section 241 of the Income Tax Act, that witnesses were referring to this morning.

• (1035)

[*English*]

The Chair: May I suggest that we try to find.... Every year, usually in the spring, there is a technical amendments bill that deals with all kinds of anomalies in all kinds of bills. There will be one coming forward. Can I suggest that we find out from the Department of Finance whether this is going to be included in that bill this year or not, and if not, why not? Then we can decide. If it's already there, maybe we don't need to take any action. If it's not, then we can certainly consider that.

[*Translation*]

Mr. Marc Lemay: That's fine.

[*English*]

The Chair: We also have a standing motion from Monsieur Kotto.

Maka, do you want to present your motion and speak to it?

An hon. member: He's already spoken to it.

The Chair: Well, we have to discuss it.

[Translation]

Mr. Maka Kotto (Saint-Lambert, BQ): We discussed it last time. I had understood that it was possible to hear from the witness while limiting the scope of our debate. It is a fact that this case is pending before two courts. However, in order to know why there may not be an international film festival in Montreal this year, and probably not yet next year, I added to the motion a press clipping according to which there are problems or there is confusion in the new festival project that is being developed. The point was to shed new light on this debate which will probably continue beyond this year. The media raised this debate a few months ago. The public has the right to know how taxpayers' money has been spent over the last 25 years, now that the decision has finally been made to put an end to a festival which had become an institution. If you create a new festival without having shed light on what happened over the last 25 years, there's a problem. That's my opinion.

[English]

The Chair: From the discussion on Tuesday, it was obvious that there is no consensus around the table that we should be doing this at this time, given the other circumstances. So it's a question of whether you wish to withdraw your motion, knowing—

[Translation]

Mr. Maka Kotto: I would like to ask a question. What do you mean by consensus? Is it necessary and essential for us to be unanimous on this point for the motion to be agreed to and valid?

[English]

The Chair: No, but if there's no agreement around the table on it, you can either withdraw it or we'll have to have a vote on it—and it would be defeated, in my sense of the committee.

[Translation]

Mr. Maka Kotto: I would like for it to be put to a vote.

[English]

The Chair: What's your wish?

[Translation]

Mr. Maka Kotto: I would like it to be put to a vote.

[English]

The Chair: Okay.

Ms. Oda.

Ms. Bev Oda: Sorry, I wasn't here for the discussion.

I notice from the calendar that Telefilm will be coming up before the committee. For me the issue is the criteria used and the process by which criteria are established, etc., which I think is more appropriately directed to Telefilm—which we have the opportunity to do. I am hesitant to get involved in the decision-making process of a body that... I think that if there is something that has to be questioned, then it should be Telefilm or the board of Telefilm or the president of Telefilm, etc. To bring in a direct private sector entity here on a specific grant decision... I think we should start with Telefilm, and we do have that opportunity.

I'm wondering if Mr. Kotto would accept that approach to it.

[Translation]

Mr. Maka Kotto: Absolutely.

[English]

The Chair: We'll just table the motion for now, then? Do you want to withdraw it? Do you want to defer it?

• (1040)

Mr. Maka Kotto: I want to table it.

Ms. Bev Oda: I think our discussion with Telefilm should include...because the festival granting is part of its support for films, etc.

The Chair: Okay.

Mr. Kotto, if you would just withdraw your motion for now, we'll have a meeting with Telefilm. If after that you want to raise it again and have the committee deal with it—

[Translation]

Mr. Maka Kotto: Fine.

[English]

The Chair: The other issue on which Ms. Oda didn't hear discussion is the fact that there are court cases between Telefilm....

Hon. Sarmite Bulte: I wish we had dealt with this before, Madam Chair. I feel now that as Mr. Kotto has had an opportunity to read everything into the record again, I'm going to have to do the same thing again right now.

As I said last time, I think everybody around this table agrees that it is important to ensure that Montreal continues to host a world-class film festival. There's no disagreement in that area. But what I think is important is that there is an individual who has two class actions pending against Telefilm in two different courts.

Now, I just want to make it clear that when Telefilm comes, in light of the fact there are court hearings, we're not going to be able to ask them questions dealing with those court hearings. There is privilege, and what is used here cannot be used in a court. So I have no problem asking Telefilm about what their criteria are, but I think it should be clear that it's not going to be right for us to ask them about the pending lawsuits.

Ms. Bev Oda: But that's not what I'm suggesting.

As I clearly pointed out, part of Telefilm's mandate is to support festivals across this country. It establishes criteria for that process, as part of that mandate, when it reviews its criteria, etc. I'm not suggesting in any way, shape, or form that any specific decision or grant should be discussed in our overall review of a policy as broad as feature films. I certainly understand, and I know that the members of my caucus understand, what the limits are and that we do not discuss a specific decision or specific case when we do a policy review.

Hon. Sarmite Bulte: I didn't mean to imply that's what you intended, Ms. Oda. I just wanted to make it clear for Mr. Kotto that we won't... It's all very well and good to say we can discuss it within the parameters when Telefilm comes. That's all. I didn't want to mislead Mr. Kotto on this. That's all, Ms. Oda. It was not to imply that you were suggesting anything.

The Chair: Thank you.

I can assure you that I will not allow any questions that jeopardize the reputation of this committee or on any legal action that may be under way, and I will seek whatever advice I need before that meeting to ensure that doesn't happen.

[*Translation*]

Mr. Maka Kotto: I was counting on such a wise approach, Madam. Thank you.

[*English*]

Hon. Sarmite Bulte: Madam Chair, if I could, with the members of the committee.... I don't know if you're aware that Tom Patterson died yesterday. Mr. Patterson was an icon, an impresario in Canada, having started the Stratford Festival, among many things. And I just thought it would be appropriate for the committee, perhaps, to send a letter of condolence, considering the nature...

I haven't discussed this, and I know we have to give 48 hours, but if there is consensus, I think it might be appropriate that the standing committee, realizing the greatness and the immense contribution that Mr. Patterson has made to the arts and the cultural community in Canada, send a letter of condolence to his family.

The Chair: I don't think there would be any disagreement with that at all.

(Motion agreed to)

[*Translation*]

Mr. Marc Lemay: It is unanimous.

[*English*]

Hon. Sarmite Bulte: Thank you. Merci.

The Chair: Okay.

[*Translation*]

Mr. Marc Lemay: Madam Chair, we have two further motions to bring forward, Mr. Angus' and Ms. Oda's.

The Chair: I already said that Mr. Angus had to leave and he asked for us to postpone considering his motion.

[*English*]

Mr. Marc Lemay: When? March 8?

•(1045)

The Chair: Yes.

Mr. Marc Lemay: Okay.

The Chair: Ms. Oda had agreed to defer the consideration of her meeting pending the discussions that the chair of the official languages committee is already having with the producers of the Olympics. They've been asked to produce a plan by which they will ensure adequate production. They will appear before the official languages committee, and if it seems advisable Mr. Rodriguez and I will arrange a joint committee meeting.

Ms. Bev Oda: I think the thing is that it's fine for the official languages committee to take an interest in this. However, for me it's a question of service to the francophone community. I don't know whether the official languages committee will be looking at the service aspects and the cost to the viewers of achieving a service level that is satisfactory.

The Chair: I think we'll know more when we hear back from Mr. Rodriguez.

We have the revised schedule in front of us, subject to change, always. Minority government creates little situations that we have to be prepared to be flexible for.

I think, Mr. Lahaie, somebody had drawn to your attention some information as well, that in fact.... This may or may not change our minds. However, the Cannes Festival is on the weekend when we planned to go to Vancouver. I think it was Mr. Kotto who brought to our attention that that might mean that a number of the people we want as witnesses are not in Canada.

Mr. Marc Lemay: Well, we'll go to Cannes.

The Chair: We could hold our hearings there.

Is that relevant?

Mr. Mario Silva: Sorry, I'm looking at the wrong one. No, that's fine, no problem.

The Chair: Do we want to leave it as is for now and see what develops?

Bev?

Ms. Bev Oda: I'm just wondering.... I know that when I look at even the next weeks, the CRTC and the Competition Bureau all in one meeting I think is going to be a challenge as far as that kind of scheduling is concerned.

I guess for those of us who will be in Winnipeg....

The Chair: That's in April, isn't it?

Ms. Bev Oda: Yes.

I'm looking here. Is the plan to sit and hear witnesses on Sunday and Monday? And when would the travel day be in order to be back in Ottawa?

The Chair: Mr. Lahaie.

The Clerk of the Committee: In Winnipeg there are the Junos on Sunday evening, so you would fly in the afternoon or the morning to get to Winnipeg, attend the Junos, and then Monday morning and afternoon, if need be, the committee will hear witnesses, have its hearing, and fly back to Ottawa at the end of the day, early in the evening or late in the afternoon.

Ms. Bev Oda: And sit in Ottawa on the 5th, and then start sitting in Toronto on the Wednesday?

The Clerk: Yes, leaving on the 5th in the evening; hear witnesses in Toronto on the 6th and 7th, and on the morning of the 8th have a site visit.

The Chair: Ms. Oda, are you suggesting that it might be wise if we didn't have our regular meeting on the 5th?

Hon. Sarmite Bulte: Yes, if we're travelling, there's no reason to have a meeting on the same...the 5th, the 12th, and the 19th.

The Chair: So the weeks we're travelling, not do an Ottawa meeting? Okay. That makes sense to me.

Can I just say that earlier, we had talked about getting a bit of a briefing, before we actually meet with the witnesses, from our researchers. Now that we've had a couple of hearings, I think it might be wise to do that before we actually have CRTC in and Telefilm. Just have a 15-minute, in camera briefing, and then hear from our witnesses and begin the questioning. Quite frankly, I think our researchers are trying to start focusing in on some issues.

Ms. Oda.

• (1050)

Ms. Bev Oda: I also have another consideration that I would ask the committee to consider. As I've already pointed out, I think that the CRTC and Competition Bureau together is going to be a challenge. The reality is, in order to give the amount of time that a briefing would be due, I don't know whether 15 minutes is going to be adequate for a briefing. I agree with the briefing aspect of it, but I'm just wondering whether it's effective to tackle in 15 minutes before.

Just to supplement on that, another consideration I ask my fellow committee members to consider is, on at least Tuesday, if not the other days, we might consider, but on Tuesday I have a shadow cabinet, and I'm wondering if we could deal with committee business in the first half hour, or consider starting our committee on Tuesdays at least at 8:30, so we can consider motions, etc., so that I do not have to be late for shadow cabinet every week.

The Chair: Any thoughts on that? I know Mr. Angus has a problem because their caucus meets every day at 8:30. Is there a compromise there at around quarter to nine? No.

[Translation]

Mr. Marc Lemay: I think that if we have two full hours with the CRTC and the Competition Bureau on March 8th, it will suffice. There won't be many questions, but we should receive explanations from the Competition Bureau. The problem I have, is that we are now studying the Canadian feature film industry and that we're going to interrupt this consideration to hear from the CRTC or the Competition Bureau. That would be fine if it were directly related to the film industry. Otherwise, we have a problem: you put a stop to a study which is already quite interesting and that we're making daily progress on. I'm wondering about this.

[English]

The Chair: I'm going to ask Mr. Jackson to explain why the CRTC is on the witness list. It is directly relevant to what we're doing.

Mr. Joseph Jackson (Committee Researcher): Earlier this week another researcher and I met with CRTC officials to ensure that they understood the scope of the committee's study. We discussed why there was some merit in having the CRTC come before the committee. We explained the regulatory ties between the actions of the CRTC and the ways in which conditions of licence are set for many pay and speciality services, and we articulated a need to have the commission come before the committee in order to explain the direct and indirect ways in which the commission's decisions, its policies, and its actions in fact have consequences for the Canadian feature film industry in Canada.

[Translation]

Mr. Marc Lemay: In that case, we could contain the debate with the CRTC. My friend Maka and myself would like to get back to the issue of the CKAC station, etc. We will focus our questions on the film industry when it comes to the CRTC. I therefore believe that in this case, two hours will suffice.

[English]

The Chair: We have to be out of here in two minutes and we still have to draw up the travel budget.

Is there a sense that we should use the whole meeting for the CRTC and defer the Competition Bureau?

Some hon. members: Agreed.

The Chair: Okay. We'll do that.

• (1055)

Ms. Bev Oda: Do I understand correctly that we've agreed that if we do start early on Tuesdays, we will deal with committee business motions before we get to witnesses?

The Chair: Yes.

Ms. Bev Oda: Thank you.

The Chair: I need a motion from the committee to adopt our revised budget, which now includes one day in Winnipeg and an extra day in Toronto, Vancouver, and Montreal. The motion is that the committee adopt the proposed travel budget of \$312,525 for its study on the Canadian feature film industry.

(Motion agreed to) [See *Minutes of Proceedings*]

The Chair: Obviously, we don't have time to deal with our list of witnesses. To make this simpler, I would ask all members to please look at that list of witnesses. If you have any comments on people you think need to be added or people you think shouldn't be there, please communicate directly with Mr. Lahaie.

Ms. Oda.

Ms. Bev Oda: I'd like to make a request of our researchers. I think it would assist our committee on a going-forward basis if you would give us a template as to what questions we will want to have answered by the end of this process so that we can focus.

The Chair: We had this discussion at the beginning of the meeting. It's a very important issue.

Ms. Bev Oda: Thank you.

Mr. Joseph Jackson: We did circulate earlier a list of proposed study questions. A revised version came out as well. That was a very early draft of some of the questions we foresaw the members might want to ask. We've now been sitting back and watching the meetings. We've seen three sessions now. We have a break week coming up next week. We plan to reorganize these questions around a set of categories together with a proposed outline for issues that need to be addressed, and we hope to present that to you on Tuesday, the 8th, prior to the meeting with the CRTC.

The Chair: Thank you very much, everybody.

This meeting is adjourned.

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

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