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## Standing Committee on Canadian Heritage

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**Tuesday, March 8, 2005**

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**Chair**

**Ms. Marlene Catterall**

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Tuesday, March 8, 2005

• (0915)

[English]

**The Chair (Ms. Marlene Catterall (Ottawa West—Nepean, Lib.)):** Welcome back.

You have a presentation. I've had one comment that we'd like to focus less on the background and a little more on the real content—the heavy stuff.

Thank you very much for coming and thank you for waiting a few minutes.

**Mr. Marc O'Sullivan (Executive Director, Broadcasting Directorate, Canadian Radio-television and Telecommunications Commission):** Thank you, Madam Chair.

My name is Mr. Marc O'Sullivan and I'm the executive director of broadcasting at the CRTC. With me are my colleagues, Nick Ketchum, director English language radio and television policy, and Jacques Langlois, who is the director general of broadcasting policy at the CRTC.

The presentation is to give a basic overview of the measures the commission has taken that relate directly to feature films. For the purpose of the commission, theatrical feature films are a subcategory of drama and comedy programs, and as such feature films benefit from the various measures the commission takes to ensure the predominance of Canadian content in our broadcasting system.

As I said, I'll highlight the most relevant provisions to feature films. To do so, I'll take you through the broadcast windows that are the opportunities for Canadians to view feature films on television.

Feature films go, as you know, from exhibition in theatres to DVD tape rentals and sales, and then to the various broadcast windows that are enumerated on page 3. With the increasing popularity of DVDs and pay-TV services, most feature films end up being widely available through those different windows before they are shown on specialty or conventional over-the-air television. Therefore, conventional and specialty television has become a less important window for feature films as the importance of pay-TV has increased over the past few years.

[Translation]

The video-on-demand services are described on page 4. These are new services, but they have been growing very quickly in Canada. In 2003, they generated only \$3 million in revenue, while in 2004, the revenue had quadrupled to \$12 million. This is a growth area.

The requirements for video-on-demand services are set out on page 5. They take the form of license conditions. All new Canadian

feature films must be accessible to users. In addition, at least 5 per cent of feature films in English and 8 per cent of feature films in French must be Canadian. All the revenues from the screening of these films must be remitted to the rights holders. In addition, VOD licence holders must remit 5 per cent of their gross annual revenues to Canadian program production funds.

On page 6, there is a description of pay-per-view television services. The revenues in this sector have increased from \$38 million in 2000 to \$78 million in 2004. So it is clear that this is also a growth area. Features are the main type of film involved. Because of the growth in revenues, this sector is becoming increasingly important.

The requirements of English-language pay-per-view television services are listed on page 7. Once again, these requirements take the form of licence conditions. It is required that all new Canadian feature films be made available under PPV; that at least 12 Canadian feature films per year be made available; that at all times at least one Canadian film be available for each foreign film, that 100 per cent of the revenues be remitted to the rights holders of these films; and that 5 per cent of the gross annual revenues go to production funds.

As you can see, there is a sort of symmetry between the video-on-demand and the pay-per-view television services. The conditions are similar in the two cases.

The requirements for French-language pay-per-view services on television are set up on page 8, and once again are in the form of licence conditions. The fact that they are slightly more demanding has to do with the number and popularity of Canadian films in French. We require that all new films be available and that there be at least 20 Canadian feature films per year. The ratio must be at least one Canadian film to 12 non-Canadian films. Once again, 100 per cent of the revenues must be remitted to the rights holders and 5 per cent of the gross annual revenues must be put into production funds.

• (0920)

[English]

Pay-TV is described on page 9. The pay-TV sector had revenues of \$263 million in 2004, compared to \$102 million in 2000. So once again you see that this sector is growing at a tremendous rate. It represents the most promising avenue for showing feature films in the Canadian broadcasting system.

Of all types of broadcasting, pay television provides the greatest support to Canadian features. In 2003, 60% of the total viewing of Canadian English language feature films was through pay-TV services. That indicates the importance of that sector. On the French language side, 38% of viewing of Canadian French language features was through pay-TV services.

When we look at the schedules of the pay-TV services, roughly 80% of the programs offered are feature films. So that sector is the most promising in terms of the opportunity to show feature films, and therefore Canadian feature films.

The requirements on pay television services are listed on page 10. As you can see, each of the pay services has a condition of licence that requires them to spend a certain percentage of their total revenues on Canadian programming. That's under the CPE column. You can see that they have requirements for spending on Canadian programming of 32% going down to 25%, depending on the service.

Those services also have Canadian content requirements for the programming day overall, which go from 25% to 20%. In the evening hours, the percentages of Canadian content required are from 30% to 20%.

These expenditures on Canadian programming go directly to the financing of Canadian programming, and notably feature films. For example, The Movie Network currently has revenues of approximately \$90 million, and 32% of those revenues are required to be invested in Canadian programming. Of that, a certain amount is required—\$1.3 million—to be used for script and concept development, which is an important facet for the development of Canadian content.

One of the concerns with Canadian films is that all the production money goes into productions that end up on the screens. In some cases, the development of that script might have indicated that the project really wasn't ready to be shown; nevertheless there was a push to get those projects up. There has to be a greater amount of money directed toward script development and concept development to nurture as much content as possible and to experiment and try new concepts, etc.

On page 11, the graph outlines the growth in the direct expenditures by pay, pay-per-view, and video-on-demand sectors on Canadian programs, and their contributions to Canadian production funds. So the pay television sector contributes over 90% of the annual expenditures toward the financing of Canadian programs, primarily Canadian feature films. The pay, pay-per-view, and video-on-demand sectors provide their contributions to production funds such the Harold Greenberg Fund.

In 2004, there was \$84.6 million in funding, which is the total indicated on the line graph at the top right-hand corner of the page. In order to place it in perspective, the total Canadian box office receipts for Canadian feature films in 2004 was approximately \$41 million. So you can see that the contributions for the pay, pay-per-view, and video-on-demand sectors were quite high in relation to box office revenue for those feature films.

Turning to specialty services, on page 12, not all specialty services focus on drama and films. Their program categories vary according to the genre for which they were licensed. We've listed examples of

specialty services that broadcast dramas and films. In the specialty services, the Canadian content and expenditure requirements vary according to the type of service. For example, Showcase must broadcast 60% Canadian content, but Showcase Diva must broadcast 35%. So it varies, depending on the type of service and the conditions imposed at the time of their licensing.

● (0925)

[Translation]

With respect to conventional TV, as we mentioned earlier, feature films that become one of the less important components of the schedule of conventional broadcasters. However, some licence holders made some specific commitments regarding feature films at their last licence renewal.

The commitments made by CBC and SRC, for example, are set out on page 13. CBC has committed to invest \$30 million in Canadian feature films, and SRC \$20 million.

Private broadcasters, such as CHUM and TQS, have decided to concentrate their programming on feature films and have made the commitments that are shown on page 14. CHUM Ltd., on its City-TV stations, has agreed to broadcast at least 100 hours a year of Canadian features during peak viewing hours. TQS has committed to increase the presence of Canadian features in each year of its licence term.

Other broadcasters, such as CTV and Global, have focused their efforts on other types of programming, and have placed less emphasis on feature films.

[English]

Page 15 shows the viewing of English language feature films as a percentage of the viewing of all English language feature films, both Canadian and non-Canadian. As you can see, the numbers are low, but at least they're moving in the right direction, going from less than 1% in 1994 to the current 5.2%. The trend is in the right direction, but the numbers are still quite low.

● (0930)

[Translation]

In terms of French-language feature films, as you can see on page 16, viewing is increasing but in a slightly choppy fashion. Currently it stands at 8 per cent.

[English]

So that's 8% of overall viewing of feature films. Of all the nationalities, French language feature films are being seen by 8% of the audience. Once again, those numbers are low, but they seem to be moving in the right direction. It's a bit more up and down on the French language side than on the English language side.

Promotion of Canadian feature films is also a role to be played by the broadcasters. There's a 12-minute limit on advertising by broadcasters, and for the purposes of calculating those 12 minutes, the commission does not count advertising devoted to Canadian feature films. That is irrespective of whether it's advertising for a Canadian feature film shown on that network or being shown in theatres. Those ads are a freebie for the broadcaster in terms of not counting for the 12-minute limit in advertising.

Similarly, in terms of priority programming, the commission recognizes that as a category of priority programming, magazine shows such as *eTalk Daily* that are devoted to the promotion of entertainment industries have to devote two-thirds of their time to the promotion of Canadian entertainment industries. That category is meant to try to help promote and develop a Canadian star system. As we know in looking at the success of the American cultural industries, the star system, which is heavily promoted in media—the buzz around actors and actresses—is an important facet, and we try to promote that through that policy.

In addition, broadcast funds are an important element of support to all genres of dramatic programming, including feature films. The precursor to the CTF was the Cable Production Fund, which the CRTC started in 1994. It has merged with and has now become a public-private partnership, where the government currently is funding \$100 million and the cable industry is providing a bit more than \$110 million to the CTF, and the CTF has a specific envelope of \$15 million for feature films.

In addition, as you can see on page 19, when television licences are transferred from one owner to the other, rather than hold a competitive hearing, as a proxy for a competitive hearing the commission requires that a contribution of 10% of the value of the transaction be made to the community affected and to the broadcasting system as a whole. These transfers of benefits, as well as commitments made by applicants for new licences, often include the creation of independent production funds, and these funds support the creation of various genres of television programming, including feature films.

We give some examples of those funds on page 20 and the ones that have a focus on dramatic productions, including feature films. In the case of the Harold Greenberg Fund and the Corus funds, the money is allocated almost exclusively to feature films. The other funds support a mix of dramatic production, of which feature films are a part.

Finally, turning to page 21, in addition to the other means of supporting Canadian dramatic production, the CRTC has just launched an incentive program meant to encourage broadcasters to produce more Canadian content, more dramatic production. We've done it through an incentive program based on increasing the amount of advertising that the broadcasters can show. It allows them to go beyond the 12-minute rule, up to a limit of 14 minutes. That extra revenue is an incentive we're using to have them produce even more dramatic production. So it's tied to the amount of dramatic production, it's tied to the money put into dramatic production, and ultimately, part of it will be tied to the audiences that the production generates. Of course, Canadian feature films are part of the dramatic productions and are caught by that and could benefit. Canadian feature films broadcast for the first time on conventional or specialty television qualify for these incentives.

That's a quick overview of the information we've provided in the deck.

• (0935)

To conclude, I would emphasize that as the Canadian broadcasting system evolves and as we make the transition to digital, there is an increase in the number of windows available for the showing of

feature films, and this increase in the number of windows presents an opportunity for Canadian feature films. The challenge, therefore, is to see that opportunity and ensure that there are as many Canadian feature films shown on those windows and to ensure that is done in a way that generates the biggest possible impact in terms of audiences.

I was told to keep this presentation short, so I've done so, and we are happy to answer any questions you may have.

**The Chair:** Short, but jam-packed with information.

Ms. Oda.

With the committee's agreement, I'm going to give Bev a little more time because she has to leave at ten and she won't be here for a second round.

**Some hon. members:** Agreed.

**The Chair:** Thank you.

**Ms. Bev Oda (Durham, CPC):** Thank you, Madam Chair. Also, thank you to my colleagues for your consideration. I appreciate that.

Welcome to you. It's nice to see you back again and to see your familiar faces.

I have a couple of areas I want clarification on at first, if I could. On pages 15 and 16, you have two charts, "Viewing to Canadian English-language Feature Films" and "Viewing to Canadian French-language Feature Films". I find those are interesting charts. However, the piece of information that's missing for me is between 1994 and 2003, how many services were introduced over that period of time that offered feature films? If this was only one service, we could really say this is an increase in viewing to the genre of Canadian feature film, not just the incidence. I'm wondering, Mr. O'Sullivan, if that kind of information could be provided to the committee for those two charts.

**Mr. Marc O'Sullivan:** Yes.

**Ms. Bev Oda:** Thank you.

**Mr. Marc O'Sullivan:** If I could comment, the increase of services is a general trend across the whole broadcasting system, as you know, and has led to a fractioning of audiences. We're no longer in the world where a given program or a given movie generates the massive impact, in terms of viewing, because audiences are now so divided up between all the various possibilities offered to them. That certainly has had an impact. I think our definition of a success, in terms of viewing, has to change, has to evolve, with the fractioning of audiences. We can't use the standards of the past.

**Ms. Bev Oda:** And that goes fundamentally to why I'm asking the question. Is the genre of the Canadian feature film, in terms of its popularity, maintaining an interest by Canadians, or is it just more opportunities to see those films that are being produced that are going to create more viewing, more Canadians accessing those?

I think there are two factors...more than two, but certainly those two factors are interesting. I think fundamentally one of the questions we have to answer, as a committee, is on the attractiveness and the demand for Canadian feature film as a genre, and then how do we expose them to Canadians?

I'm also wondering about another issue. You talked about feature films being a subcategory of drama, etc. The commission also has another way of looking at programming, which is priority programming. There has been discussion about when the commission changed over to what qualified as priority programming, etc. Within that category of priority programming, we know there are a number of genres of programs.

Can you give me some background on the commission's thinking when feature film, Canadian drama, was included with other categories of programs? We all know the struggle of Canadian programming, particularly on private sector broadcasting. As the higher-cost programs, such as drama, such as feature films, was included in that priority program basket, we saw where there's been a decrease in Canadian drama and Canadian feature film on conventional and towards some other categories of programming. One of the key factors in the other categories of programming, I would submit to you, was not that they were necessarily more attractive or there was more demand, but fundamentally one of the factors was that they were cheaper to produce.

Can you explain, or give us some background on, the thinking of creating the basket of priority programs, and yet making that basket include not only high-cost Canadian programming but lower-cost Canadian programming, and what you felt was going to motivate the broadcasters, the programmers, in the country to maintain a high degree of Canadian drama and Canadian feature films in their schedules?

● (0940)

**Mr. Marc O'Sullivan:** As you point out, the gist of the 1999 television policy was to offer more flexibility to the broadcasters to determine the type of programming they wanted to do, in reflection of the fact that broadcasters take different approaches. Rather than impose the same cookie-cutter approach to the types of programs that broadcasters have to show, there was an attempt in the 1999 policy to recognize that broadcasters have different approaches to their schedules. TQS, for example, weighs heavily on feature films and uses them as a mainstay or pillar of their programming. CTV has focused on short-form movies of the week, or short series or mini-series. CBC at one point was focusing a lot on mini-series.

So there are different genres, and rather than have the commission determine the specific hourly requirements for each type of programming, the commission decided to give the broadcasters that extra flexibility.

You're right that there is an effect in that regard in terms of migration from high-cost to lower-cost programming. We've looked at that as part of the proceedings we had on drama, notably to see the effects of that on drama, which is why we've launched the drama incentives program.

The main thrust is to recognize that a regulatory obligation will always be treated as a regulatory obligation, and that broadcasters in the normal course of business in any regulated industry will seek to find the least onerous way of fulfilling that regulatory obligation. Even in the years where there were requirements in terms of hours and spending for dramatic production, in terms of impact on audiences, it wasn't budging; we were basically stuck at 11% as the percentage of those viewing all drama productions. There was a

concern that the broadcasters were not truly investing all of their creativity and resources in making that programming as successful as possible, notably with respect to scheduling and promotion.

So in re-examining the dramatic production issue, the commission felt that rather than try to micro-regulate things such as scheduling and promotion, expenditures, and specific hours, it would seek a method through incentives to get broadcasters to commit themselves to the success of their programs, because there's a monetary carrot for them at the end. CTV's success with *Corner Gas* is a hopeful indication of where that success may lie, but we recognize that there has been a decrease in certain forms of production, and that's why we tried to remedy it through our drama incentives program.

My colleagues have a bit more of an historical perspective than myself.

**Ms. Bev Oda:** That does give us some of the thinking behind it.

I would assume—which is not a good thing to do—that in developing your incentive program over the past year or so you looked at the impact of the regulations as they sat at the time.

**Mr. Marc O'Sullivan:** As I mentioned, the fact that the audience was stuck at 11% was the one thing that got most of our attention, recognizing that in the past the impact just wasn't there. So we thought we had to devise an incentive program to try to break that 11% logjam in viewing.

● (0945)

**Ms. Bev Oda:** I have just one final question, if I could, please.

I'm going to use page 11 as an example, because here you've shown the expenditures by pay, pay-per-view, and VOD services. Again, while this is an interesting chart, I'm trying to think of the factors that would cause the increase up to the 2004 figures. Again, there are some factors that I would suggest are not reflected in this chart or any chart, which would be the number of services that are gaining in popularity, etc.

So my last question will be, if you could pick only one criterion to measure the success of the role you believe broadcasting—the industries you regulate—can contribute to furthering Canadian feature film, what criterion do you believe it should be: viewing, expanded opportunities for Canadians to access feature films, or investment of dollars? If it's not one, what's the order of priority or what's the order of importance? As you've had the experience of implementing these and measuring their successes over decades, could you give us some advice.

**Mr. Marc O'Sullivan:** The easy answer is all of the above; I won't try to get away with that. I'll make a comment on the three elements.

Viewing is the most obvious one. You say you have to see what impact it has on Canadian audiences, but there are so many factors there. It's not really an objective factor that is very helpful in terms of developing regulatory policy, because at the end of the day, the success—or lack of success—of films or programs depends on the quality of those programs, and we don't regulate that. What we do regulate is opportunity for Canadians to see those films, those programs, and also the expenditures that have to flow back into production and into programming funds.

Tools we can affect directly are Canadian content requirements and expenditure requirements. Those are the tools we have at our disposal. The industry, on its own, is growing, and there's a transition where subscription-based services are becoming more and more popular. There's that transition going away, audiences migrating from conventional over-the-air television to subscription television, indicating where the opportunities lie for the showing of Canadian programs, including feature films.

But our two tools are Canadian content and expenditures. I would hate to give up one of those two, but if I had to choose between the two and say which is the more important, I would say the Canadian content requirements are more important, because that gives the opportunity to actually see the programming. You could have expenditure requirements, but if the films were not being shown, what's the point?

So by order of priority, it ends up being Canadian content, then expenditures, and then viewing.

**Ms. Bev Oda:** Thank you very much. Thank you, Madam Chair.

**The Chair:** Thank you.

Monsieur Kotto.

[*Translation*]

**Mr. Maka Kotto (Saint-Lambert, BQ):** Thank you, Madam Chair.

Good morning. Thank you for coming.

I want to follow up on what my Conservative colleague raised about the mandate. I'd like to understand the CRTC's vision for feature films in general. I'm concerned about the issue of Canadian cultural sovereignty versus Canadian content. Given that few restrictions are placed on broadcasting networks and that there is little financial support for the Canadian film industry, what do you think could be improved in order to counter this foreign—and more specifically, American—cultural invasion? I'll skip the details.

● (0950)

**Mr. Marc O'Sullivan:** Our approach is to consider feature films as part of drama production in general. Our main concern does not deal with specific types but rather with overall Canadian content. Therefore what we are doing about drama production is what is most relevant for feature films.

This issue is at the very heart of our mandate. The Broadcasting Act talks about the predominance of Canadian content. We are always striving to reach a balance between, on the one hand, the ability of our services—especially the English language services—to make money by offering the product that is most attractive to the Canadian public and, on the other hand, Canadian content requirements and spending. We also have to comply to service distribution requirements in order to ensure that Canadians have access to the greatest quantity possible of Canadian content.

We're always trying to find a balance because we can't simply require content that the public doesn't want. We need to take the public's wishes into account. The American cultural industrial machine's influence is very strong because of their star system, which makes Canadians very aware of American products and therefore makes them want to see them. The CRTC has to allow this

foreign production in that the population wants to see, while at the same time striking a balance with Canadian content requirements and spending on Canadian production. That is the balance that we are always striving for. Some may feel that we have not managed to reach an appropriate balance, that we aren't strict enough or that we are perhaps too strict.

We try to reach the right balance, such that Canadian broadcasting services are financially healthy enough to guarantee their long-term survival and their growth while being able to maintain an appropriate level of Canadian content. That is a constant challenge.

**Mr. Maka Kotto:** That was the point I was coming to. Like most people who have been watching this industry for a while now, I have observed that broadcasters or other decision-makers are more inclined to encourage profit-making over the protection of a cultural space. Therefore, they are in fact the weak link in this vision that you yourselves have conceived of with the means that you have been given.

Have you yourselves raised this issue with these people? If so, what approach have you taken? I don't know if you are responsible for regulating in the area of cultural identity protection. If you are, I would like to know to what extent people are aware of this.

**Mr. Marc O'Sullivan:** We have this discussion with broadcasters every time a licence is granted. When broadcasters apply for a licence through a competitive process, they try to outdo one another in terms of who will offer the most Canadian programming and who will invest the most in Canadian productions. The issue is on the table each and every time. However, we have to bear in mind that we are talking about the private sector, we are talking about business. The industry's willingness to invest depends on its ability to offer a return to its shareholders, we cannot overlook this fact. We have to keep in mind that it is in our interest for the industry to thrive financially. This is something for which we always strive. We base our approach on what is usually referred to as the regulatory bargain; it is a case of *quid pro quo*.

We offer a broadcaster the possibility of obtaining a licence and being granted the right to broadcast in a sector which is doing fairly well financially; but in return, it has to respect our Canadian content criteria. The industry does accept certain parameters; however, sometimes, we push for stricter criteria, and, at times, they reply that our proposals are neither realistic nor financially viable. We have this discussion each and every time. Every case is unique; be it a specific channel or a network; be it a drama production or a feature film. We always try to get more from broadcasters, we push them to give us more; and, in turn, broadcasters push for an economic model which will allow for continued growth.

● (0955)

**Mr. Maka Kotto:** Do I have any time left?

**The Chair:** No, your time is up, Mr. Kotto.

[*English*]

Mr. Silva.

**Mr. Mario Silva (Davenport, Lib.):** Thank you, Madam Chair.

I have a few questions for the CRTC, for the regulars, but I'm trying to limit my questions to just the feature film and film industry. I know there are many other issues that are important to me and to my communities.

I am trying to understand the work you are doing to harmonize in some way the CRTC's rating system and that of CAVCO. I understand the role you're playing in terms of making sure we have films, encouraging films to be produced here, and seeing our Canadian content is as high as possible. That part is certainly a worthy goal. However, between the different regulatory bodies we have, the certification body and your regulatory body, and between the different systems we have in place, I'm wondering if we're all working together to make sure we have the same objective.

My second question is, how do we ensure that this system in place is the best we can have, given the emergence of a whole range of things such as our transition to digital? We are in a situation year after year where we're getting less and less control of what is produced out there and the audience wants more and more variety. I'm not really sure how long we can keep a handle on this.

I just want to get your opinion on these two questions.

**Mr. Marc O'Sullivan:** If I may start with the second part, the more general question, it's true that as the broadcasting system evolves and multiplies, the opportunity for Canadians to watch programming from all sources is increasing dramatically, and it will continue to do so. As we make the transition to digital, there will be even more capacity for more programming. If we look even further down the road at video streaming over the Internet, that raises a whole slew of opportunities for availability of programming from around the world.

It's true that the ability to regulate that will probably diminish. It becomes harder and harder to regulate. For example, for video streaming over the Internet, that will be a pretty tough nut to crack in terms of seeing how you can impose content requirements on such a thing as the Internet, which right now is still evolving quickly, and we still don't know exactly what the business case is for video streaming. We don't know what the parameters are for encryption and protection of content over the Internet. How do you handle the rights issues? How do you handle compensation for rights holders over the Internet? Those are all tough issues we're going to be faced with.

But at the same time, we have to look at it as an opportunity for increased availability of Canadian content. I was talking to Madam Oda earlier about how our definition of success in terms of viewing has to change. We have to recognize that it is just so fractious now and the opportunities for viewing are just so numerous that at one point we have to ensure that there is Canadian content out there and that Canadians, through the various distribution systems for television, have access to that Canadian content.

Whether that Canadian content has a huge impact in terms of audiences, that's something we can't regulate. We can try to foster the best environment for that, and we can try to encourage that as best we can. But at the end of the day, it depends on what Canadians want, and there is an appetite for product from all around the world. As Canada's demographics change, that appetite for product from around the world will increase.

On the one hand, we should keep our eye on the ball in terms of Canadian content, but on the other hand, we have to take into account Canadians' appetite for as many services as possible. They read about it and they hear about it. The Canadian snowbirds, when they go to the States, see things on the American services. When they come back to Canada, they ask, why isn't that available here? We can't ignore those calls. Those are legitimate requests on the part of Canadians to have access to the greatest variety of sources of entertainment as possible. So that will be the challenge.

At the end of the day, digital production may end up being less expensive than 35-millimetre production. So there may be opportunities there for more Canadian productions.

We can't compare the Canadian feature film industry to the Hollywood blockbusters. It's comparing apples and oranges. You have to compare the Canadian film sector to the independent production sectors in other countries around the world, including the United States. The independent production sector in the United States complains as much about the Hollywood blockbusters as Canadians do. They're struggling as well to find opportunities to have their films shown.

The same holds true for independent productions from around the world. How to carve out a space to make sure people in various countries have access to programming from their country, indigenous programming, is a debate that's taking place around the world. You have it in terms of exhibition on theatre screens, but you also have it in terms of availability on the broadcasting system.

In the absence of regulating the exhibition sector in Canada, the ability to regulate for the availability of Canadian content is in broadcasting. That's where we have the capacity to do so.

• (1000)

On your first point, about the point system, we use a very similar point system to CAVCO's. We accept CAVCO certification. If a production has been certified by CAVCO, we accept it as Canadian; we don't second-guess it. In productions that do not have a CAVCO number, we use a point system that is almost identical to the CAVCO one, where basically you ensure the producer's role and the key creative functions are being performed by Canadians and that you have a point system to ensure they have the necessary points to qualify as Canadian content. When Telefilm approves an international co-production, we also accept it as qualifying for being Canadian.

So there is good coordination amongst the agencies. I know that in the Lincoln report one of the recommendations was that there be greater cohesion among the three agencies. I expect that when the government responds to the Lincoln report we may be hearing more about whether there are actual initiatives in that regard or not.



The point system works pretty well in terms of the symmetry between what we do, what CAVCO does, and what Telefilm does.

**The Chair:** Thank you very much.

Mr. Schellenberger.

**Mr. Gary Schellenberger (Perth—Wellington, CPC):** Thank you.

One of my questions is this. Is there a quota or percentage of feature film to other parts of programming, for Canadian content?

• (1005)

**Mr. Marc O'Sullivan:** The short answer is no. The requirements for priority programming give the broadcaster the flexibility to choose. There is a requirement for eight hours of priority programming per week during prime time, and they choose from drama and comedy, documentaries, magazine programs—those are the types of categories that are available to them. We don't specify that you must show  $x$  amount of feature films.

**Mr. Jacques Langlois (Director General, Broadcasting Policy Group, Canadian Radio-television and Telecommunications Commission):** There are commitments, though, on the part of some broadcasters. For example, I think one of the slides shows that CHUM's City-TV has made a commitment to show 100 hours in peak viewing hours. It's not a regulation as such. It's the initiative of the broadcaster when they apply for a licence or a licence renewal.

**Mr. Marc O'Sullivan:** The requirements we have for feature films are the ones we spelled out starting at page 5, for video-on-demand and the requirement that all Canadian feature films be available, and the same for pay-per-view and then pay. We have requirements there, but it doesn't say how many per week in prime time, for example.

**Mr. Gary Schellenberger:** I see the chart on page 11 says that as your recent report on specialty pay and pay-per-view services indicates, they're becoming increasingly a major component of Canadian viewing. Other than page 12, can you provide information on the role that these specialty services play in the exhibition and investment into film and drama?

**Mr. Marc O'Sullivan:** The chart on page 11 focuses on pay, pay-per-view, and video-on-demand services. Those are the ones listed there. The specialty services are the next window down among broadcast windows available for feature films. There it's a much more mixed bag of services. They have different genres, while pay, pay-per-view, and video-on-demand are focused primarily on feature films; therefore, they're a good indicator of how feature films are doing. It's much more difficult for the specialty services to break it down into feature films, because the specialty services, depending on their genre and what they focus on.... In some cases they're focused on drama and films and in other cases they're not. There are specialty services for various sports, for lifestyle, for home renovation, for gardening—

**Mr. Gary Schellenberger:** The food channel.

**Mr. Marc O'Sullivan:** That's right. We joke about how you could have the sports channel, the golf channel, and the putting channel. You get the different degrees of specialization.

**Mr. Nick Ketchum (Director, English Language Radio and Television Policy, Canadian Radio-television and Telecommuni-**

**cations Commission):** What we could do if it would help the committee is tell you where the viewing of Canadian feature films is by type of broadcaster: the viewing as a percentage of all viewing on pay-TV, compared with specialty, compared with conventional. That's a breakdown we could provide the committee if it was useful.

**Mr. Gary Schellenberger:** I think that would be great.

Thank you.

**The Chair:** Thank you very much.

Monsieur Lemay.

[*Translation*]

**Mr. Marc Lemay (Abitibi—Témiscamingue, BQ):** Does the CRTC regulate the Canadian content offered by private channels, for example, in sport? Are these channels regulated, or are they just like TSN which chooses to broadcast Norwegian iron men when it could be broadcasting Quebec or Canadian iron men? Does no such regulation exist?

• (1010)

**Mr. Jacques Langlois:** The percentage of Canadian content varies from program to program and is dealt with on a case-by-case basis. It is determined upon licence renewal or at the time when the licence is initially granted. The decision is based on the type of service and what the Canadian Radio Television and Telecommunications Commission feels to be the correct course of action for a given licence.

**Mr. Marc Lemay:** That makes it all the more interesting. You are saying that it is dealt with on a case-by-case basis. When a licence is up for renewal, a member of the public could, for example, ask the CRTC to insist upon greater Canadian content in sports programming and on TSN.

On pages 7 and 8 of your presentation, you make reference to a 1:12 ratio of Canadian to non-Canadian films for French-language films, and a 1:20 ratio for English-language films. I understand this to mean that for every English-language Canadian film broadcast, 20 American films can be shown. Is that right?

**Mr. Marc O'Sullivan:** Yes. We have to broadcast at least one Canadian film for every 20 non-Canadian films. You are right, the non-Canadian films are often American films.

**Mr. Marc Lemay:** The 1:12 ratio is fine, but I would like to know when these criteria and this ratio were set? In what year were these decisions made?

**Mr. Marc O'Sullivan:** The criteria are established at the time the licence is granted to the private television service.

[*English*]

**Mr. Nick Ketchum:** I think most of these were licensed in the mid-1990s.

[*Translation*]

**Mr. Marc O'Sullivan:** That's right, these services were licensed in the mid-1990s. I do not have the exact date for each of the services.

**Mr. Marc Lemay:** I am sure you know where I am headed with this. If we want to increase Canadian content, or in our case, Quebec content, should these ratios not be revisited? You are in charge of regulating the industry, including feature film content.

**Mr. Marc O'Sullivan:** This is an issue which we discuss with broadcasters when their licence is up for renewal. It depends on both the availability and impact of Canadian feature films. It would not make any sense for us to have requirements which could not be met with the available content. The ratio for a given service can therefore change at the time of licence renewal if there is a change in the availability and impact of Canadian content. We have tougher requirements for French-language productions, because they are more numerous and more successful.

**Mr. Marc Lemay:** I am sure you know where I am heading with this, as a good lawyer always knows the answer to his questions. You regulate the Canadian film industry, and we are studying it. If we were to recommend that these ratios be raised or lowered, for example that it be changed from 1:20 to 1:15, we may be able to force your colleagues at Telefilm Canada to invest more. Would that not balance things out?

**Mr. Marc O'Sullivan:** It could do. Would changing the ratio lead to increased production? Perhaps. However, it could also result in services broadcasting some real turkeys which would only reinforce in the minds of the viewing public that the standard of Canadian content is laughable. That is not what we want. Ideally, we would like a system whereby Canadian producers and broadcasters work together to come up with a quality product which will hook viewers. It is a matter of determining the appropriate level; that was the issue at stake when these services were granted their licence.

**Mr. Marc Lemay:** Underfunding is also an issue, is it not? Telefilm Canada claims to receive a huge number of funding requests for, amongst others, script-based productions. If, for example, Telefilm Canada were able to say that the CRTC insisted upon a 1 to 10 ratio, and here I am referring to French-language productions and not English-language productions, it would perhaps be forced to invest in productions. And I am not necessarily talking about turkeys, there are good productions out there. In short, I am sure that you recognize underfunding to be a problem.

• (1015)

**Mr. Marc O'Sullivan:** In the case of specialty services, such as pay-per-view and on-demand films, the figures are on the rise. The amount invested in Canadian productions is going to continue to rise. That is the good news. It remains to be seen whether this is the best way to get viewers interested in these films.

**Mr. Marc Lemay:** Or the best way to get pay-TV services to provide funding.

**Mr. Marc O'Sullivan:** Yes, but pay-TV services do provide funding assistance. For example, pay-TV services are required to invest in Canadian productions. Pay-TV services, which are primarily focused on feature films, are required to invest a percentage of their earnings in Canadian films. Super Écran, for example, has to invest 24 per cent of its earnings in Canadian productions. This means that for as long as the number of subscribers to pay-TV continues to rise, and everything points to this being the case, the amount of funding available to productions will also increase.

**The Chair:** This is your last question.

**Mr. Marc Lemay:** Very well.

Are you able to regulate the amount that Super Écran, for example, has to invest in Canadian content? Is that within your powers?

**Mr. Marc O'Sullivan:** Yes. On page 10, you will find the licence conditions to which pay-TV services are subject. Column...

**Mr. Marc Lemay:** The middle column?

**Mr. Marc O'Sullivan:** I am sorry, but I am looking at the English version.

**Mr. Marc Lemay:** That does not matter.

**Mr. Marc O'Sullivan:** The first column on the left shows the percentage of their total revenues which has to be invested in Canadian content production. Super Écran has to invest 24 per cent. Furthermore, overall, its programming must contain 25 per cent Canadian content, and 30 per cent at prime time.

**Mr. Marc Lemay:** What about considering a one per cent increase?

It's okay, I got the message. Thank you, Madam Chair.

[*English*]

**The Chair:** Monsieur Simms.

**Mr. Scott Simms (Bonavista—Gander—Grand Falls—Windsor, Lib.):** Merci.

Hello, Mr. O'Sullivan.

**Mr. Marc O'Sullivan:** Hello.

**Mr. Scott Simms:** It's nice to talk to you again.

I have a pretty basic question here, and it's on something that I could never quite get. Call me new, or maybe naïve, but how do you gauge success when it comes to a feature film? Ms. Oda talked about this earlier, but I still don't quite get how in a Canadian feature film, or in any film for that matter, we as a governing body gauge success. How do we look at something as a success? Is it the revenues? Is it the Canadian content as such? Is it because it's all shot in Canada?

That's the confusion I have on this. Please point me in the right direction.

**Mr. Marc O'Sullivan:** I wish there was an easy answer. Unfortunately, the answer is sort of a mix of things, because there is a mix of elements.

If you were to just use audience figures, box office figures and then viewing when it's broadcast on television, or even if you broke it down into the DVD sales and rental figures, that's the most obvious criteria you could use. Those are hard numbers; they're objective numbers. That tells you the story.

When you look at the nature of feature films, it's not like widgets. You know, you produce these widgets, and you have a business case for producing  $x$  number of widgets. For feature films, each one is, to put it bluntly, a crapshoot. Will the film be a success or not? Who knows?

Sam Goldwyn said, "The only thing I know for sure about the movie business is I don't know anything about the movie business."

You never know. In each production you bring together the talent. You have what you think is a good script. You think you have a good idea. You think you have the right director and the right talent, the right actors. You go ahead and you make your film, and it flops miserably or it succeeds brilliantly.

Hollywood succeeds at it by investing tremendously over a huge number of productions, knowing that one box office hit produces enough revenue to justify all the flops. That economic model of generating huge revenues with a couple of hits, enough to sustain an industry over several flops, is a tough model to produce with our population figures, with the size of our market.

What you're trying to achieve in terms of a public policy objective is to ensure that Canadians have access to indigenous stories, which is one of the reasons why the commission recognizes that different formats may provide the answer. If you focus on just one thing and it doesn't work, then maybe you're missing your public policy goal.

For example, on television drama, people immediately think of the high-cost, one-hour series. The economic model for that is also very tough. It's high cost, high risk, and you may be spending a lot of money on something that generates very little audience. So there's recognition that we have to be open to all formats—to movies of the week, to mini-series. CBC has had tremendous success with mini-series. You could see that they focused on them; they promoted them heavily. They scheduled them the right way. They generated a lot of impact in terms of audiences with those mini-series.

So there are a lot of different models. You have to be using different models, and you have to be open to seeing success not so much in terms of the one blockbuster, but rather as a lot of modest successes, which can serve the purpose as well.

• (1020)

**Mr. Scott Simms:** I guess it's the subjectivity of it, which you point out. Obviously, there are different parameters.

To give you an example, it seems to me that a lot of these people are investing money into something to get around a regulation to get to the real money, to get to the gem. On a 30-minute show you invest in something that is Canadian; you create a sitcom about a bunch of guys, a dysfunctional sports team, and they curl. Therefore, it's Canadian. But they do that to get to the half-hour episode of *Friends*, to make the real money.

To me, that's the public policy that fails. You have two things. You have a box office success, which is great, but you also have a Canadian.... Again, to have a movie that has a dysfunctional sports team, say curling, is something that...the script is weak.

I'll give you a good example. Just last week I saw a rerun of a movie that was shot in the 1970s. It was called *The Changeling*. It's a Canadian movie. It had nothing to do with Canada whatsoever, but it was a great movie. And that's where we should be going. But it seems to me with the policies we have, we never get to the good movies; we just get to something to get around something else.

To me, we have an industry where these Canadian productions become roadblocks to something else. That's the fear I have.

**Mr. Marc O'Sullivan:** In terms of Canadian content, we don't get into the nature of the story. We judge Canadian content on the basis

of the Canadian nationality of the key players involved in the production—the producer, the director, the screenwriter.... Then, as you go down the list, depending, there is a bit of flexibility. You have to accumulate the necessary points; you have to accumulate the six points to get your production. We don't look at the Canadianness of the story—not at all, because who is to say what the right Canadian story is? If Canadians are doing it, then....

In fact, when you look at the changing demographics of Canada, obviously you have Canadians who have arrived here from all parts of the world. A filmmaker may want to make a film about their roots, roots going back to the Middle East or to south Asia. The people will make the films they want to make, and the stories they tell may have much to do with their cultural roots from elsewhere around the world, rather than Canada per se. Why would that not be a valid Canadian film?

• (1025)

**Mr. Scott Simms:** I agree, and *Random Passage* was a fine example—a commercial success and a different story.

I have a question about something you brought up in VOD contributions. You say to remit to the rights holders of Canadian films 100% of revenues earned from their exhibition. Is that going a bit too far? Are we microregulating too much? I'm just using that as an example.

**Mr. Marc O'Sullivan:** The purpose here is...because the numbers are small, because the number of Canadian feature films is still low, we just felt that as a percentage on those services, it was important for the rights holders—the producers, the distributors—to get the revenue from that. So 100% of the revenue flows to them.

As the sector grows, if there is more success, if the production sector becomes stronger, maybe at one point it won't be necessary, but as an initial condition of licence, that was put in for those services.

**Mr. Scott Simms:** So there isn't as much of an incentive, really, to do this as a positive thing. It's more or less a rule you have to follow in order to do that. But do you feel these rules are necessary?

**Mr. Nick Ketchum:** Yes. I think it goes to the point you made earlier too, that the real money in video-on-demand services is unfortunately, at this stage, through foreign feature films. I believe the licensees who came before us at the time offered this as their contribution to the Canadian business—that all moneys earned through video-on-demand sales would flow directly back to the producer and the rights holders.

**Mr. Scott Simms:** Yes, I agree, and I'm not totally against it. I think the regulations you have are fine. I'm just worried that we continue this stigma of people throwing up their hands when they learn the movie on now is a Canadian one. Let's face it, that's what we have right now. I wouldn't want that to continue any further.

**Mr. Nick Ketchum:** I don't think the viewer is aware of where his \$5 or \$3 is going. I don't think the viewer....

**Mr. Scott Simms:** No, but there is that stigma out there. I mean, let's face it.

**The Chair:** Mr. Simms, I've been more than generous with your time, and we can come back to you, but I would like to give Mr. Brown a chance, if he wishes.

**Mr. Gord Brown (Leeds—Grenville, CPC):** Thank you, Madam Chair, and I want to thank our witnesses for being here today.

I want to pick up a little on what Ms. Oda and Mr. Simms are talking about in terms of there being the content...that it's just to get to the real money.

Are there any conditions of licence on some of these specialty channels, in terms of the time of day they have to do this Canadian content, or is it just...? I mean, who is watching at 3:37 in the morning? If that's where some of the programming is going, is the public policy actually helping the Canadian industry? I think you know where I'm going with this.

**Mr. Jacques Langlois:** Obviously, the service and the technology of video-on-demand are such that it can operate any time of day, because it's like a computer server. The buyer or subscriber just calls up a program and gets it.

But on the other pay services.... For example, if you look at slide 10, you'll see that's what we were talking about earlier. The pay-TV services listed there have to show Canadian content overall at 25%; in the evening hours it's 30% for some and 20% for others. Conditions of licence oblige them to do that.

But that's for the pay-TV sector. For the video-on-demand sector it would be impossible to....

**Mr. Marc O'Sullivan:** For specialty services we do. Basically, in all our licensing actions, we always do distinguish between programming requirements for over the whole day and programming requirements for prime time. We make that distinction for conventional TVs and for specialty. The specialty field varies considerably because the services are, by nature, specialized in very specific niches, so the requirements vary considerably.

But we always do keep in mind the difference between overall viewing and specific evening viewing, because we want to avoid what's been ungenerously called the beaver bin in the past. That is when Canadian content is relegated to the least attractive part of the schedule. We're aware of that danger, so we take it into consideration when we impose requirements for Canadian content.

• (1030)

**Mr. Gord Brown:** Okay.

It seems to me the biggest problem, in terms of getting Canadian content out there, is the distribution. Is there anything we can do? It seems to me that if we were really celebrating this Canadian content, every Canadian would know where to access it, and I have a feeling that's not really the case right now. A lot of these specialty channels, up on channel 138...not a lot of people necessarily have access to digital, whether they do it through satellite or through cable. The higher-end channels, especially on cable systems, are not getting the viewership that maybe the lower 50 or 60 channels are.

In a public policy way, is there anything we can do to improve the distribution system so we can really celebrate this Canadian content, and Canadians will really know where they can find it easily? We're spending a whole lot of money on tax incentives and grants and so

on to get this produced, but we don't necessarily help with the distribution.

**Mr. Marc O'Sullivan:** When we have the requirements for Canadian content on these specialty services, ideally we want to ensure that the services are scheduling the Canadian content in an attractive way and that they are promoting it accordingly, and promoting it heavily.

There's a fractioning of audiences through the increased number of services available. Consumer behaviour varies considerably when faced with this. There are some people who know exactly what it is they want to watch, and they don't care about where it is on the programming grid.

Is channel placement still a relevant issue? It's debatable. Some will say that channel placement is irrelevant in the 500-channel universe. People will program their services, as they make the transition to digital, with their digital set-top boxes. They'll go through their menus. They'll be able to program the services they want to watch.

Will people still surf? Is that going to change? Is there a new generation of viewers who won't be surfing over the first 40 channels but will rather jump from one thing to another? Consumer behaviour is changing faced with all the choices available.

At the commission we have requirements for distribution of Canadian services. We ensure that there are basic services made available by all distributors, by all distribution undertakings, whether cable or satellite, and that they be made available to all subscribers. There are services, like APTN, for example, that we ensure are made available from a public policy perspective. That channel is one that's building in terms of audience acceptance. We felt it was an important public policy goal to have the world's first aboriginal network available to Canadians. We have distribution requirements for French services outside of Quebec, French services across Canada, to make sure that francophones outside of Quebec have access to francophone productions.

We build in these requirements for distribution to ensure that Canadian content is made available. But the reality is that as the number of services increase and as we make the transition to digital, Canadians as viewers will want as much flexibility as possible. The trend towards digital means that there's going to be more appetite for viewing on demand. We look at how video-on-demand is a growing sector because people have the flexibility to decide when they're going to watch something.

The impact of TiVo is still negligible, but you can see it as the future. As Canadians and viewers around the world have so much offered to them on television, they want flexibility about how they can have access to that programming. Requirements for packaging of Canadian content within that programming have to be balanced against the desire on the part of viewers to have as much flexibility as possible. As we go forward, that will be the requirement.

You have to be careful. What you want to ensure is that the Canadian programming is available to Canadians who want it. The tougher task is seeing how to make this programming as compelling and attractive as possible, so Canadians will want to see it.

•(1035)

**The Chair:** Thank you, Mr. Brown.

We'll turn now to Mr. Smith.

[*Translation*]

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

Thank you very much, gentlemen, for being here this morning.

I'm not from the industry, I just know it as an outsider, but one of my concerns is knowing what to do to improve it. As a committee, we are reviewing a process. You are the experts on the substance of that process. I'd like to ask you what can be done starting today and for the next five or ten years, especially taking into account all of the changes happening in the industry. Three or four people could sit at different computers in the same house and watch their own shows, etc.

What could our industry do to improve the lot of Canadian partners?

**Mr. Marc O'Sullivan:** One important element is stable funding for Canadian production. The fact is that Canadian production, considering our population base and the size of our market, will always need government support for high-cost productions, be they feature films or one-hour dramatic series. That support will be necessary if we wish to provide an attractive product, a product of sufficient quality to interest Canadians.

In the absence of government support, I don't know how the industry will be able to make its way in the future. The funding must be stable. The production cycle is a few years long. From the time a screenplay is developed to the screening of the film, there's a two or three-year cycle, if not longer. Unsure funding makes it hard for production houses to plan the future, to launch a number of projects. They need certainty, financial stability to be able to plan for the future.

One cause for concern with respect to Canadian production is that there's not necessarily enough investment in the development of screenplays and ideas. The Hollywood machine produces several projects that never see the light of day. Screenplays are developed, judged to be of insufficient quality, and scrapped. Ideas are developed, screenplays written, the show is shot and viewed by a test audience. If the conclusion is that it doesn't work, it gets scrapped.

In order to produce hits with viewers, several projects need to be tried out without feeling obliged to complete each one of them. If it becomes clear at any point that a project isn't working and that it's a bomb, you need to be able to drop it and pick up another. The development of several projects or screenplays at the same time is necessary, but it's only possible if production houses have some long-term financial security.

Precarious project financing, which requires producers to seek out and bring together financing from several different sources for one project, means that production houses live from project to project rather than having several projects underway at the same time, which would enable them to try out new ideas and screenplays. That may be the concern on the horizon. Are Canadian production houses tough enough to undertake multiple projects of this kind, which

would hopefully be well received by Canadian audiences? I would say that stable financing would be a very important factor to examine for the future.

•(1040)

**Mr. David Smith:** I suppose one can't expect the financing to come entirely from government. Part would come from industry. There are already structures in place in terms of tax credits, etc. In more concrete terms, what kind of investment, what program changes, what innovations do you mainly see? Do you see more practical solutions? Everyone will agree on the broad principles.

**Mr. Marc O'Sullivan:** I mentioned financing, but we're not in the financing business. So we don't elaborate on the tools. We encourage broadcasters to invest in production funds, because that creates more financing options. I have no practical recommendation for you on how the financing should be arranged. I just wanted to mention the importance of long-term financing for production houses.

**Mr. Jacques Langlois:** Some existing measures should definitely be maintained. It was mentioned earlier that distributors contribute 5 per cent of their revenue. These are very important things that were done by the commission in support of the whole effort. As Marc was saying, our main role isn't financing feature films. However, steps are taken to support that effort. I don't think there's any question of undoing those steps. Whenever a transaction is analyzed, there may be other benefits. Whenever we grant a licence, some benefits go directly to Canadian productions. Those measures should be maintained.

[*English*]

**The Chair:** Thank you very much.

Mr. Brown, you had another question?

**Mr. Gord Brown:** Thank you, Madam Chair.

My question is, have there been any applicants for an all-Canadian content movie network? Secondly, whether or not there have or haven't been any, would it have been economically viable? I quickly throw that out.

**Mr. Nick Ketchum:** I'm not aware of an application. I remember at one stage about ten years ago the NFB was involved in a project that never resulted in an application, but I don't think we've had—

**Mr. Gord Brown:** I think that answers my question on the economic viability.

**Mr. Jacques Langlois:** One of the very first pay-TV channels that was licensed back in the early eighties was called the C-Channel, which was an arts and entertainment channel, and it was mostly Canadian. It wasn't entirely Canadian but it was mostly Canadian, and it didn't make it, but it didn't make it at a very early stage of pay-TV, where pay-TV was still basically unheard of, or certainly not subscribed to in any significant way.

**Mr. Gord Brown:** So maybe today—

**Mr. Jacques Langlois:** It might well make it today. Sure. There are a lot of specialty channels today that have a much finer niche than arts and entertainment, and they're making a go of it.

**Mr. Gord Brown:** Thank you.

Thank you, Madam Chair.

**The Chair:** Monsieur Kotto.

[*Translation*]

**Mr. Maka Kotto:** You've probably heard of projects here and there to create or develop a network of digital theatres. Have you contemplated regulations in that regard?

England has already taken the lead; that's why I'm talking about it. In England, public money was used to finance a network of 200 digital theatres, precisely in order to preserve cultural sovereignty. Is there anything going on at your level in this connection?

**Mr. Marc O'Sullivan:** Movie theatres are not under our jurisdiction. First of all, I believe that movie theatres are under provincial jurisdiction.

• (1045)

**Mr. Maka Kotto:** That's right.

**Mr. Marc O'Sullivan:** Second, the Broadcasting Act, which sets out our mandate, gives us no authority over movie theatres. So we have no regulatory power over movie theatres.

**Mr. Maka Kotto:** In fact, the technology is different. That's why I asked the question.

**Mr. Marc O'Sullivan:** That's right, but it doesn't come under our jurisdiction, unless it's found to constitute a broadcasting activity. Broadcasting activities defined in the act fall under our jurisdiction.

**Mr. Jacques Langlois:** If those films are distributed by CRTC-regulated services, we now have a draft public policy and we're asking anyone who's interested to comment on it. Under that draft policy, in order for distributors to be required to distribute a specialty service, 50 per cent of the programming has to be digital programming, but high definition.

For feature-length specialty services, that would mean that in order to get mandatory distribution, 50 per cent of their films would have to be high definition. So, indirectly, that could have an effect on what you're talking about. However, as Marc was saying, the steps we take in that regard are indirect.

**Mr. Maka Kotto:** Okay.

**Mr. Marc O'Sullivan:** As a matter of fact, even if the film were distributed by satellite to movie theatres, that would not constitute broadcasting, because broadcasting occurs when the signal is available to the public at large. People would buy tickets to see a movie in a movie theatre, but that would not fit the definition of broadcasting, even if the film were carried by satellite.

**Mr. Maka Kotto:** But initially, it's agreed upon with the provinces.

**Mr. Marc O'Sullivan:** Yes. Whether or not to regulate movie theatres has been the subject of much debate in Canada for a long time. Attempts have been made to set limits and requirements in terms of Canadian content on movie theatres. We take no position on that, but the subject has already been discussed at length.

**The Chair:** Thank you, Mr. Kotto.

[*English*]

We'll have to wrap up our meeting in just a couple of minutes to let the next committee come in here.

I'd indicated we would be dealing with two motions at the end of the meeting. In fact, Mr. Angus will not be here to deal with the motion he's proposed, so I presume there's no objection to holding that off to the next meeting. Ms. Oda has requested that we hold off the motion with respect to the Auditor General and the preservation of cultural heritage till she can be here on Thursday, and I presume there's no objection to that either.

On Thursday we will start, as we did today, with a 20-minute in camera briefing. We'll have Telefilm before us.

I wonder if, just before our witnesses leave, I could ask for certain information. It's becoming clear to the committee that one of the big things that has changed since the film policy was adopted is the shift away from theatre as the main access point for Canadian feature films. I'm wondering if you or, if you can tell us who, someone else might be able to provide us with, first, information on how many people are watching television over a period of time and when: times of day and days of the week. How much time is spent watching different types of programs? I presume somebody in the industry monitors this just from the point of view of asking, where do I advertise?

And what have been the shifts? Are people shifting away from half-hour sitcoms? We all know they're shifting to reality shows big time, but are they spending a bigger proportion of their watching time on feature films?

I think that might be extremely helpful to us. What we want to look at is, presuming we want to keep feature film production alive and thriving in Canada, where we want it to be five or ten years from now and how we can best get there. Any thoughts you might have on that would be extremely helpful.

If I can, I'll just finish with one thing left over from our last meeting with you. I did ask for information on employment equity. What I got doesn't tell me what I need to know, which is, how many members of employment equity target groups are at various levels of the organization and how has that changed over time? The e-mail mentions a chart that doesn't seem to be attached. If you could, follow up on that one.

• (1050)

**Mr. Marc O'Sullivan:** There's a reference to a chart that wasn't attached? We'll clean that up.

**The Chair:** Mr. Silva.

**Mr. Mario Silva:** I'll be very brief, Madam Chair.

There are many policies and processes in place that help the feature film industry, but there are other things that are still hurting. One of the ones that I believe needs to be addressed is the rating system. I'm not sure if it's your area or not; I think it's provincial, but still we have to play a role. What role does the CRTC play in the rating system that's in place?

**Mr. Nick Ketchum:** It is provincial and we don't play a role in creating the rating system. The only connection we have is for pay-TV. We do ask them to only offer films that have been rated by a provincial rating agency, so there's a limitation on the types of films.

**Mr. Mario Silva:** There's no action in play that would see us coming together on one policy for the whole country as opposed to a hodgepodge of different policies and ratings? Is there anything we can do on that?

**Mr. Marc O'Sullivan:** It's a matter of the constitutional federal-provincial split in jurisdiction; that's the difficulty with that. Exhibition is a provincial jurisdiction, and therefore the rating of the films for the purposes of exhibition is a provincial jurisdiction. I'm not an expert in the division of powers, but my understanding is that it's the split in jurisdiction between the federal and provincial governments.

One possibility would be for a voluntary agreement to do it. I'm not aware of the extent to which the provincial rating boards talk to each other and agree on common....

**A voice:** They're talking about integrating the point system.

**Mr. Marc O'Sullivan:** So the provincial boards are trying to integrate their systems and have them compatible across the country. We can find out more on that if you wish to see where that stands.

**The Chair:** I trust there are a number of issues that we're trying to look at. I think there are perhaps some that we didn't necessarily cover in this brief hearing, and I hope you would be amenable to having our researchers follow up with you as we work toward a report later this year.

I would like to thank you, Mr. O'Sullivan, Monsieur Langlois, and Mr. Ketchum. Thank you very much for being with us. I'm sure we'll be speaking with you again.

Thank you, committee members.

May I just say on the record that some committee chairs are complaining that their members don't turn up. I feel very privileged that I have a very assiduous group of members who take their work seriously and are really engaged with the issues. Thank you.

This meeting is adjourned.

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