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Chair

Mr. Gary Schellenberger

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•(0910)

[English]

The Chair (Mr. Gary Schellenberger (Perth—Wellington, CPC)): I'm sorry for the little delay here, but we like to make sure we have as many people here as we can for our committee.

I welcome everyone here this morning to our 33rd meeting of this session of the Standing Committee on Canadian Heritage. This morning we are entering into a little bit of a discussion with the Canadian Television Fund.

Pursuant to Standing Order 108(2) and our study on the Canadian Television Fund, I welcome our witnesses here this morning.

I would ask Mr. Barrett, please, to introduce his delegation.

Thank you.

Mr. Douglas Barrett (Chair of the Board, Canadian Television Fund): Thank you very much, Mr. Chairman.

My name is Douglas Barrett. I am the chair of the board of directors of the Canadian Television Fund. With me is Valerie Creighton, the fund's president.

[Translation]

To her right is Mr. Stéphane Cardin, Vice-President, Strategic Policy Planning at the Canadian Television Fund and

[English]

Kathy Corcoran, our director of research.

[Translation]

To my left is Mr. Michel Carter, Vice-Chairman of the CTF board's finance committee. He is also the former chair of the finance committee, and, most notably, an independent director of the CTF board.

[English]

I understand we have ten minutes this morning. Do I have it correctly that you have in front of you the English version of our remarks?

The Chair: We have that, and we have a partial translation. I thank our Bloc members for accepting that part of translation. Thank you very much for that. So we do have your brief.

Mr. Douglas Barrett: All right.

You may notice, just from the weight of our brief, that it will run long. We've been furiously editing it down to meet your shortened

time requirements. If certain passages aren't read out as we go by, we'd like you to read them later.

Thank you very much for giving us the opportunity to appear before you this morning. This is an important moment in the controversy that has arisen in the past couple of weeks. As you know, there has been much press coverage in recent weeks focusing on allegations that the fund is a broken institution, calling for a complete restructure of what we are and what we do. From our perspective, we don't think the fund is the real issue before the committee at this time. But I'll come back to that in my closing remarks.

For the record, while we certainly believe the CTF can and should improve, we believe it's a healthy and strong organization, definitely not broken, as some have suggested. The CTF has evolved and will continue to evolve, transform, and improve itself on an ongoing basis.

As a practical matter, the CTF is a well-governed and well-managed institution. It is both program-effective in service delivery and cost-effective on the administrative side. It manages a considerable amount of public and private funding to the highest degree of fiduciary standards. It operates under broad policy guidelines contractually imposed, and under program objectives set by the Department of Canadian Heritage. Its results are subject to close scrutiny, and it is repeatedly found to be performing well in periodic examinations and reviews.

All of these statements are supported by the facts. We are pleased to be able to review these facts with you today.

The CRTC, as you know, first proposed the establishment of the cable production fund, the fund's predecessor, in 1994. It was established as a privately incorporated non-profit corporation. Once the policy supervision of the fund was transferred in 1996 to the Department of Canadian Heritage from the CRTC, the fund has operated under a series of contribution agreements with the department.

The contribution agreements contain approximately ten overriding policy directions that govern our operations. We have a list of them in the document we have provided to you. These policy directions look simple and straightforward to administer, but they are not. They are quite complex, and require a tremendous amount of expertise to figure out how to implement. That's why the CTF's governance structure was intended from the outset to bring the very best industry expertise to the table in the original CRTC public notice.

A 20-member board of directors governs the CTF, with nominees representing numerous stakeholder groups. The largest group of seats on the board is held by the department itself, with five. Until recently, the board included senior officers from both Shaw and Vidéotron, who have participated in our board meetings for a number of years.

Good governance practices require conflict of interest management. Currently there are six directors on the board who are independent of any commercial connection with the television business. Together, the independent directors form a permanent independent committee that supervises and monitors an extensive conflict of interest policy.

In addition, and perhaps most importantly, all of the substantive policy and financial decisions of the board must be passed by a double majority of the independent board members and of the remaining stakeholder board members.

Mr. Chairman, I have been a corporate lawyer for over 30 years and a partner in a major Bay Street law firm for over 20 years, so I think it's safe to say that I know a little about corporate governance. I can assure you that the governance practices of the CTF match or exceed the best governance practices found in Canada's biggest public companies.

Ms. Valerie Creighton (President, Canadian Television Fund): So after the tax credits, the Canadian Television Fund is the largest funder of television production in Canada. In 2005-06 the CTF invested more than \$249 million in Canadian production, creating 2,276 hours of quality new programming. In the past 10 years, the CTF has supported over 4,000 projects, contributed \$2.2 billion in funding to the production of Canadian television, which has triggered \$7.4 billion in production budgets.

This activity has generated more than 23,000 hours of Canadian content delivered in prime time to hundreds of millions of viewers. In 2004-05 the CTF distributed \$251 million in funding, which supported \$841 million in production, generating an estimated 22,400 full-time jobs.

In terms of return on investment, the CTF is far-reaching and impressive. In 2005-06, every dollar invested triggered \$3.50 of production value. And these television productions are made in every region of Canada, developing both a creative and technical professionalism throughout the country.

Our funding is delivered by a rules-based program, including the market-driven broadcaster performance envelopes that we call BPEs and the special initiatives program. And importantly, in both of these programs the funds are paid directly to independent producers.

The BPE program was launched in 2004-05 and its intent was to provide a greater degree of funding predictability to both the broadcasting and production communities, which had been over-subscribed for a number of years. It was also intended to drive audience success by encouraging broadcasters to choose and support productions that would generate large audiences. The program supports under-represented genres on Canadian television in both official languages and prime time in the genres of drama, documentary, variety and performing arts, and children's and youth programming.

The envelopes themselves are based on four performance factors, including audience success, historic access to the fund, above-average licences by the broadcasters, and regional production licences.

In 2005-06, 65 broadcasters were allocated envelopes, which in turn supported 383 new productions.

In our special initiatives program, these programs include development, burgeoning French language outside of Quebec, and aboriginal languages. The latter two are on a selective basis to ensure regional and linguistic support, access, and programming.

With respect to audiences, since the early 1990s the number of new broadcast licences and programming distribution undertakings going to air in Canada has exploded exponentially. At the same time, according to Nielsen, the amount of viewing to television has changed little in comparison.

Despite an increased competitive environment, several Canadian programs have received more profile and attention than ever before, including many programs funded by the CTF. For example *Little Mosque on the Prairie* recently premiered on CBC with an average audience of over two million viewers. Subsequent airings of the program have stabilized with over one million viewers. *Trailer Park Boys* has a very strong recognition in the country and is consistently one of the top programs on Showcase.

Degrassi: The Next Generation is a cult hit in Canada, particularly among teens. It is on the verge of nearing syndication in the U.S.

Da Vinci's Inquest, currently in syndication in the U.S., draws three million to four million viewers per week, often winning its time period, and is now aired in over 100 countries around the world.

In the category of children and youth programming, nine of the top fifty programs in Canada among kids two to eleven are funded by the CTF.

• (0915)

[Translation]

Mr. Stéphane Cardin (Vice-President, Strategic Planning and Stakeholder Relations, Canadian Television Fund): With less competition from American sources and less fragmentation of audiences, the Quebec market has had tremendous success with its domestically-produced content. The CTF continues to play a very important role in sustaining the dominant position of Canadian-produced content in this market. Based on viewers aged two and up, 10 out of the top 25 regularly scheduled programs in the Quebec francophone market were funded by the CTF, including *Le coeur a ses raisons*, *Annie et ses hommes* and *Casino*.

Additionally, several successful CTF-funded French-language productions have won international acclaim, such as *Insectia* or *L'Odyssee de l'espece*, or have been successfully sold nationally or internationally as formats. They include *Un gars, une fille* exported to more than 30 markets around the world and the first Quebec television program to be adapted in the United States. There is also *Le coeur a ses raisons*, which was recently sold in France, and *Rumours*, sold in English Canada and abroad.

As for critical acclaim, in 2005 almost half, that is 38 out of 75 Gemini Awards, were given to CTF-funded productions including, in English, *Making the Cut*, *The Eleventh Hour* and *Beethoven's Hair*. CTF-funded French-language productions received even greater critical acclaim. In 2005, almost two-thirds or 48 out of 74 Gémeaux Awards were received by CTF productions including *Annie et ses hommes*, *Rumours* and *Ramdam*.

Mr. Michel Carter (Member of the Board of Directors, Canadian Television Fund): Timely, consistent funding is crucial to the operation of the CTF, and its ability to support the Canadian television production community as mandated and required. As such, it has been the practice of the BDUs, as per CRTC circular 426, to make monthly contributions to the CTF. The entire CTF financing model is based on monthly cash flow injections from BDUs and payments from the Department of Canadian Heritage, combined with reserves and other contributions. CTF payments to producers happen throughout the year, according to the guidelines, and are critical to develop, maintain and complete Canadian productions.

The recent announcement and action of withholding CTF contributions by Shaw Communications and Videotron are significant and may have a potentially devastating impact on the Canadian production community, especially as April-September is the traditional production cycle and broadcast cycles—requiring new Canadian content—begin in September.

Deeply concerned about the industry's ability to manage a dramatic reduction at this critical time, the board has approved a financial plan that will enable the CTF to maintain financial support to all eligible productions for the remainder of fiscal 2006-2007, ending on March 31. This will ensure that all projects currently in application will continue to be processed and all genres will receive equitable treatment.

The following demonstrates the true impact on the CTF's funding due to the reduction in funding by Shaw and Videotron: for fiscal 2006-2007 the total funding reduction is \$24,900,000, net funding reduction, after recoupment revenues, unused BPE funds and reserves, is \$10 million. For fiscal 2007-2008 the funding reduction from Shaw and Videotron will be \$62,600,000 plus \$10 million in reduced interest revenue and deficit recovery costs, for a total shortfall of \$72,600,000.

This reduction of \$72.6 million, representing a decrease of 27% from the CTF's 2006-2007 budget level, is estimated to result in a loss of \$165 million in production volume in the English market and of \$81 million in the French market, for a total loss of \$246 million. This will lead to the loss of several thousand jobs in all sectors of the film and television production industry.

● (0920)

[English]

Mr. Douglas Barrett: At the outset of our presentation I suggested that the real issue before the committee is not the state or performance of the CTF. We understand Shaw and Vidéotron have concerns about the fund. Some of these concerns are principled, and some relate to commercial interests. They're not alone in having issues with our decisions. Given all of the interests at the table—broadcasters, producers, BDUs, and so on—it would be a surprise if this were not the case. What sets Shaw and Vidéotron apart, however, is that they have related BDU operations that contribute to the CTF, and this gives them a significant financial lever with which to pursue their particular interests.

From the outset in 1994, the girders underlying the CTF's structure have required us to make our decisions in a manner that is completely free from the overriding financial interests of any particular stakeholder, group, or corporate interest. The job is to address the issues in the best interests of the broadcasting and production system as a whole and indeed in the interests of all Canadians.

The public policy considerations that led to the creation of the CTF came from the Broadcasting Act and the commission, from the work of parliamentarians such as yourselves, and from successive ministers of Canadian Heritage and their departmental officials.

We think the real question here today is who is to be primarily responsible for determining and designing the appropriate structures for supporting television production in this country with public resources? Is it to be Parliament, its ministers and officials, plus the mandated regulator, or is it to be private stakeholder groups with financial levers driving the debate?

We all understand that the television landscape is changing and that there are major new challenges to face. The CTF is looking forward to working through those challenges with the Department of Canadian Heritage and the minister and with all of our other stakeholder groups, in the way we always have in the past. This will surely involve change. Nevertheless, the CTF has proven itself to be an incredibly flexible and adaptive organization, and in this respect alone has been an innovative and outstanding public policy instrument for the Government of Canada and for all Canadians.

Mr. Chairman, you asked us to make a series of recommendations, and they are part of this presentation, but if I were to read them out to you, we would be well beyond our time period, so we leave them with you for your consideration.

Thank you very much for giving us the opportunity—

● (0925)

The Chair: Would you like to have just a little wee bit more time to read those recommendations?

Mr. Douglas Barrett: Sure. Thank you very much for that opportunity.

We understand there's an ambiguity within the CRTC regulatory environment that makes the annual payment provisions of the BDU regulations enforceable while the monthly payment requirements of the CRTC circular are apparently somewhat less enforceable. To address this issue, we recommend that the applicable provisions of the BDU regulations be amended so that they include all of the necessary payment requirements currently included in the circular.

Secondly, we see the BDUs, because they are contributors to the system, as having an important role in the debate. Because we are an operational agency that operates under direction from the Department of Canadian Heritage, we think that policy debate should be at what we call the "big P" ministerial level. So we are recommending that the minister establish a form of funders council, which would meet each time the department signs a contribution agreement with the fund, to give the minister input and the government input on the policy directions that we would receive in the contribution agreement. We think this is a more appropriate forum at which to have that dialogue than is the operational level at which we work.

We believe it is time to add an additional seat to the board for direct-to-home satellite providers. As you may know, there's been one seat alone for the satellite providers and three for the cable operators, and for some time it's been apparent that as the contribution of the DTH providers rises, it's not appropriate to continue with a single seat. So we do feel that it's time to add that additional seat.

Finally, we recommend the establishment of a nominating organization to represent the interests on the board of all of the BDUs. Apart from the CBC-SRC, we do not have and do not believe it is appropriate to have dedicated corporate seats on our board. All our seats are held through trade organizations, such as the CAB, the CFTPA, and so on.

The CCTA is dissolving formally this August, and there needs to be a replacement organization that would nominate the BDU representatives to the board. Otherwise their entitlement to sit on the board will evaporate, and notwithstanding all that's gone on in the past few weeks, we welcome their participation on the board. The quality of the contribution made by the BDU directors—there are four of them—over the entire course of the history of the fund has been of a very high calibre, and we would like to see them back at the table.

Thank you very much, Mr. Chairman.

The Chair: Thank you, sir.

We'll go to some questions now. They are five-minute questions and answers, so try to keep your questions short or concise and the answers likewise.

Ms. Keeper.

Ms. Tina Keeper (Churchill, Lib.): Thank you, Mr. Chair.

Good morning.

I'd like to go back to the governance structures, as I think that's one of the issues that has arisen. I want to ask if you could just very quickly give us a brief overview of the change in the governance structure that occurred in 2005, as I understand. Could you explain what that change was and why it occurred?

Mr. Douglas Barrett: Yes. I think the short answer is that prior to 2004-05 we had a situation where the general policy guidelines of the fund had to be agreed upon by both our board and the Telefilm Canada board, and this two-board structure created a great deal of confusion. The direction at the time was to transfer to the fund all responsibility for policy-making at the program level in television, so there's now only one board. Our staff was considerably reduced, and we now focus on research—the policy-making at the level we work at and guideline preparation and so on. We have entered into a services agreement with Telefilm, and Telefilm does the file application processing and all of the paperwork and so on.

The money is ours. The cheques are ours. But the paper processing is provided to us by Telefilm.

And by the way, to my personal surprise, the negotiations with Telefilm went extremely well, and the operating relationship that occurs on a day-to-day basis functions quite well, from our perspective.

The other thing is that we beefed up the role of the independent committee considerably in that process. We've refined the processes for selecting independent directors, and we've expanded the role of the independent directors and introduced this double-majority concept that we spoke of earlier.

● (0930)

Ms. Tina Keeper: One of your recommendations talks about the makeup of the board. Could you explain why that recommendation was presented today?

Mr. Douglas Barrett: When the fund began there was no satellite distribution, so no contributions were made to the fund by satellite distributors and the only representation on the board came from cable operators. With the dawn of the satellite era and the commencement of contributions from the satellite side, we introduced one seat.

The satellite side has grown dramatically and now represents, I'm not sure if I have this exactly correct, roughly 40% of the overall contributions we receive. So our sense is that there's a proportionality issue, and we think the satellite guys should be at the table.

I'd also say that the current seat that is available to the satellite distributors has never been filled, and that has to do with the fact that the two satellite operators have not agreed with one another as to who should sit on our board. The addition of a second seat gives some relief to that, so it's a beneficial result to a logical step.

Hon. Andy Scott (Fredericton, Lib.): May I put a question?

Just quickly, can you explain the difference between the general enforceability you referred to in your presentation and the cashflow enforceability that you referred to?

Mr. Douglas Barrett: I was going to start off by saying I'm not a lawyer, but of course I am.

As I understand it, the full panoply of the commission's enforcement powers is available to enforce breaches of the regulations. The status of a circular as a policy document has not, as I understand it, been tested.

Now, there's conflicting legal advice on this, but I'm aware that there's a view out there that the legal obligation, the absolute obligation, is annual payment, and the monthly obligation is something else. I would just say that all of the BDUs have paid monthly for a decade or more—12 years—and have remained current and have been good and faithful partners to us, and nobody has raised this issue before.

Hon. Andy Scott: That begs the question of what it is that happened that has caused this to happen in the last weeks, given the long-standing relationship. You may not be back, and I'd like to hear that. I would probably hear it otherwise, but this is the only time we'll have a chance to ask you.

Mr. Douglas Barrett: Every stakeholder group—producers, broadcasters, BDUs, and so on—has an agenda for what it would like the fund to do, and those agendas conflict in some cases. Our actual job is to bring intelligence to the table to figure those things out in the interests of the industry as a whole.

We're not a mediator. We make decisions and provide leadership. But we do listen to all the positions taken by people. What we have is a situation wherein a couple of the BDUs feel that they're not satisfied with the way we operate, and they would like to have us operate in a different way, and they're withholding their funding in order to do that.

Hon. Andy Scott: I understand that, but what's new?

The Chair: We've gone over time. You may have another opportunity.

We'll go to Mr. Kotto.

[*Translation*]

Mr. Maka Kotto (Saint-Lambert, BQ): Thank you, Mr. Chairman.

Good morning and welcome. Thank you for coming. Thank you for your presentation. I will play devil's advocate. I want to go straight to the source of what I consider to be behind the crisis we are facing today. The fund was created in 1996, following drastic cuts by the Government of Canada in CBC's and Radio-Canada's budget envelope.

Do you agree?

• (0935)

Mr. Douglas Barrett: Could you repeat the question? It was established in 1996—

Mr. Maka Kotto: —following drastic cuts by the government to CBC/Radio-Canada's budgetary envelope.

Mr. Douglas Barrett: Since the start, there has always been a budget for CBC/SRC, yes.

Mr. Maka Kotto: So, here is my question: shouldn't we be asking whether, with regard to funds provided to CBC/Radio-Canada, the government is providing this crown corporation with adequate funding?

Mr. Douglas Barrett: I do not understand the question.

Mr. Maka Kotto: I am asking you whether there isn't good cause to ask the following question: if the government provided substantial support to Radio-Canada/CBC, would that not be a step toward resolving the current conflict?

Mr. Douglas Barrett: Our obligation to support productions being licensed by CBC/SRC comes from the Department of Canadian Heritage. People at Canadian Heritage are making these decisions. It is not up to us to say whether direct subsidies would be a solution to this problem. The only thing I want to say is that when CBC/SRC does business with us, the regulations applying to the entire industry, to the CBC/SRC and all commercial broadcasters, licence fees and the requirement to ensure production across Canada are the same. The obligation to produce shows in all genres is also the same.

Mr. Maka Kotto: I am well aware of that but the conflict, based on information we have, stems from the fact that some cable distribution companies do not agree to fund a competitor, for example. Do you have any comments on this? Is this a legitimate dispute or not? This goes beyond contempt for the conditions of the licence, which is being violated at present, but setting that aside, is this criticism not legitimate?

Mr. Douglas Barrett: The funding board has never discussed legitimacy, nor even the legitimacy of providing support to francophones outside Quebec, or support for production in aboriginal languages.

Mr. Maka Kotto: I will ask my question differently. What problem do Shaw and Videotron have with you?

Mr. Douglas Barrett: What is their problem with us?

Mr. Maka Kotto: Yes. What issues are they raising with you, the issues that led to this crisis.

Mr. Douglas Barrett: The reasons why they don't want to support the CBC/SRC?

Mr. Maka Kotto: Yes, exactly. What are their reasons?

Mr. Douglas Barrett: I have heard no criticism. They have their reasons.

Mr. Maka Kotto: I'm sorry, but I have very little time. That is why I want specific answers in order to understand it for myself. Shaw and Videotron sent you letters criticizing the representativeness with regard to the fund structure and governance.

Could you tell us about the issues they raised with you?

Mr. Douglas Barrett: In their letters, they only said that support for the CBC/SRC was inadequate and that they were not satisfied with the governance of the fund. Their specific reasons are not clear to us. They simply said that support for the CBC/SRC was not adequate in their opinion. When a fund grants 37% of its budget to a single organization, it is not surprising that another organization would want to have more money. They want the CBC/SRC to be funded by other means.

Mr. Maka Kotto: The unilateral decision to stop contributing to the fund is, in light of the Heritage Minister's behaviour, a legitimate position, as she did not publicly criticize it. She is washing her hands of it like Pontius Pilate, as she is sending the ball back to the CRTC.

Are you hopeful that the CRTC will find a way to ensure the survival of the fund?

• (0940)

Mr. Douglas Barrett: Yes.

Mr. Maka Kotto: What makes you say that the CRTC can find a solution?

[English]

The Chair: You'll have to be very short, Mr. Kotto; your time is up.

[Translation]

Mr. Maka Kotto: I will ask you a short supplementary question in addition to the one I just asked you.

Mr. Douglas Barrett: The enforcement of the regulation and the strengthening of the CRTC regulations. That is all.

Mr. Maka Kotto: Would that not be adding fuel to the fire?

[English]

The Chair: We have to cut the questioning off right now. We've gone over the time.

Go ahead, Mr. Angus.

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

Thank you for coming in this morning.

Like many people who are watching this industry closely, I'm very confused as to the status of this fund, because I've heard very mixed messages in the media. I haven't heard any clear indications from our minister of how this crisis is going to be alleviated, but we heard from Shaw, following the meeting with the minister, that they told industry this fund is now dead, done, gone. Is that the case?

Mr. Douglas Barrett: I certainly don't believe so. Obviously those comments by Shaw are upsetting to us and certainly destabilizing for the whole industry.

We think this is an excellent public policy instrument. I make no bones about it: we're not embarrassed about the work of the fund; we think the track record of the fund is solid, substantial, and sustained. We think this is a genuinely innovative thing that Canada has managed to put together. It's genuinely Canadian. It has successfully mediated the interests of all the stakeholder groups for a decade. It is done in a private-public partnership. It's an excellent model.

There has been no hint of financial or fiduciary issues over the entire period. It has met all the standards of management and public stewardship that one would expect of a public entity. It is easy to sit on the sidelines and take potshots, but the evidence is that this institution is doing a good job; it's sourced from the public interest, and it should be able to continue to do a good job.

Mr. Charlie Angus: I'll get back to the issue of whether this fund is now dead. We have two major players acting in defiance of their licence. We've been trying to get a clear picture from government as to what steps will be taken to ensure they comply with their licence. Yesterday in the House the minister spoke of CRTC obligations and basically seemed to be passing the buck over to the CRTC, yet my understanding of the CTF is that policy supervision is under the Department of Canadian Heritage. Whose job is it to ensure that Shaw and Vidéotron live up to their terms?

Mr. Douglas Barrett: I think technically it's the obligation of the regulator to enforce its regulations. We operate under a contract. The contract gives us approximately \$120 million. As in any contract, there are policy stipulations and objectives that we must meet; the enforcement piece belongs to the commission.

Mr. Charlie Angus: I've been trying to get a sense from Shaw and Vidéotron of the exact nature of the cause of this public spectacle. The first comments I heard from Shaw was that they didn't like *Trailer Park Boys*. I thought it was kind of rich that a cable giant is getting hoity-toity about low-brow entertainment, but that might just be me personally.

Then there was the issue of accountability and their lack of voice, and yet they have a place on the board and we understand the board has been reconstituted.

Then it became an attack on CBC, a very clear and in-your-face attack on our public broadcaster saying they did not want to be part of anything that had to do with CBC. Yet when I'm looking at how the money is distributed, CBC doesn't get any money directly. It goes to independent production.

Then there's \$100 million from the federal government. The argument that certainly could be made is why would any federal money be going to support private broadcast? Does the \$100 million that's put in by the federal government offset what ends up in independent production that ends up on SRC or CBC?

Ms. Valerie Creighton: In terms of the \$100 million, your question is really whether that is enough? The problem with the production of Canadian television in this country is that it is very difficult for the broadcaster to make that production and get a return on investment because of the challenge we have in building our audiences as compared to audiences for American programming.

The broadcasters do face a difficulty in the cost to produce, promote, and broadcast these entities and get some return on investment. That's where the fund steps in to play that role.

Is it enough? We know that prior to the broadcaster performance envelope system, the fund was oversubscribed by about 50% in terms of the volume of activity out there that could be supported, but the broadcaster performance envelopes at least have given more predictability to the system. Broadcasters are not given the money; producers apply to us. They are issued the cheques. They produce the program. They have to have a broadcast licence to come to us.

In terms of the CBC and to try to answer the question, yes, Shaw and Vidéotron have made it very clear they don't like the fact that 37% of the money in the fund is allocated to the CBC envelope. Historically, the CBC has always been able to not access the fund directly, but producers who come to the fund who have CBC as their broadcaster have been able to access that money to get those programs on the CBC.

The question of the 37% we inherited. This was not something the board of this organization had any influence over in terms of the policy direction. That's a requirement of our contribution agreement, so we are stuck with that. Can it be reviewed? Sure. But I think it's important to note that producers who apply to us... The CBC is our major public broadcaster. They do a lot of Canadian programming in terms of the drama especially, and in prime time, so producers tend to go to the CBC to try to get a licence to get their show on the air. Historically, the CBC has technically often accessed more than 37% of the fund, so I think that number was picked as a model to try to give some semblance to their ongoing access.

• (0945)

Mr. Charlie Angus: The clarity I need to get out of this is that there is \$100 million—

The Chair: I'll give you one little question. Make it very, very short.

Mr. Charlie Angus: It will be quick. Thank you.

We have the \$100 million from the federal government and we have a 37% envelope that is independent production that goes to CBC. Can an argument be made that Shaw is directly supporting programming that is going onto CBC? Because it seems to me that \$100 million of taxpayers' money is going into a fund, and some of that, or a good percentage of that, is probably ending up in—

Ms. Valerie Creighton: Yes, that's correct.

The Chair: Thank you.

Mr. Warkentin.

Mr. Chris Warkentin (Peace River, CPC): Thank you, Mr. Chairman.

Thank you to all the witnesses. We appreciate your testimony today.

Certainly I'm an optimist, and I'm very optimistic that the fund is going to continue and that things will be negotiated. I'm very supportive of Canadian broadcasting, and I know you have played an important role in that, so thank you. We appreciate your contribution.

I want to get a little bit of clarification. There's been a lot of talk as to what should be done at this point to try to get things moving. I know the discussions continue, and there are obviously some

sensitivities on both sides, on the corporation side as well as on the fund side. Obviously both of you find yourselves in a little bit of an impasse, and I certainly am optimistic that things can be resolved.

I'm looking for a little bit of clarification. There have been calls for the minister to cut off the broadcasting licences to Shaw Cable and to Vidéotron. I know the minister doesn't have the authority—I should double-check. Is it your understanding as well that the minister doesn't have the ability to cut off the broadcasting licences of those two companies?

Mr. Douglas Barrett: I think that is so far from our job—

Mr. Chris Warkentin: Yes, but I guess the question I am going to get to is whether, even if the CRTC were to now cut them off, you think that would be helpful in terms of resolving this situation. Just from your perspective, do you think there is a possibility of the corporations coming to the table and negotiating? Obviously, from the recommendations you've made, it looks like you're extending an olive branch.

Mr. Douglas Barrett: We think the BDUs have an important role to play at the table, both at an operational level at our table, as they have in the past, and as major funders alongside the funding of the department. I guess what we think is logical is for the minister to be maintaining lines of communication. You see, we get all our policy direction from her. She has made an announcement about new funding. We expect there to be a fresh contribution agreement, with new provisions. There is no particular reason why she wouldn't discuss with them what the overriding policy objectives for the fund would be prior to signing the contribution agreement with us.

That is at a policy level, not at a commercial level. Because the Government of Canada is the largest single contributor, it obviously has the biggest voice, and it knows what it is trying to accomplish. So that dialogue and debate is useful, not only so the minister can hear what the other funders wish to contribute, but for us. It is a useful dialogue. But ultimately, we operate under contractual orders from the minister.

• (0950)

Mr. Chris Warkentin: And it seems that those discussions are happening. Obviously Vidéotron—

Mr. Douglas Barrett: The paper said she met with them. I am not sure that it was the start of a dialogue.

Mr. Chris Warkentin: Right. I guess we can be hopeful.

In terms of the recommendations you're making, you do actually look for some clarification in terms of the payment procedures. My understanding is that there is a difference of opinion as to when the obligation to pay actually comes into effect. Obviously they've been paying on a monthly basis since its inception. There is an argument out there—Is it the end of August when the actual deadline happens, when they must be paid up for the annual basis? Is that correct?

Mr. Douglas Barrett: Broadcasters all operate under a broadcasting year that ends August 31. They then file a return. That return would be used as the basis for the calculation. So I think the payment period would be mid-fall.

I have not personally appreciated how much we rely on the monthly payment piece. This all was new to us when it occurred. We also knew that there was a difference between the regulations and the circular. So make no mistake, without monthly payments, or some form of confirmed bridge financing, we would have a serious problem.

Mr. Chris Warkentin: I understand that. I certainly appreciate that.

Mr. Abbot has just one follow-up question.

Mr. Jim Abbott (Kootenay—Columbia, CPC): I have just a quick question.

You mentioned in your testimony that when your staff was reduced there were some changes there. I am curious about the effect of the reduction on the total remuneration—the total salaries—paid. Can you give us the absolute dollars before and the absolute dollars after?

Ms. Valerie Creighton: The overall saving to the industry was approximately \$3 million in reductions of staff, which was put into the programming budgets.

Mr. Jim Abbott: Thank you.

Mr. Douglas Barrett: I should say that we are contractually obligated to operate with an administrative cost ceiling of 5% of the funds under administration. We have lots of discussions at the finance committee about whether we can do better, but I'd put that 5% up against most other programs as an administrative cost load.

The Chair: Thank you. I think what we'll do, in all fairness, because time is running down, is allow every party around the table one question.

We'll go to Ms. Fry.

Hon. Hedy Fry (Vancouver Centre, Lib.): I think we are going to split our question. Can we do that?

The Chair: Okay, but you have one question.

Hon. Hedy Fry: Okay, you were waiting, so you go ahead.

Hon. Andy Scott: I have, very quickly, one question.

I still don't understand, given the structural tension that probably has been long-standing, what has happened. Could it be that the industry felt that the government was not as committed to this as perhaps it had been in the past, and that they could make this play at this time and be successful?

Mr. Douglas Barrett: I don't think it's appropriate for me to speculate on the timing or why. The support we've had from the federal government over the years has been steady, and the minister's announcement, from our perspective, was timely. In fact, it's very much appreciated because in some previous years we've had to wait until the budget. We've been on tenterhooks waiting until the budget period, so we do appreciate very much the early announcement, and we very much appreciate the two years. This is a big difference for us because we've been on a year-to-year basis.

From our perspective, we see no change or diminution in the support of the government for the fund. This is business as usual for us, and we would now go to the negotiation stage of the contract and sign in the ordinary course.

The Chair: Thank you.

Mr. Kotto, do you have one short question?

[*Translation*]

Mr. Maka Kotto: Could you tell us more about the repercussions of Shaw and Videotron withdrawing their contributions to the fund, in terms of the number of projects that risk being put on ice in Quebec and in Canada?

• (0955)

Mr. Michel Carter: Perhaps I could refer you to the financial section. There we mention that for the year 2007-2008, the total shortfall could be as much as \$72.6 million, which equals a loss of production on the order of \$246 million in total for both the French and English markets. That is very substantial. That represents a reduction of 27% of the Canadian television production for 2007-2008.

Mr. Maka Kotto: We can therefore consider that this is a serious crisis.

Mr. Michel Carter: Yes, it is a very serious crisis.

Mr. Douglas Barrett: And the loss, for the French market, of one-third of that amount.

[*English*]

The Chair: I'll go to Mr. Fast, and then I'm going to go to Mr. Angus.

Mr. Ed Fast (Abbotsford, CPC): Thank you, Mr. Chair.

I'm always concerned when I hear alarmist remarks made. We heard some reference to those from Mr. Angus, on the fact that the industry has declared that the fund is dead. To me, Mr. Angus implied that he was in fact adopting that line of reasoning. To paraphrase Mark Twain, my feeling is that the rumours of the death of this fund are greatly exaggerated. I think you would agree with me that there are ongoing discussions with Shaw and Vidéotron.

You've had an opportunity to meet with the minister. Has the minister indicated at all that the fund is broken and beyond repair?

Mr. Douglas Barrett: Not to me.

Mr. Ed Fast: Has anyone on the Conservative side of this table suggested to you that the fund is broken?

Mr. Douglas Barrett: Not to me.

Mr. Ed Fast: So these suggestions are simply coming from the two main industry players that had stated what I, at least, believe to be merely bluster that the program is dead.

Mr. Douglas Barrett: Absolutely.

Mr. Ed Fast: All right.

The Chair: You have one very short one, because then I have to get to Mr. Angus.

Mr. Ed Fast: Are you confident that with the \$200-million commitment over the next two years, our government is committed to continuing that fund? Is that correct?

Mr. Douglas Barrett: Yes. We have an operational crisis. We have a fund. The question is whether we will be able to do the job we've been asked to do at the level we've been asked to do it, but we have a fund and we're going to do our job.

By the way, the twenty people on our board of directors are the most senior, experienced, and skilled people that this country has to offer across the spectrum in the broadcasting, production, and cable industry. Our independent directors are substantial individuals, and we are a team. We know our job, we intend to do our job, and we won't be swayed from it, but we do have a resources crisis for sure.

Mr. Ed Fast: Thank you.

The Chair: Thank you very much.

We'll conclude with Mr. Angus.

Mr. Charlie Angus: Thank you, Mr. Chair.

Again, I'm trying to get a full picture of the nature of this operational crisis, as you call it. The fact is that your two main contributors have publicly stated, after meeting the minister, that their understanding from that meeting is that this fund is now dead. Are they refusing to pay their monthly contributions? Will they pay their contributions for this year? Are they saying they're going to step out completely at the end of the year? What exactly is the nature of their financial position with the fund right now?

Ms. Valerie Creighton: They have stopped monthly contribution payments as of the date of the letters that were issued by both individual BDUs. They are currently not making monthly contributions. We don't know what they will do in the fall. As the chair has said, the regulations require them to pay in the fall after the broadcast year. Right now we have an immediate deficit problem. We have those contributions in the budget, but the impact on next year's budget and the industry will be severe. We can't go forward as an agency and strike a budget with revenue that is uncertain and speculative. That's the crisis we're facing.

The Chair: Thank you very much.

Thank you for your answers today and thank you for coming before us. I'm sorry we don't have more time, because I'm sure there are a few more questions around the table.

Again, all the best, and let's look positively towards the future.

Thank you.

We'll pause for five minutes.

- _____ (Pause) _____
-
- (1010)

The Chair: Let's get back to business.

Welcome to the second half of our meeting today.

I'd like to welcome the CFTPA and the APFTQ. My French vocabulary isn't very good, so we went to the acronyms instead of the full name. But I do welcome both of our new delegations here today.

I'd ask that you keep your presentations short. We have only until 11 o'clock. Whoever wants to proceed, please go ahead.

Mr. Guy Mayson (President and Chief Executive Officer, Canadian Film and Television Production Association): Thank you, Mr. Chair. Claire and I spoke earlier. We'll go first, and they'll go next. We have separate remarks, but we think they're related, so we'll kick it off.

Good morning, Mr. Chair and members of the standing committee. My name is Guy Mayson. I'm the president and CEO of the Canadian Film and Television Production Association, the CFTPA. With me today is Mario Mota, the association senior director of broadcast relations and research.

I want to start by saying we applaud the standing committee for initiating this emergency study on the Canadian Television Fund and thank you for inviting us to share our views about the critical importance of the fund to the continued existence of the Canadian independent television production industry.

Make no mistake, the CTF is an essential component of the Canadian broadcasting system.

The CFTPA, as I think you know, represents the interests of almost 400 companies engaged in the production and distribution of English-language television programs, feature films, and interactive media products from all regions of the country. Our member companies are significant employers of Canadian creative talent and assume the financial and creative risk of developing original content for Canadian and international audiences.

What exactly do the producers do? It's still a question, it seems. We develop the project. We structure the financing. We hire the creative talent and crews to help turn stories into programs, control the exploitation of the rights, and deliver the finished product. We create high-quality programming in the financially risky genres of drama, comedy, documentary, kids, and performance programming—what the CRTC calls priority programming.

We also create content for new digital platforms. Every day we provide Canadian television viewers with the choice of a Canadian perspective on our country, our world, and our place in it. As such, the independent production sector plays a vital role in the Canadian broadcasting system, as recognized in the Broadcasting Act.

In addition to the central role that independent television producers play in advancing Canadian broadcasting policy objectives, producers contribute significantly to Canada's economy and are responsible for a considerable portion of the more than \$4.5 billion in production activity in Canada, which sustains over 120,000 direct and indirect full-time jobs annually.

I'm sure this committee shares our serious concerns about Shaw Communications' and Vidéotron's threats to withhold required payments to the CTF. We cannot stand idly by, and we believe this committee, the government, and the CRTC cannot stand idly by and watch some cable companies unilaterally destroy an entire industry by dictating the terms by which they will or will not live up to their regulatory obligations.

While the CFTPA was very pleased with last week's announcement from the CTF that it will continue to support all eligible productions for the 2006-07 year, we are very concerned about an anticipated reduction in the CTF's 2007-08 budget and program allocations as a result of Shaw's and Vidéotron's actions. The considerable uncertainty surrounding funding for television projects beyond 2006-07 is already having a major negative impact on projects and development and in terms of international financing. What we're hearing increasingly right now is that broadcasters, not knowing what kind of money they have to spend, cannot green-light any project, so there is a growing urgency to this issue.

In the CFTPA's view, Shaw's and Vidéotron's actions are unacceptable and irresponsible, and if allowed to continue would set a dangerous precedent that would have long-term repercussions not only with respect to the future viability of the CTF but with respect to the integrity of the CRTC's licensing and regulatory authority.

If left unchallenged, Shaw's and Vidéotron's threats to stop their required contributions to the CTF will have a devastating impact on the CTF, on Canadian television production, and on the independent production and creative sectors, resulting in the loss of thousands of jobs.

Section 29 and section 44 of the CRTC's broadcasting distribution regulations require medium and large cable distribution undertakings and direct-to-home satellite TV distribution undertakings, hereinafter referred to as BDUs, to contribute a fixed percentage of their gross annual revenues derived from the broadcasting services to the CTF. Further, CRTC's circular number 426 sets out the guideline that these BDUs make their payments on a monthly basis. It's pretty clear, I think.

Given the seriousness of the situation, the CFTPA has asked the CRTC to immediately put Shaw and Vidéotron on notice that their threat to discontinue supporting the CTF financially would put their cable distribution undertakings and Shaw's DTH satellite TV undertaking in contravention of the broadcasting distribution regulations.

Should Shaw and Vidéotron not make their contributions on a monthly basis, we believe that they would be violating, at minimum, the spirit of CRTC's circular number 426.

• (1015)

We have urged the CRTC to take whatever steps are necessary to ensure that Shaw and Vidéotron comply with the regulations and the circular.

Mr. Mario Mota (Senior Director, Broadcast Relations and Research, Canadian Film and Television Production Association): Let's not forget the origins of BDU contributions to Canadian television production. In 1993 the CRTC held a structural hearing to

review the evolving communications environment. One result from the hearing was the identification of a need to provide "aggressive encouragement to the production and distribution of more and better Canadian programming".

The commission called for comments on what form a new funding mechanism should take. The Canadian Cable Television Association proposed at the time the creation of a new fund financed with contributions from the cable industry, which would provide top-ups to the licences paid by broadcasters to independent producers for certain types of under-represented programs.

Reaction to the proposal by most parties was generally favourable, so the CRTC accepted it, with some modifications. Cable companies benefited greatly, because they were able to keep 50% of subscriber fee increases tied to capital expenditures. The arrangement was slated to sunset that year. Some cable companies have tried to undo that initiative ever since, and Shaw and Vidéotron's actions are another attempt to achieve that goal.

Over the years, cable companies asked for and won the right to direct up to 40% of their contributions to help fund their community channels. DTH satellite TV distributors were later permitted to allocate 0.4% of their contributions to support small-market conventional television stations in lieu of performing program deletion. The CFTPA was alarmed by proposals made at the CRTC's recent review of its regulatory framework for over-the-air television that any additional financial contributions that BDUs might be required to make should be taken from their existing mandatory contributions to Canadian programming production.

In our view, it is time for the CRTC to restore the full 5% BDU contribution to independently administered funds intended for independent production. Doing so would help alleviate the CTF's inability to meet all the demands on its funds and would balance the additional financial input we have asked conventional television broadcasters to make to original Canadian programming. The CRTC has stated on numerous occasions that such financial contributions to production funds provide essential support for the production of Canadian programming. The commission has also considered it important that funding not be diverted further from the Canadian Television Fund.

Mr. Guy Mayson: We will not refute all of the arguments made publicly by Shaw and Vidéotron about what they deem to be the CTF's "failings". In our view, they show a surprising lack of understanding of and respect for a funding body they helped create and direct, and near contempt for Canadian programming and audiences.

Shaw and Vidéotron have expressed their dissatisfaction with the CTF's "performance, operations, and governance". In this regard, we point out that sound governance of the CTF was recently noted by both the Auditor General of Canada in October 2005, and more recently confirmed by an independent review by Renaud Foster of Ottawa in June 2006. In our view, the CTF's comprehensive board composition, including representatives from the broadcast distribution sector since the fund's inception, has allowed it to be responsive to all industry stakeholders. It's also worth noting that several past chairs of the CTF board of directors have been representatives from the cable industry—very able ones, I may add.

Shaw has suggested that CTF-supported programs are watched by few people and have no commercial or exportable value. The CTF, whose funding decisions are increasingly driven by audience success, has made possible many highly successful Canadian programs, such as *Shania: A Life in Eight Albums*, a movie of the week with 1.2 million viewers; *One Dead Indian*, a movie of the week with 1 million viewers; *Degrassi: The Next Generation*, a huge success story averaging 737,000 viewers; and *Little Mosque on the Prairie*, recently averaging 1.5 million viewers. These and many other CTF-supported programs are watched and loved by millions of Canadians, and are proof that Canadian programs can attract large audiences.

Don't just take it from us. CTV's CEO, Ivan Fecan, told the CRTC's recent review of over-the-air television that CTV's "Canadian programming currently gets very good audience response". In terms of exportable value, CTF-supported dramas, such as *Degrassi: The Next Generation*, *Da Vinci's Inquest*, and *Cold Squad*; and children's and youth programs, such as *Life with Derek*, *Franny's Feet*, and *RenegadePress.com*, are seen and loved, in some cases, in well over 100 countries around the world. The list of programs in these and other programming genres that have found export markets is a very long one. Recently, *Da Vinci's Inquest*, for example, received an average 3.4 million viewers in the U.S., outperforming the popular *CSI: Miami* in syndication.

We could spend the entire day here providing examples of successful CTF-supported shows. The bottom line is that Shaw is just plain wrong when it claims that Canadian programming is of low quality and non-exportable.

It's interesting to note that more than 30 television programs have received funding support in the last couple of years alone from both the CTF and the Shaw Rocket Fund, the independent production fund set up by Shaw in 1998. Presumably, if these projects are worthy of support from the Shaw fund, then they are equally worthy of support from the CTF.

This morning the CTF provided an overview of some of the key accomplishments over the years. We won't repeat all of these, but we would like to point out that since its inception, the CTF has provided \$2.2 billion in funding support to 4,470 independently produced Canadian English and French-language productions in the genres of drama, children's and youth, documentary, and variety and performing arts. That financial contribution from this unique partnership has helped create over 23,000 hours of great Canadian television, triggering total production budgets of \$7.4 billion. For every dollar the CTF has invested over the years, it has leveraged an

additional \$3.3 from other sources. The leverage fact of this fund cannot be overestimated.

An estimated 21,000 full-time equivalent jobs out of 46,700 jobs in the television production sector are the result of CTF-supported productions. It's a powerful statistic. Would any government let a company employing more than 21,000 people simply close its doors without trying to do something about it?

Put simply, without the CTF independent producers could not afford to make their programs. The Canadian market is simply too small to finance the high cost of these shows. Without the fund, Canadian broadcasters would not have been able to exhibit the amount of high-quality, distinctively Canadian television programming they have presented over the past decade.

The CFTPA has two representatives on the CTF board. Over the years, our representatives have been vocal in expressing the views of the independent production sector on the fund's workings. The CFTPA considers the CTF to be the single most important initiative supporting distinctive Canadian television production, and we remain committed to the fund and its overall objectives.

In closing, we were extremely pleased with Minister Oda's January 26 announcement of the government's contribution of \$200 million over two years to the CTF, and for confirming the government's commitment to the Canadian television production industry and a strong broadcasting system. Now it's up to Shaw and Vidéotron to hold up their end of the bargain, and for the CRTC to ensure that these licensees resume timely payments to the fund.

We appreciate the standing committee's interest in this issue, and encourage it to express its support for the Canadian Television Fund in its recommendations.

• (1020)

Thank you for your time. We'd be pleased to answer any questions.

The Chair: Thank you.

Ms. Samson.

• (1025)

[Translation]

Ms. Claire Samson (President and Chief Executive Officer, Association des producteurs de films et de télévision du Québec): Mr. Chairman, members of the House of Commons, Mr. Vincent Leduc, Chairman of the board of directors of the APFTQ and myself, Claire Samson, President and Chief Executive Officer of the APFTQ, thank you for inviting us this morning to present our perspective on the current crisis surrounding the Canadian Television Fund.

The APFTQ represents the vast majority of independent television and film production houses in Quebec, that is more than 130 businesses.

[English]

As we expressed in the press conference held Tuesday in Montreal with five associations of the Quebec industry, the APFTQ considers that the decision by cable operators Shaw and Vidéotron to cut off their mandatory contributions to the Canadian Television Fund is unacceptable and holds the entire Canadian broadcasting system hostage.

By mid-February, the Canadian Television Fund must determine the amounts of the envelopes to be allocated to each broadcaster's programs. If the Canadian government and the CRTC fail to take rapid and appropriate action to force these two companies to respect the law, they will be sending a message to all companies, distributors and programmers alike, that they too are free to ignore any regulated obligation that does not suit them. Ultimately, this could lead to the collapse of the entire Canadian broadcasting regulatory framework, which would have disastrous consequences and be totally unacceptable.

As things stand, the CTF can no longer rely on private distributor contributions and could lose 60% of its funding—\$150 million in fiscal year 2007-08. For the public, that will mean 60% less Canadian drama, documentaries, youth and variety programming. It will mean 60% fewer jobs for Canadian television writers, directors, performers, technicians, and composers, and undoubtedly many independent production companies will have to close down.

How can Canadian broadcasters be expected to plan their upcoming fall and winter schedules with this sword of Damocles hanging over their heads? How can they present their future programs to potential sponsors in May? Without sponsorship most channels will be unable to survive and fulfill their own conditions of licensing.

Vincent.

Mr. Vincent Leduc (Chair of the Board of Directors, Association des producteurs de films et de télévision du Québec): Vidéotron and Shaw are behaving like bad corporate citizens in attempting to impose their views not through dialogue, discussion, and negotiation with their partners, but with an irresponsible show of power apt to destabilize the entire financing system for Canadian independent programs.

It is imperative not to encourage this attitude and to refuse any hasty negotiation of CTF reform with a gun to the head, especially since the argument advanced by Quebecor media to justify its attitudes is far from convincing.

The media have reported that their distribution subsidiary, Vidéotron, pays some \$15 million a year to the CTF, while its TV programming subsidiary enjoys an annual \$18 million envelope from the same fund to finance its programming through independent producers. Where is the injustice?

Notwithstanding these arguments invoked by Quebecor and Shaw, contributions to the CTF are not voluntary payments that these companies can arbitrarily decide to cut off, but regulated obligations that they must respect.

Moreover, the privilege of holding a cable distribution licence gives these companies important financial advantages, not the least

of which is the fact that cable subscribers are still unable to choose their supplier since only one cable undertaking is authorized per territory. Cable operators have no more right to enjoy a licence while stopping their payments to the CTF than their customers have to enjoy continued access to cable service while withholding their fees.

[Translation]

Ms. Claire Samson: The Broadcasting Act as well as other support measures for the industry were put in place particularly to promote the development and broadcasting of our culture in light of the omnipotence of our American neighbour. The goals of this legislation are more relevant than ever in an international context where the promotion of cultural diversity represents a battle we have yet to win. This battle only makes sense if the cultural diversity in question is first of all asserted and promoted on a national basis.

Furthermore, one of the goals of Canadian broadcasting policy is to call freely on independent Canadian producers in order to ensure the greatest diversity in creation locales. Other measures were implemented to allow for a balance between the public, private and specialty channels. Canadian content quotas were established to ensure our programs had a dominant place on our screens. Financial support measures for our productions were established to respond to the demand. Rules regarding the ownership and control of Canadian broadcast distribution undertakings exist for the overall protection of the system.

The Canadian broadcasting system is a model around the world. The success of Quebec television would never have become a reality without a range of support measures. For 25 years our system has promoted the protection of French-language broadcasting, the great popularity of our programming and a quality that is recognized on an international scale.

The promotion of our culture is a societal choice that Canadians have maintained over the years. It would be irresponsible to challenge these policies without thinking about the very grounds for their existence. This debate concerns the entire population, and not just a few businesses that are dissatisfied with certain rules of the game.

• (1030)

Mr. Vincent Leduc: A giant like Quebecor Media, whose annual turnover is \$2.7 billion, already enjoys a very favourable position in the Quebec market where it benefits from a very high level of media concentration that could threaten the diversity of voices. There is Videotron, TVA, JPL Production, Illico, Canoë, the *Journal de Montréal*, the *Journal de Québec*, to name a few.

One can surely wonder if a business of that size, so dominant in its market and enjoying such a level of multimedia cross-ownership, is contributing enough to the support of Quebec and Canadian culture from which it draws a great deal of its wealth. Let us not forget that Quebecor Media benefits from tens of millions of dollars per year in direct and indirect public funding, particularly thanks to programming broadcast on TVA.

One thing is clear: the annual contribution that its Videotron subsidiary must remit to the CTF, which represents 0.006% of Quebecor Media's revenues and that it gets back entirely through another subsidiary, TVA, in no way justifies such a business defying the law and putting the entire Quebec independent television production world at risk.

The stability of an entire industry is at stake. If all of the cable and satellite companies were to withdraw their contribution from the Canadian Television Fund, that would represent a loss of 8,500 jobs in Canada, more than 2,500 of which would be in Quebec.

[English]

Ms. Claire Samson: Priority must now be given to resolving the crisis and reassuring the industry and the population at large.

Currently, there is a lot of equivocating over the degree of illegality of the Quebecor and Shaw decisions. Some experts maintain that by suspending their monthly payments, Vidéotron and Shaw are still within legal bounds. Although the broadcasting distribution regulations obligate cable operators and satellite distributors to devote 5% of their annual gross revenues to local expression and Canadian programming, a part of which goes to the CTF, they do not set out a schedule or procedures for remitting the annual mandatory contribution.

Many experts agree that Vidéotron and Shaw will be clearly in default of the regulations if by the last day of the current broadcast year, which is August 31, 2007, they have not fully remitted this year's required contribution to the CTF.

Given the situation, we have two proposals for resolving the crisis.

First, we ask that the Minister of Canadian Heritage take steps to have the Canadian government provide the Canadian Television Fund with an interest-free loan in the amount of the contributions unpaid by Vidéotron and Shaw until such time as these companies begin making monthly payments again and settle their arrears. In this way, neither the public nor the broadcasters, producers, musicians, technicians, performers, or directors will be held hostage and the CTF will not be obliged to borrow against the budget of its next fiscal year. This would allow any discussion of possible changes to the fund's rules of governance or guidelines to take place in a climate of calm and with the necessary time for reflection. However, prior to any discussion with Quebecor and Shaw, the government should make it a *sine qua non* that the current rules be respected.

Second, we ask that the CRTC immediately notify Vidéotron and Shaw that if by the end of the current broadcast year they have not fully remitted the annual contribution due to the CTF under the provisions of the broadcasting distribution regulations, the commission will take the appropriate steps to ensure that its regulations are followed, failing which it will impose the penalties prescribed by the act.

No one is above the law or its regulations. The CRTC cannot tolerate that Vidéotron and Shaw have taken it upon themselves to decide that they are exempt, thus affording themselves financial and competitive advantages over the other distribution companies that respect the act and its regulations.

• (1035)

[Translation]

In conclusion, Quebecor and Shaw's gesture cannot and should not be tolerated. We urge the appropriate authorities to assume their responsibilities and to act as quickly as possible. What is at stake here is the place of our culture on our screens and the ability of the Canadian broadcasting system to defend it.

I thank you for your attention and, of course, we are ready to answer your questions.

[English]

The Chair: Thank you for those presentations.

I must stress to everyone that we are going to stick to five minutes around the table. I think we have time for four five-minute goes.

We start off with Ms. Fry.

Hon. Hedy Fry: Thank you very much, Mr. Chair.

This is going to seem to be a redundant question, but I am going to ask it anyway. Given that these are regulations under law and therefore this is not a voluntary contribution, as you have all said so very clearly, have any of you met with the minister?

I would like to know why the minister has not done her job, which is to actually make Shaw and Vidéotron uphold the regulations. I would like to know why the minister has not done that. Has she said she would? Has she said that she hasn't?

I remember the history of this minister when she was with the CRTC. The CTF was beginning to be considered and she wasn't particularly in favour of this type of funding.

I would like to know if any of you have discussed with the minister why the simple act of upholding regulations hasn't occurred. Do you have any answers? Have you asked this of the minister? We have not been able to get those answers ourselves.

Mr. Guy Mayson: We had a broad-based meeting with the minister, actually just yesterday. The minister said she is in information gathering mode. She seems to be meeting with stakeholders individually. The creative community had a meeting yesterday.

She indicated she'd like to maintain an aspect of confidentiality with what has been discussed, and we've all agreed to respect that.

Certainly it's fair to say that she heard clearly from the creative community that there is real urgency here and that a signal from her regarding the fund would be extremely important in the near future. I can't overestimate the importance of that. At the same time, we're trying to respect the discussion we had.

Hon. Hedy Fry: It's a reasonable thing to say, that you don't want to betray any confidentiality. However, I think it's appropriate for the minister to meet with stakeholders and discuss with them all sorts of things. At the same time, the minister is supposed to uphold the regulations of the CTF, which is within her department, but without any question, upholding regulations has absolutely nothing to do with deciding how the fund will continue in the future and what people think would be a better way for it to manage itself.

We're not discussing the management of the fund at the moment. We're discussing people who are holding the fund hostage and who are therefore, in doing so, breaking regulations. It would seem to me that it has nothing to do with confidentiality; it has to do with the minister upholding regulations under her department, which is a simple thing to do.

So it may be a rhetorical question, but I'm asking it anyway.

Mr. Guy Mayson: I wouldn't disagree with what you said. It probably would be timely that there be some kind of more public forum now. Perhaps the minister could bring the stakeholders together and have a true public discussion of this, including with the companies in question.

The Chair: Ms. Keeper.

Ms. Tina Keeper: Thank you, Mr. Chair.

I'd like to go back to a lot of the comments you made and a lot of the points you made about being a producer in Canada, which I know is very difficult. You talked about the CTF as being a leverage factor for producers who are putting together their budget. It's quite a complex process, putting together your budget.

One of the recommendations you made was that there should be an interest-free loan, or that the minister should guarantee the loss. I want to ask you, what does losing that contribution mean for the domestic television industry in Canada?

• (1040)

Mr. Vincent Leduc: If I may, I'll give you the reason we're asking for this particular recommendation. During the next few weeks, broadcasters will be making their programming for next year. For the past few years they've counted on the CTF as a provisioning factor, if you will, or a stability factor. They have envelopes that they can access through independent producers. But that has to be done now if they want production to be done within the next few months and then be programmed later on in the year, in September and January.

The CTF has indicated that they will not overcommit, as I heard this morning, but will commit only to the money they are sure of having, which is Heritage Canada money. They mentioned 27% in English, and I think 33% in French; I'm not sure of those numbers.

The broadcasters will therefore not access any of that money through independent producers. So in asking for a bridge loan, if you will, maybe interest-free, who knows—

Ms. Tina Keeper: At this moment, the minister's inaction is putting the domestic television industry at risk.

Mr. Vincent Leduc: Well, I won't qualify it as the minister's action or inaction, but it would be a good time to act overall.

Ms. Tina Keeper: Thank you.

The Chair: Mr. Kotto.

[*Translation*]

Mr. Maka Kotto: Thank you, Mr. Chairman.

I would like to go back to the two recommendations you presented to us earlier on:

First [...] that the Canadian government provide the Canadian Television Fund with an interest-free loan in the amount of the contributions unpaid by Videotron

and Shaw until such time as these companies begin making monthly payments again—

Have you made the minister aware of this proposal? If yes, what was her reaction?

Mr. Vincent Leduc: You can complete the answer, Claire.

We had a press conference with the sectoral associations, not only the employers' association, but also the union association, the directors' association, the technicians' associations and, of course, l'Union des artistes, of which you are perhaps still a member, Mr. Kotto.

Mr. Maka Kotto: Yes, I still am.

Mr. Vincent Leduc: Last Tuesday, we publicly made this recommendation. I have heard nothing back. I do not know if—

Ms. Claire Samson: We made these recommendations public on Tuesday. We have not yet had any reaction.

Mr. Maka Kotto: You have had no direct contact with the minister concerning—

Ms. Claire Samson: Yesterday afternoon, I participated in the same teleconference as all the other industry stakeholders.

Mr. Maka Kotto: She has therefore heard this recommendation.

Ms. Claire Samson: Yes, she must have heard it.

Mr. Maka Kotto: Secondly, you asked:

[...] that the CRTC immediately notify Videotron and Shaw that if, by the end of the current broadcast year, they have not fully remitted to the CTF the annual contribution due under the provisions of the Broadcasting Distribution Regulations, the Commission will take the appropriate steps to ensure that its regulations are followed, failing which it will impose the penalties prescribed in the Act.

Are we to understand by this recommendation that Shaw and Videotron are not yet in violation of the act as we speak?

Mr. Vincent Leduc: I'm going to give you the same answer that Mr. Barrett gave earlier. Unfortunately, I cannot say that I am not a lawyer, because I am. Nevertheless, I really do not know.

We've seen both sides of the coin. We state our position in our presentation; the presentation of the Canadian Film and Television Production Association mentions this as well.

What is clear is that this seems to be an obligation set out in the regulations, whatever the proper time for implementing it may be.

Mr. Maka Kotto: In light of the fact that the government has taken no action, are you not afraid that the behaviour of Shaw and Videotron will spill over to the other players involved?

• (1045)

Ms. Claire Samson: Of the cable companies, so far Cogeco and Bell have said publicly that they would be continuing to support the Canadian Television Fund. Rogers has not made any comment so far; at least we have not seen any.

Nevertheless, it is clear that if Shaw and Videotron are left free to comply with the regulation or not, I imagine that, just as in any company... As the saying goes, "What is sauce for the goose is sauce for the gander". Probably the other cable companies will wonder why they would send out a cheque for \$50 million or \$60 million, if the others can simply disregard the regulation with no penalty. So there would definitely be a danger of that happening.

Mr. Maka Kotto: So we are into the logic of chaos.

Mr. Vincent Leduc: You said it.

I would just add that we cannot say that the Department of Canadian Heritage has been inactive either.

I think that Shaw showed its colours at the end of December.

Mr. Maka Kotto: It was on December 20.

Mr. Vincent Leduc: It was just before the holidays, around December 20 or 22.

As for Quebecor, I have its press release here: it is dated January 23, so one month later.

Shortly after the Quebecor press release came out, the minister said she was confirming her contribution to the fund. So there was a collective sigh of relief at the time.

Mr. Maka Kotto: Yes. Let's talk about that.

Mr. Vincent Leduc: So, I'm not saying that she did nothing, because she immediately confirmed that she would be contributing to the fund.

Does this show some value judgment? We might think it does. She was not calling the fund into question. In fact, the Department of Canadian Heritage announced \$100 million in 2007-2008 and \$100 million in 2008-2009. So I must say in all sincerity that from our point of view, that was very good news.

Mr. Maka Kotto: But \$200 million over two fiscal years is a bare minimum in our opinion.

At the moment, could it not be said that there is open warfare between the private sector and the public sector? Would I be wrong if I were to say that?

Ms. Claire Samson: In my opinion, it would not be wrong to talk about a historic war between the private sector and the public sector. I've been working in this industry for 30 years. This competition existed back then. Relations between private and public broadcasters were extremely difficult, and that has not changed 30 years later—far from it.

Mr. Vincent Leduc: I would just like to add one thing: there is keen competition, and as in many cases, the competition is healthy and has meant that a lot of people watch television in Quebec. Because of this competition, Quebec and Canadian programs in Quebec are always among the ones that are most watched by viewers. So it would not be advisable to put an end to this competition. It can be said, generally speaking, that we can encourage it, because it produces some very good results.

We did not come here as independent producers feeling all dejected and down. Since the system was established 20 or 25 years ago, it has produced a successful industry and a successful cultural

product. We might remember that these policies are mainly cultural, and that this is part of the national culture of Quebec and Canada.

[English]

The Chair: Thank you very much for that. We have to remember that we have to try to keep our questions and our answers brief.

Mr. Vincent Leduc: Sorry. I'll do the same with my answers. Sorry.

The Chair: Thank you.

Mr. Angus.

Mr. Charlie Angus: Thank you, Mr. Chair.

It's interesting to note that the minister is now on an information-gathering session. From hearing my colleagues across the table, they're saying we should really remain positive while the negotiations are taking place. My fundamental question is that I don't really understand what there is to negotiate. These are the terms of their licence. They're in defiance of their licence. They've created a legitimacy crisis, not just in the television industry but across the entire regulatory framework in our country.

I would like to get a sense from you, as you're going out to try to raise funds this spring to get new programming off the ground, whether that legitimacy crisis is hitting in the market. Are people asking, are we going to be putting up funds when we do not know whether the two main players are even going to be at the table?

Mr. Guy Mayson: I'll take a run at that one first, because I think that has become incredibly important in the last few weeks, the huge uncertainty in the market.

You're absolutely right, Mr. Angus. In a foreign market—I'm getting reports back from the major "kids and animation" market in New York this week: "Our own Canadian broadcasters are having trouble committing to projects, so why would an international distributor be committing to your project?" So it's having a huge ripple effect. There's a huge uncertainty right now.

I would totally agree. At the end of the day, it seems very clear to us. There are always ongoing issues with how the fund is managed. We've all had issues with the fund, and so on, but to us, it's fundamentally a huge success story, and I think the regulations are very clear about where the contributions should be coming from and when they should be coming. Any discussion of the fund's future should not be taking place with that sword of Damocles, as Claire said, hanging over their heads.

● (1050)

Ms. Claire Samson: I agree with you. I don't think there is much to negotiate right now. If there is anything to negotiate and if it's going to be solved by negotiation, I'd like to know where to call to renegotiate my income tax payment, because I disagree with some regulations of the government. So we tend to agree there's not much to negotiate.

Mr. Charlie Angus: I'd like to speak about the situation with Quebecor. Because of massaging of CRTC regulations, you have the massive media concentration in Quebec, almost unheard of in the rest of the country. Yet one of the attacks from Shaw and Vidéotron is that they don't want independent production being allowed to go the CBC.

For the Quebec market, we're looking at a massive giant that's controlling almost all of television basically saying we want CTF to be reconstituted so that independent production can't go to our competition. How would you see that in terms of the Quebec industry?

Mr. Vincent Leduc: There's something interesting in the whole thing, if you make it the fact that the fund is a public-private partnership and x amount of money comes from Heritage Canada, the Government of Canada, and x amount of money comes from the BDUs—or EDR—and that's 40-60, or whatever. The point I want to stress is that we're independent producers. Whether my show ends up on TVA, CBC, Astro, CTV, or Global, they're not all the same, but to me the important thing is that an independent producer produces it and that the diversity of creation is respected. That's what the fund does. I don't know what everybody has said, but CBC or SRC do not directly access the fund; it's always through independent producers. As we represent independent producers, I don't think we can be asked to change that.

Mr. Charlie Angus: This will be my final question.

If we go back to the genesis of this fund, when the cable giants were allowed a massive bump-up in subscriber fees and deregulation to compete against the satellite competition, fundamentally they did not want to have to compete. They wanted their markets protected, so they were given a major bump-up in subscriber fees. Then, when the original cable production fund was initiated, the compromise was that they were allowed to keep 50% of the extra profit that they were given because of this, and the other share would go into television production. If now they want to renege on this compromise contribution, would it not be fair to say that they have made massive amounts of money over the last 10 to 12 years on the 50% share that they've kept as an extra profit?

Mr. Guy Mayson: I think it's fair to say that, yes.

Mr. Charlie Angus: Okay, thank you very much.

The Chair: Thank you.

Mr. Fast.

Mr. Ed Fast: Thank you, Mr. Chair.

I want to follow up on what Mr. Angus just said.

I'm glad, Mr. Leduc and Mr. Mota, that you also touched on the history of this fund. So did Mr. Barrett before you. The fact is that the CTF was established originally, at least partly, because the BDUs wanted to increase their subscriber fees in order to, presumably, reinvest in their businesses. As a quid pro quo they were required to contribute to the original cable production fund.

As that morphed into the CTF, and the government poured \$100 million per year into the program, that appeared to work well. If in fact there's a backpedalling right now on the part of Vidéotron and Shaw, it will be a very interesting discussion to see whether there's a re-establishment of more regulation, because ultimately, when you look at the history, that's what first birthed this particular fund.

I also wanted to correct some misinformation that came out at this table earlier from Ms. Fry. That was the suggestion that somehow Vidéotron and Shaw are presently in actual breach of the regulations or the law. My understanding is that there is some issue about the

monthly payments that are required actually being a result of a circular issued by the CRTC, and not being a legally enforceable payment requirement. Ultimately, we know that at the end of the summer that funding period comes to an end, and we believe there is an obligation for those two corporations to fund the program.

The other suggestion was that the minister had not been doing her job. We've already heard from the CTF itself that in fact they have met with the minister. We know that the BDUs, Shaw and Vidéotron, have met with the minister. You've met with the minister. We also know the minister has just recently committed to continue the federal government funding over the next two years, to the tune of \$200 million. That, to me, sounds like a minister who's actually engaged.

Arising out of the meetings that you've had with the minister, is there any indication from her or from anyone on our side, the Conservative side of this table, that we are not supportive of continuing that fund?

Mr. Mayson.

• (1055)

Mr. Guy Mayson: I'd like to comment on that just quickly, because I totally take your point and agree that particularly the announcement of the renewal and the time that it was made were an incredibly important signal to the industry. It was symbolic. We've been looking for this for some time, and we were very pleased to see it come at that time, because it was a very important reaffirmation of the fund. We wrote to the minister thanking her for the leadership she showed on that.

I think the reason this is perhaps difficult for her is simply that the immediate recourse here is really through regulation, through the regulator, and she's trying to get a handle simply on the implications of that. It's a very complicated issue, there's no question, but at the same time it looks to us like an assault on the regulation. Your original point was that these regulations are important, and probably it's important for the fund to be reaffirmed.

It is a public partnership. Mr. Kotto's comment about there being a war between the public and the private sector is very worrisome, I think. It's a public-private partnership, and it's important for the partners to get together again.

The Chair: Mr. Warkentin, go ahead, please, for a very short minute.

Mr. Chris Warkentin: Thank you, Mr. Chair.

I just wanted to follow up on that with regard to the legislation. You were under the understanding that the contributions to the CTF are not actually legislated in law, that it's simply a requirement of the regulator: It's regulated through that process; it's not actually something that's legislated into law, and therefore the minister actually doesn't have the power to enforce regulations. She can recommend to the arm's-length CRTC to enforce their regulations, but, really, the minister doesn't have the ability to strong-arm anything until the CRTC makes a decision independently of her. Is that your understanding as well?

Mr. Guy Mayson: I think she's trying to be respectful of the relationship with the commission. That's probably their first stop for this process, but I think there's some symbolic value in reaffirming the fund, the partnership, at the same time.

Mr. Chris Warkentin: Yes, certainly, and I think the minister will continue her symbolic work to bring the people together. We do appreciate the work that you're continuing to do, even in this tough and difficult situation. Of course we are all very supportive of Canadian broadcasting and the development of production here, so we appreciate your work and will continue to work with you.

Thank you.

Mr. Vincent Leduc: I have no personal information, but we read in this morning's *La Presse* that the minister has asked the CRTC to look at the matter. I think I read that in *La Presse*.

The Chair: Okay.

I must thank you. We have another committee that is to start shortly after us, so I thank you as witnesses for being here today, and may we all work together to bring a successful conclusion to this problem.

Mr. Vincent Leduc: We're counting on you, Mr. Chair.

The Chair: Thank you.

The meeting is adjourned.

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